

**CHAPTER 54-05-04  
STANDARDS FOR DELEGATION**

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**54-05-04-01. Statement of intent.** These rules govern the provision, administration, and management of nursing care by licensed nurses and by unlicensed assistive persons providing nursing services. Licensed nurses are directly accountable and responsible to clients for the nature and quality of all nursing care rendered. It is not the setting or the position title that determines a nursing practice role, but rather the application of nursing knowledge. Licensed nurses provide nursing care through a variety of roles including:

1. The direct provision of care;
2. The indirect provision of care through administering, managing, and supervising the practice of nursing;
3. The teaching of health care practice to clients; and
4. Collaboration and consultation with other health care professionals in the management of health care.

Registered nurses practice nursing independently and interdependently through the application of the nursing process. Registered nurses also practice nursing dependently through the execution of diagnostic or therapeutic regimens prescribed by licensed practitioners. The administration and management of nursing by registered nurses is an independent and interdependent practice and includes assigning and delegating nursing interventions that may be performed by others.

Licensed practical nurses practice nursing dependently under the direction of registered nurses, advanced practice registered nurses, or licensed practitioners through the application of the nursing process and the execution of diagnostic or therapeutic regimens prescribed by licensed practitioners. The administration and management of nursing by licensed practical nurses includes assigning and delegating nursing interventions that may be performed by others.

Unlicensed assistive persons complement the licensed nurse in the performance of nursing interventions but may not substitute for the licensed nurse. Unlicensed assistive persons are generally responsible to the licensed nurse

to assist with client care but may be responsible to an individual directing the individual's own care or to the legally responsible person directing an individual's care for services provided to that individual.

**History:** Effective February 1, 1998; amended effective June 1, 2002; April 1, 2004; July 1, 2008.

**General Authority:** NDCC 43-12.1-02(5)

**Law Implemented:** NDCC 43-12.1-08(1), 50-24.1-18.1

**54-05-04-02. Assignment.** Repealed effective July 1, 2008.

**54-05-04-03. Delegation process for nursing interventions.** A licensed nurse may delegate a nursing intervention to a competent unlicensed assistive person if the licensed nurse utilizes a decisionmaking process to delegate in a manner that protects public health, welfare, and safety. Such a process must include:

1. Assessment of clients and human and material resources by:
  - a. Identifying the needs of the client;
  - b. Consulting the plan of care;
  - c. Considering the circumstances and setting; and
  - d. Assuring the availability of adequate resources, including supervision.
2. Planning for delegation that must include:
  - a. Criteria for determining nursing interventions that may be delegated and includes:
    - (1) The nature of the specific nursing intervention, its complexity, and the knowledge and skills required to perform the intervention;
    - (2) The results of the intervention are predictable;
    - (3) A determination that the potential risk to client is minimal; and
    - (4) A standard and unchangeable procedure which does not require any exercise of independent nursing judgment.
  - b. Selection and identification of unlicensed assistive persons to whom nursing interventions may be delegated. Licensed nurses who assess and identify the unlicensed assistive person's training, experience, and competency to provide a selected nursing intervention shall:

- (1) Teach the nursing interventions; or
    - (2) Verify the unlicensed assistive person's competency to perform the nursing intervention; and
    - (3) Observe the unlicensed assistive person's demonstration of current competence to perform the nursing intervention; and
    - (4) Document the unlicensed assistive person's competency to perform the nursing intervention.
  - c. Selection and identification of the methods of supervision and the licensed nurses responsible to provide supervision.
    - (1) Direct supervision means that the responsible licensed nurse is physically present in the clinical area and is available to assess, evaluate, and respond immediately.
    - (2) Indirect supervision means that the responsible licensed nurse is available through periodic inspection and evaluation of telecommunication, or both, for direction, consultation, and collaboration.
  - d. The method of supervision and the frequency of assessment, inspection, and evaluation must be determined, but not limited to the following:
    - (1) The willingness and ability of the client to be involved in the management of the client's own care;
    - (2) The stability of the client's condition;
    - (3) The experience and competency of the unlicensed assistive person providing the nursing intervention; and
    - (4) The level of nursing judgment required for the delegated nursing intervention.
3. Implementation of the delegated nursing interventions by providing direction and supervision.
  - a. Direction must include:
    - (1) The unlicensed assistive person's access to written instructions on how the nursing intervention is to be performed, including:
      - (a) Reasons why the nursing intervention is necessary;

- (b) Methods used to perform the nursing intervention;
      - (c) Documentation of the nursing intervention; and
      - (d) Observation of the client's response.
    - (2) The licensed nurse's:
      - (a) Monitoring to assure compliance with established standards of practice and policies; and
      - (b) Evaluating client responses and attainment of goals related to the delegated nursing intervention.
  - b. Supervision may be provided by the delegating licensed nurse or by other licensed nurses. The degree and method of supervision required must be determined by the licensed nurse after an evaluation of the appropriate factors involved, including:
    - (1) The number of clients for whom nursing interventions are delegated;
    - (2) The stability of the client;
    - (3) The training and competency of the unlicensed assistive person to whom the nursing intervention is delegated;
    - (4) The nature of the nursing intervention delegated; and
    - (5) The proximity and availability of the licensed nurse when the nursing intervention is performed.
4. Evaluation of the delegated nursing interventions through:
- a. Measurement of the client's response and goal attainment related to the delegated interventions;
  - b. Modification of nursing interventions as indicated by client's response;
  - c. Evaluation of the performance of the intervention by the unlicensed assistive person;
  - d. Feedback from unlicensed assistive person; and
  - e. Provision of feedback to unlicensed assistive person.
5. Consumer-directed service providers. A nurse licensed under North Dakota Century Code chapter 43-12.1 may verify the competence of

an unlicensed assistive person to perform nursing interventions for individuals directing their own care or for individuals who have a legally responsible person acting on their behalf, when the licensed nurse is requested to train the unlicensed assistive person to provide services authorized by North Dakota Century Code section 50-24.1-18.1 to individuals found eligible by the North Dakota department of human services to direct their own care or who have designated a legally responsible person to make health care decisions on their behalf.

