

CHAPTER TWO

LICENSURE: R.N., L.P.N., AND L.P.T.N.

SECTION I

QUALIFICATIONS

- A.** Good moral character.
- B.** Completion of an approved high school course of study or the equivalent as determined by the appropriate educational agency.
- C.** Completion of the required approved nursing education program. (LPN and LPTN requirements may be waived if applicant is determined to be otherwise qualified.)
- D.** The Arkansas State Board of Nursing (ASBN) may refuse to admit to the examination any candidate and refuse to issue a license, certificate or registration to any applicant if the license, practice privilege, certificate or registration of such person has been revoked or suspended or placed on probation and not reinstated by the jurisdiction which took such action.
- E.** Effective January 1, 2000, no person shall be eligible to receive or hold a license issued by the board if that person has pleaded guilty or nolo contendere to, or been found guilty by any court in the State of Arkansas, or of any similar offense by a court in another state, or of any similar offense by a federal court of any offense listed in ACA §17-87-312.

SECTION II

EXAMINATION

A. ELIGIBILITY

The applicant shall meet the licensure requirements of the Board.

B. APPLICATION

- 1. Applications for examination shall be completed, certified and filed with the Board prior to the examination.
- 2. One 2x3-inch photograph, signed by the applicant, shall be filed with the application.
- 3. Examination applications shall be notarized. The application shall not be acceptable if the director or chairman of an educational program has certified the applicant prior to date of completion.
- 4. Applicants for licensure by examination shall not be deemed eligible to take the licensure examination until such time that the results of the state and federal criminal background checks have

been received.

C. FEE

1. The examination fee shall accompany the application.
2. The examination fee (first time or retake) is not refundable.
3. The fees for the state and federal criminal background checks are the responsibility of the applicant and shall be submitted to the Arkansas State Police with the application for same.
4. The fees are determined by the Arkansas State Police and the FBI and are not refundable.

D. PASSING SCORE

The passing score on the licensure examination shall be determined by the Board.

E. FAILING SCORE AND ELIGIBILITY TO RETAKE THE EXAMINATION

1. Any applicant whose score falls below the passing score shall fail the examination.
2. Persons failing the examination will be responsible for preparing to retake the examination.
3. The frequency and number of retests by unsuccessful candidates shall be determined by the Board.
4. Applicants retaking the examination shall have state and federal criminal background checks within the past twelve months on file with the Board.

F. RESULTS

1. Examination results shall not be released until a copy of the applicant's transcript is received from the school.
2. Examination results shall be mailed to all applicants and to their respective schools.

G. FOREIGN EDUCATED NURSES

1. The applicant must present evidence of:
 - a. Graduation from an approved or accredited school of nursing. The Board may waive this requirement for LPN and LPTN applicants provided they are otherwise qualified.
 - b. Licensure or proof of eligibility for licensure in the country of graduation.
 - c. Theory and practice in medical, surgical, pediatric, obstetric and psychiatric nursing which is substantially similar in length and content to that in equivalent Arkansas Board approved nursing programs at the time of application as verified by a credentials review agency.

- d. State and federal criminal background checks within the past twelve months on file with the Board.
 - e. Credentials review that includes verification of the candidate's education, training, experience and licensure with respect to the statutory and regulatory requirements for the nursing profession, as well as oral and written competence in English.
2. L.P.N. applicants must have evidence of all the foregoing with the exception of psychiatric nursing, in which theory only is required.
 3. Transcripts and certificates which are not in English must be accompanied by a certified translation.
 4. Applicants shall be required to take such licensure examinations as required of Arkansas Board approved nursing programs.

H. EQUIVALENCIES

1. LPN to LPTN: Candidates holding LPN licensure may, with the approval of the Board's representative, take the requisite psychiatric nursing courses in a Board approved LPTN program to meet the Board's requirements for LPTN licensure by examination at the time of application.
2. LPTN to LPN: Candidates holding LPTN licensure who completed Arkansas Board approved LPTN programs after March 18, 1980, may be admitted to the LPN licensure examination provided they are otherwise qualified.
3. RN examination failures: Graduates of Board approved R.N. programs, upon submission of an official transcript directly from the school, and a copy of their R.N. examination failure results, may be admitted to the LPN licensure examination provided they are otherwise qualified.
4. Portion of RN Program: Candidates who have completed equivalent courses in a state approved program of nursing may be admitted to the LPN licensure examination provided they are otherwise qualified. Evidence must be provided verifying successful completion of classroom instruction and clinical practice substantially similar to the minimum requirements for practical nursing programs.

SECTION III INTERSTATE NURSE LICENSURE COMPACT

A. DEFINITIONS OF TERMS IN THE COMPACT

For the purpose of the Compact:

1. "Board" means party state's regulatory body responsible for issuing nurse licenses.
2. "Information system" means the coordinated licensure information

system.

3. "Primary state of residence" means the state of a person's declared fixed permanent and principal home for legal purposes; domicile.
4. "Public" means any individual or entity other than designated staff or representatives of party state Boards or the National Council of State Boards of Nursing, Inc.
5. "Alternative program" means a voluntary, non-disciplinary monitoring program approved by a nurse licensing board.
6. "Coordinated Licensure Information System" means an integrated process for collecting, storing, and sharing information on nurse licensure and enforcement activities related to nurse licensure laws, which is administered by a non-profit organization composed of state nurse licensing boards.
7. "Home state" means the party state which is the nurse's primary state of residence.
8. "Multistate licensure privilege" means current, official authority from a remote state permitting the practice of nursing as either a registered nurse or a licensed practical/vocational nurse in such party state.
9. "Nurse" means a registered nurse or licensed practical nurse, as those terms are defined by each party's state practice laws.
10. "Party state" means any state that has adopted this Compact.
11. "Remote state" means a party state, other than the home state,
 - (a) where the patient is located at the time nursing care is provided, or,
 - (b) in the case of the practice of nursing not involving a patient, in such party state where the recipient of nursing practice is located.
12. "Current significant investigative information" means:
 - (a) investigative information that a licensing board, after a preliminary inquiry that includes notification and an opportunity for the nurse to respond if required by state law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction; or
 - (b) investigative information that indicates that the nurse represents an immediate threat to public health and safety regardless of whether the nurse has been notified and had an opportunity to respond.
13. Licensed Practical Nurse or Licensed Vocational Nurse means a person who has been licensed as an LPN or LVN by a party state licensing board.

Other terms used in these rules are to be defined as in the Interstate Compact.

B. ISSUANCE OF A LICENSE BY A COMPACT PARTY STATE

For the purpose of this Compact:

1. A nurse applying for a license in a home party state shall produce evidence of the nurses' primary state of residence. Such evidence shall include a declaration signed by the licensee. Further evidence that may be requested may include but is not limited to:
 - a. Driver's license with a home address;
 - b. Voter registration card displaying a home address; or
 - c. Federal income tax return declaring the primary state of residence.
2. A nurse changing primary state of residence, from one party state to another party state, may continue to practice under the former home state license and multistate licensure privilege during the processing of the nurse's licensure application in the new home state for a period not to exceed thirty (30) days.
3. The licensure application in the new home state of a nurse under pending investigation by the former home state shall be held in abeyance and the thirty (30) day period in section B.2. shall be stayed until resolution of the pending investigation.
4. The former home state license shall no longer be valid upon the issuance of a new home state license.
5. If a decision is made by the new home state denying licensure, the new home state shall notify the former home state within ten (10) business days and the former home state may take action in accordance with that state's laws and rules.
6. Party states shall recognize and honor either the LPN or LVN title used for Licensed Practical Nurses and Licensed Vocational Nurses, respectively.

C. LIMITATIONS ON MULTISTATE LICENSURE PRIVILEGE

Home state Boards shall include in all licensure disciplinary orders and/or agreements that limit practice and/or require monitoring the requirement that the licensee subject to said order and/or agreement will agree to limit the licensee's practice to the home state during the pendency of the disciplinary order and/or agreement. This requirement may, in the alternative, allow the nurse to practice in other party states with prior written authorization from both the home state and such other party state Boards.