**History:** Effective February 1, 1998; amended effective June 1, 2002; April 1, 2004; July 1, 2008.

**General Authority:** NDCC 43-12.1-02(5)

**Law Implemented:** NDCC 43-12.1-08(1), 50-24.1-18.1

**54-05-04-04. Accountability and responsibility within the delegation process.** It is the responsibility of the licensed nurse delegating the intervention to determine that the unlicensed assistive person is able to safely perform the nursing intervention.

1. The registered nurse administrator shall:
  - a. Select nursing service delivery models for the provisions of nursing care which do not conflict with this chapter.
  - b. Assess the health status of groups of clients, analyze the data, and identify collective nursing care needs, priorities, and necessary resources.
  - c. Be responsible to determine that licensed nurses have the required competencies expected for the nurses' current nursing practice roles.
  - d. Establish training, supervision, and competency requirements of all individuals providing nursing care. The nurse administrator shall identify nursing personnel by a position title, job description and qualifications, and includes licensed nurse delegation to technician. A licensed nurse may delegate an intervention to a technician who may perform limited nursing functions within the ordinary, customary, and usual roles in the individual's field provided the individual:
    - (1) Is enrolled in or has completed a board-recognized formal training program;
    - (2) Is registered or certified by appropriate board-recognized national bodies; or
    - (3) Has completed other education that may be approved by the board.

- e. Communicate nursing service delivery models and training and competency requirements to nursing personnel.
  - f. Be accountable to provide adequate human and material resources to carry out the delegation process.
2. The registered nurse shall:
- a. Assess the client's individual health status, analyze the data, and identify the client's specific goals, nursing care needs, and necessary interventions.
  - b. Instruct the unlicensed assistive person using step-by-step directions in the delegated nursing intervention and verify the unlicensed assistive person's competence to perform the nursing intervention on an individual and client-specific basis.
  - c. Assign the responsibility for supervision of the delegated nursing interventions to other licensed nurses only if the conditions of the supervision have been communicated.
  - d. Communicate decisions regarding selected interventions and the conditions of supervision to licensed nurses responsible to provide supervision and to unlicensed assistive persons responsible to provide nursing interventions as appropriate and on an individual basis.
  - e. Retain accountability for individual delegation decisions and evaluation of the outcomes.
3. The licensed practical nurse shall:
- a. Contribute to the assessment of client's individual health status, nursing care needs, and interventions.
  - b. Assist in instructing unlicensed assistive persons in the delegated nursing intervention and verify the unlicensed assistive person's competence to perform the nursing intervention on an individual and client-specific basis.
  - c. Assist in the supervision on an individual basis.
  - d. Communicate decisions regarding selected interventions to the unlicensed assistive person responsible to provide nursing interventions as appropriate and on an individual basis.
  - e. Retain accountability for individual delegation decisions and evaluation of the outcomes.

4. The unlicensed assistive person shall:
  - a. Retain accountability for the action of self.
  - b. Not transfer the authority of a delegated nursing intervention to another unlicensed assistive person.

**History:** Effective February 1, 1998; amended effective June 1, 2002; April 1, 2004; July 1, 2008.

**General Authority:** NDCC 43-12.1-02(5)

**Law Implemented:** NDCC 43-12.1-08(1)

**54-05-04-05. Interventions that may not be delegated.** Interventions that require nursing knowledge, skill, and judgment may not be delegated by the licensed nurse to an unlicensed assistive person. These activities include, but are not limited to:

1. Physical, psychological, and social assessment which requires professional nursing judgment, intervention, referral, or followup.
2. Development of nursing diagnosis and care goals.
3. Formulation of the plan of nursing care.
4. Evaluation of the effectiveness of the nursing care provided.
5. Teaching except for that related to promoting independence in activities of daily living.
6. Counseling, except that the unlicensed assistive person may be instructed to recognize and report basic deviations from healthy behavior and communication patterns, and may provide listening, empathy, and support.
7. Coordination and management of care, including collaborating, consulting, and referring.
8. Triage.
9. Medication administration may not be delegated unless the unlicensed assistive person has met the requirements of chapter 54-07-05. The exception is when a licensed nurse specifically delegates to a specific unlicensed assistive person the administration of a specific medication for a specific client.

10. Receiving or transmitting verbal or telephone orders.

**History:** Effective February 1, 1998; amended effective June 1, 2002.

**General Authority:** NDCC 43-12.1-02(5)

**Law Implemented:** NDCC 43-12.1-08(1)

**54-05-04-06. Training of medicaid recipient-directed care providers.**

Repealed effective July 1, 2008.