D. INFORMATION SYSTEM

1. Levels of access
 - a. The public shall have access to nurse licensure information limited to:
 - (1) the nurse's name,
 - (2) jurisdiction(s) of licensure,
 - (3) license expiration date(s),
 - (4) licensure classification(s) and status(es),
 - (5) public emergency and final disciplinary actions, as

- defined by contributing state authority, and
(6) the status of multistate licensure privileges.
- b. Non-party state Boards shall have access to all Information System data except current significant investigative information and other information as limited by contributing party state authority.
 - c. Party state Boards shall have access to all Information System data contributed by the party states and other information as limited by contributing non-party state authority.
2. The licensee may request in writing to the home state Board to review the data relating to the licensee in the Information System. In the event a licensee asserts that any data relating to him or her is inaccurate, the burden of proof shall be upon the licensee to provide evidence that substantiates such claim. The Board shall verify and within ten (10) business days correct inaccurate data to the Information System.
 3. The Board shall report to the Information System within ten (10) business days:
 - a. Disciplinary action, agreement or order requiring participation in alternative programs or which limit practice or require monitoring (except agreements and orders relating to participation in alternative programs required to remain nonpublic by contributing state authority),
 - b. Dismissal of complaint, and
 - c. Changes in status of disciplinary action, or licensure encumbrance.
 4. Current significant investigative information shall be deleted from the Information System within ten (10) business days upon report of disciplinary action, agreement or order requiring participation in alternative programs or agreements which limit practice or require monitoring or dismissal of a complaint.
 5. Changes to licensure information in the Information System shall be completed within ten (10) business days upon notification by a Board.

SECTION IV ENDORSEMENT

A. ELIGIBILITY

1. An applicant for licensure by endorsement must meet the requirements of the Board at the time of graduation.
2. An applicant licensed in another state after January 1950 must have taken a state board licensing examination and achieved a passing score.
3. LPTN applicants will be accepted from California and Kansas only.

B. EQUIVALENCIES

1. R.N. examination failures: Graduates of Board approved RN programs, holding LPN licensure by examination in other jurisdictions, may be endorsed provided they are otherwise qualified.
2. Canadian Registered Nurses licensed by NLN State Board Test Pool Examination in the following provinces during the years indicated: Alberta, 1952-1970; British Columbia, 1949-1970; Manitoba, 1955-1970; Newfoundland, 1961-1970; Nova Scotia, 1955-1970; Prince Edward Island, 1956-1970; Quebec (English language), 1959-1970; and Saskatchewan, 1956-1970. These applicants may be endorsed provided they are otherwise qualified.
3. Portion of RN Program: Candidates who have completed equivalent courses in a state approved program of nursing may be endorsed provided they are otherwise qualified. Evidence must be provided verifying successful completion of classroom instruction and clinical practice substantially similar to the minimum requirements for practical nursing programs.

C. APPLICATION

1. Applications must be completed, certified, accompanied by a 2x3-inch photograph signed by the applicant, and filed with the Board.
2. Endorsement certification will be accepted from the state of original licensure only.
3. Applicants for licensure by endorsement shall not be issued a permanent license to practice until such time that the results of the state and federal criminal background checks have been received.

D. FEE

1. The endorsement fee must accompany the application.
2. The fees for the state and federal criminal background checks are the responsibility of the applicant and shall be submitted to the Arkansas State Police with the application for same.
3. The fees are not refundable.

SECTION V CRIMINAL BACKGROUND CHECK

- A.** No application for issuance of an initial license will be considered without state and federal criminal background checks by the Arkansas State Police and the Federal Bureau of Investigation.
- B.** Each applicant shall sign a release of information on the criminal background check application and licensure applications and shall be solely responsible for the payment of any fees associated with the state and federal criminal background checks to the Arkansas State Police.

- C. Upon completion of the state and federal criminal background checks, the Identification Bureau of the Arkansas State Police shall forward all information obtained concerning the applicant in the commission of any offense listed in ACA §17-87-312.
- D. The state and federal criminal background checks conducted by the Arkansas State Police and the Federal Bureau of Investigation shall have been completed no earlier than twelve (12) months prior to the application for an initial license issued by the ASBN and at any other time thereafter that the Board deems necessary.
- E. The ASBN shall not issue a permanent license until the state and federal criminal background checks conducted by the Arkansas State Police and the Federal Bureau of Investigation have been completed.
- F. A request to seek waiver of the denial of licensure pursuant to the provisions of ACA §17-87-312 may be made to the ASBN by:
 - (1) the affected applicant for licensure, or
 - (2) the person holding a license subject to revocation.
- G. The request for a waiver shall be made in writing to the Executive Director or the designee within thirty (30) calendar days after notification of denial of a license. The request for waiver shall include, but not be limited to the following:
 - (1) certified copy of court records indicating grounds for conviction,
 - (2) any other pertinent documentation to indicate surrounding circumstances.
- H. If an individual notifies ASBN in writing that he/she desires a hearing regarding their request for a waiver, the ASBN will schedule the individual for a hearing pursuant to the Arkansas Administrative Procedures Act.
- I. In compliance with Act 1393 of 2003, whenever a criminal background check is performed on a person under the provisions of the criminal background check requirement contained in the Arkansas Code for licensure, the person may be disqualified for licensure if it is determined that the person committed a violation of any sexual offense formerly proscribed under ACA §§ 5-14-101 through 5-14-127 that is substantially equivalent to any sexual offense presently listed in Arkansas Code §§ 5-14-101 through 5-14-127 and is an offense screened for in a criminal background check.

**SECTION VI
TEMPORARY PERMITS**

A. ENDORSEMENT AND EXAM APPLICANTS

1. ASBN shall be authorized to issue a temporary permit for a period not exceeding six months. This temporary permit shall be issued only to those applicants who meet all other qualifications for licensure by the ASBN.
2. The temporary permit shall immediately become invalid upon receipt of information obtained from the federal criminal background check indicating any offense listed in ACA §17-87-312 or upon notification to the applicant or ASBN of results on the first licensure examination he or she is eligible to take after the permit is issued.
3. Falsification of the applicant's criminal record history shall be grounds for disciplinary action by the Board.

B. FEES AND APPLICATIONS

1. The temporary permit fee shall be submitted with the application.
2. The fee is not refundable.

SECTION VII CONTINUING EDUCATION

Each person holding an active license or applying for reinstatement of a license under the provisions of the Nurse Practice Act shall be required to complete certain continuing education requirements prior to licensure renewal or reinstatement.

A. DECLARATION OF COMPLIANCE

Each nurse shall declare his/her compliance with the requirements for continuing education at the time of license renewal or reinstatement. The declaration shall be made on the form supplied by the Board.

B. AUDITS OF LICENSEES

1. The Board shall perform random audits of licensees for compliance with the continuing education requirement.
2. If audited, the licensee shall prove participation in the required continuing education during the 24-months immediately preceding the renewal date by presenting photocopies of original certificates of completion to the Board.
3. The licensee shall provide evidence of continuing education requirements within thirty (30) calendar days from the mailing date of the audit notification letter sent from the Board to the last known address of the licensee.

C. CONTINUING EDUCATION REQUIREMENT STANDARDS

1. Standards for Renewal of Active Licensure Status
Licensees who hold an active nursing license shall document completion of one of the following during each renewal period:

- a. Fifteen (15) practice focused contact hours from a nationally recognized or state continuing education approval body recognized by the ASBN; or
 - b. Certification or re-certification during the renewal period by a national certifying body recognized by the ASBN; or
 - c. An academic course in nursing or related field; and
 - d. Provide other evidence as requested by the Board.
2. Standards for Nurses on Inactive Status
Nurses who have their license placed on inactive status have no requirements for continuing education.
 3. Standards for Reinstatement of Active Licensure Status
 - a. Nurses reinstating a nursing license to active status after five years or less shall document completion of the following within the past two (2) years:
 - i) Twenty (20) practice focused contact hours within the past two years from a nationally recognized or state continuing education approval body recognized by the ASBN, or
 - ii) Certification or re-certification by a national certifying body recognized by the ASBN; or
 - iii) An academic course in nursing or related field; and/or
 - iv) Provide other evidence as requested by the Board.
 - b. Nurses reinstating a nursing license to active status after greater than five years shall document completion of the following within the past two (2) years:
 - i) Twenty (20) practice focused contact hours within the past two years from a nationally recognized or state continuing education approval body recognized by the Arkansas State Board of Nursing, or
 - ii) Certification or re-certification by a national certifying body recognized by the ASBN; or
 - iii) An academic course in nursing or related field; and
 - iv) A refresher course approved by the ASBN; or
 - v) An employer competency orientation program, and
 - vi) Provide other evidence as requested by the Board.
 4. The Board may issue a temporary permit to a nurse during the time enrolled in a Board-approved nursing refresher course or an employer competency orientation program upon submission of an application, fees and verification of enrollment in such program.
 5. Continuing education hours beyond the required contact hours shall not be “carried over” to the next renewal period.

D. RESPONSIBILITIES OF THE INDIVIDUAL LICENSEE

1. It shall be the responsibility of each licensee to select and participate in those continuing activities that will meet the criteria for acceptable continuing education as specified in A.C.A. §17-87-207 and these regulations.
2. It shall be the licensee’s responsibility to maintain records of continuing education as well as documented proof such as original

certificates of attendance, contact hour certificates, academic transcripts or grade slips and to submit copies of this evidence when requested by the Board.

3. Records shall be maintained by the licensee for a minimum of two consecutive renewal periods or four years.

E. RECOGNITION OF PROVIDERS

1. The Board shall identify organizations, agencies, and groups that shall be recognized as valid approval bodies/providers of nursing continuing education. The recognition may include providers approved by national organizations and state agencies with comparable standards.
2. The Board shall work with professional organizations, approved nursing schools, and other providers of continuing educational programs to ensure that continuing education activities are available to nurses in Arkansas.

F. ACTIVITIES ACCEPTABLE FOR CONTINUING EDUCATION

1. Activities presented by recognized providers which may be acceptable include: national/ regional educational conferences, classroom instruction, individualized instruction (home study/programmed instruction), academic courses, and institutional based instruction; and
2. The educational activity shall be at least one contact hour in length.
3. The content shall be relevant to nursing practice and provide for professional growth of the licensee.
4. If participation is in an academic course or other program in which grades are given, a grade equivalent to "C" or better shall be required, or "pass" on a pass/fail grading system. An academic course may also be taken as "audit", provided that class attendance is verified by the instructor.

G. ACTIVITIES WHICH ARE NOT ACCEPTABLE AS CONTINUING EDUCATION

1. Inservice programs. Activities intended to assist the nurse to acquire, maintain, and/or increase the competence in fulfilling the assigned responsibilities specific to the expectations of the employer.
2. Refresher courses. Programs designed to update basic general knowledge and clinical practice, which consist of a didactic and clinical component to ensure entry level competencies into nursing practice.
3. Orientation programs. A program by which new staff are introduced to the philosophy, goals, policies, procedures, role expectations, physical facilities and special services in a specific work setting. Orientation is provided at the time of employment and at other times when changes in roles and responsibilities occur in a

- specific work setting.
- 4. Courses designed for lay people.

H. INDIVIDUAL REVIEW OF A CONTINUING EDUCATION ACTIVITY PROVIDED BY A NON-RECOGNIZED AGENCY/ORGANIZATION

- 1. A licensee may request an individual review by:
 - a. Submitting an "Application for Individual Review".
 - b. Paying a fee.
- 2. Approval of a non-recognized continuing educational activity shall be limited to the specific event under consideration.

I. FAILURE TO COMPLY

- 1. Any licensee who fails to complete continuing education or who falsely certifies completion of continuing education shall be subject to disciplinary action, non-renewal of the nurse's license, or both, pursuant to A.C.A. §17-87-207 and A.C.A §17-87-309(a)(1) and (a)(6).
- 2. If the Board determines that a licensee has failed to comply with continuing education requirements, the licensee will:
 - a. Be allowed to meet continuing education requirements within ninety(90) days of notification of non-compliance.
 - b. Be assessed a late fee for each contact hour that requirements are not met after the ninety (90) day grace period and be issued a Letter of Reprimand. Failure to pay the fee may result in further disciplinary action.

**SECTION VIII
RENEWALS**

- A.** Each person licensed under the provisions of the Nurse Practice Act shall renew biennially.
 - 1. Thirty (30) days prior to the expiration date, the Board shall mail a renewal application to the last known address of each nurse to whom a license was issued or renewed during the current period.
 - 2. The application shall be completed before the license renewal is processed.
 - 3. The fee for renewal shall accompany the application.
 - 4. The fee is not refundable.
 - 5. Pursuant to Act 996 of 2003 and upon written request and submission of appropriate documentation, members of the Armed Forces of the United States who are Arkansas residents and are ordered to active duty to a duty station located outside of this state shall be allowed an extension without penalty or assessment of a late fee for renewing the service members nursing license. The extension shall be effective for the period that the service member is serving on active duty at a duty station located outside of this

state and for a period not to exceed six months after the service member returns to the state.

B. LAPSED LICENSE

1. The license is lapsed if not renewed or placed in inactive status by the expiration date.
2. Failure to receive the renewal notice at the last address of record in the Board office shall not relieve the licensee of the responsibility for renewing the license by the expiration date.
3. Any licensee whose license has lapsed shall file a renewal application and pay the current renewal fee and the reinstatement fee.
4. Any person practicing nursing during the time his or her license has lapsed shall be considered an illegal practitioner and shall be subject to the penalties provided for violation of the Nurse Practice Act.

C. INACTIVE STATUS

1. Any licensee in good standing, who desires to retire temporarily from the practice of nursing in this state, shall submit a request in writing and the current license shall be placed on inactive status from the date of expiration.
2. While inactive, the licensee shall not practice nursing nor be subject to the payment of renewal fees.
3. When the licensee desires to resume practice, he or she shall request a renewal application, which shall be completed and submitted with a reinstatement fee and the renewal fee and must meet those requirements outlined in Section VII.
4. When disciplinary proceedings have been initiated against an inactive licensee, the license shall not be reinstated until the proceedings have been completed.

D. RETIRED NURSE

1. Any licensee in good standing, who desires to retire for any length of time from the practice of nursing in this state, shall submit a request in writing, surrender the current license, and pay the required fee and the current license shall be placed on inactive status and a retired license issued.
2. A retired license shall be renewed biennially following submission of a renewal application and fee.
3. Fees are non-refundable.
4. While retired, the licensee shall not practice nursing, however:
 - a. A registered nurse with a retired license may use the title "Registered Nurse", or the abbreviation "RN"; and
 - b. A practical nurse with a retired license may use the title "Licensed Practice Nurse", or the abbreviation "LPN"; and
 - c. A psychiatric technician nurse with a retired license may use

the title "Licensed Psychiatric Technician Nurse", or the abbreviation "LPTN".

5. When the licensee desires to resume practice, he or she shall request a renewal application, which shall be completed and submitted with a reinstatement fee and the active renewal fee. The licensee must also meet those requirements outlined in Section VII.
 6. If the retired license is allowed to lapse, the licensee shall not hold himself or herself out as an RN, LPN or LPTN and shall pay a reinstatement fee in addition to the fee required for renewal of the retired license.
 7. When disciplinary proceedings have been initiated against a retired licensee, the license shall not be reinstated until the proceedings have been completed.
- E. The licensee may be required to submit to a state and federal criminal background check if the Board deems it necessary.

SECTION IX DUPLICATE LICENSE

- A. A duplicate license or certificate shall be issued when the licensee submits a notarized statement to the Board that the document is lost, stolen, or destroyed, and pays the required fee.
- B. The license will be marked "duplicate".

SECTION X CERTIFICATION/VERIFICATION TO ANOTHER JURISDICTION

Upon payment of a certification/verification fee, a nurse seeking licensure in another state may have a certified statement of Arkansas licensure issued to the Board of Nursing in that state.

SECTION XI NAME OR ADDRESS CHANGE

- A. A licensee, whose name is legally changed, shall be issued a replacement license following submission of the current license, along with a notarized statement, copy of marriage license or court action, and the required fee.
- B. A licensee, whose address changes from the address appearing on the current license, shall immediately notify the Board in writing of the change.

Effective December 1, 2005

CHAPTER FIVE

DELEGATION

A. PURPOSE

Registered nurses, licensed practical nurses and licensed psychiatric technician nurses, within the parameters of their education and experience, are responsible for all nursing care that a client receives under their direction. Assessment of the nursing needs of a client, the plan of nursing actions, implementation of the plan, and evaluation of the plan, under the direction of a registered professional nurse, are essential components of nursing practice. Unlicensed personnel may be used to complement the licensed nurse in the performance of nursing functions; but such personnel cannot be used as a substitute for the licensed nurse.

Delegation by registered nurses, licensed practical nurses, and licensed psychiatric technician nurses must fall within the definitions of Ark. Code Ann. § 17-87-102. Delegation must occur within the framework of the job description of the delegatee and organizational policies and procedures, and must be in compliance with the Arkansas Nurse Practice Act. The following sections govern the licensed nurse in delegating and supervising nursing tasks to unlicensed personnel in all settings.

B. CRITERIA FOR DELEGATION

1. Delegation of nursing tasks to unlicensed persons shall comply with the following requirements:
 - a. A licensed nurse delegating the task is responsible for the nursing care given to the client and for the final decision regarding which nursing tasks can be safely delegated.
 - b. A licensed nurse must make an assessment of the client's nursing care needs prior to delegating the nursing task. (Ref. Section C. for exceptions.)
 - c. The nursing task must be one that a reasonable and prudent licensed nurse would assess to be appropriately delegated; would not require the unlicensed person to exercise nursing assessment, judgment, evaluation or teaching skill; and that can be properly and safely performed by the unlicensed person involved without jeopardizing the client's welfare.
 - d. A licensed nurse shall have written procedures available for the proper performance of each task and shall have documentation of the competency of the unlicensed person to whom the task is to be delegated.
 - e. The delegating licensed nurse shall be readily available either in person or by telecommunication.
 - f. The licensed nurse shall be responsible for documentation of delegated tasks.
 - g. Unlicensed nursing students may work only as unlicensed

- only in accordance with subsection 2. of this section.
2. The nursing tasks of this section may be delegated to an unlicensed person only:
 - a. Under circumstances where a reasonable and prudent licensed nurse would find that the delegation does not jeopardize the client's safety and/or welfare;
 - b. If, in the judgment of the licensed nurse, the unlicensed person has the appropriate knowledge and skills to perform the nursing task(s) in a safe and effective manner;
 - c. If the licensed nurse delegating the task is directly responsible for the nursing care given to the client;
 - d. If the agency, facility, or institution, employing unlicensed personnel, follows a current protocol for the instruction and training of unlicensed personnel performing nursing tasks under this subsection; and that said protocol is developed by and taught under the supervision of registered nurses currently employed in the facility, and includes:
 - (1) The manner in which the instruction addresses the complexity of the delegated task;
 - (2) The manner in which the unlicensed person demonstrates competency of the delegated task;
 - (3) The mechanism for reevaluation of the competency; and
 - (4) An established mechanism for identifying those individuals to whom nursing tasks under this subsection may be delegated; and
 - e. If the protocol recognizes that the final decision as to what nursing tasks can be safely delegated in any specific situation is within the specific scope of the nurse's professional judgment.

E. NURSING TASKS THAT SHALL NOT BE DELEGATED

By way of example, and not in limitation, the following are nursing tasks that are not within the scope of sound nursing judgment to delegate:

1. Physical, psychological, and social assessment which requires nursing judgment, intervention, referral, or follow-up;
2. Formulation of the plan of nursing care and evaluation of the client's response to the care rendered;
3. Specific tasks involved in the implementation of the plan of care which require nursing judgment or intervention;
4. The responsibility and accountability for client health teaching and health counseling which promotes client education and involves the client's significant others in accomplishing health goals; and
5. Administration of any medications or intravenous therapy, including blood or blood products.
6. Receiving or transmitting verbal or telephone orders;
7. Registered nurse practitioners and advanced practice nurses shall not delegate to unlicensed ancillary staff the calling in of prescriptions to the pharmacy.

F. TRANSFERENCE OF DELEGATED NURSING TASKS

It is the responsibility of the licensed nurse to assess each client prior to delegation of a nursing task and determine that the unlicensed person has the competence to perform the nursing task in that client=s situation.

1. The licensed nurse shall not transfer delegated tasks to other clients under the care of the unlicensed person.
2. In delegating personal care, a licensed nurse is not required to assess each client; but must periodically assess the competence of the caregiver in those activities.

G. EXCLUSIONS

These sections shall not be construed to apply to:

1. The gratuitous nursing care of the sick by family or friends;
2. The furnishing of nursing care where treatment is by prayer or spiritual means alone;
3. Acts done by persons licensed by any board or agency of the State of Arkansas if such acts are authorized by such licensing statutes;
4. Nursing tasks performed by nursing students enrolled in Board approved nursing programs while practicing under the direct supervision of qualified faculty or preceptors;
5. The instruction and/or supervision of licensed nurses by registered professional nurses in the proper performance of tasks as a part of a state approved training/education course designed to prepare persons to obtain certification;
6. The performance in the school setting of nursing procedures necessary for students to achieve activities of daily living as cited in the Education of the Handicapped Act, 20 United States Code 1400-1485, and which are routinely performed by the student or the student=s family in the home setting.
7. The acts of unlicensed persons responding to an emergency. This exclusion shall not be construed as permitting licensed nurses to delegate routinely to unlicensed persons.
8. Health maintenance activities performed by a designated care aide in the home as defined in the Consumer Directed Care Act of 2005, A.C.A. § 17-87-103 (11).

H. CONSUMER DIRECTED CARE

1. Health maintenance activities may be provided by a designated care aide for a competent adult at the direction of the adult or for a minor child or incompetent adult at the direction of a caretaker.
2. Caretaker means a person who is directly and personally involved in providing care for a minor child or incompetent adult, and the parent, foster parent, family member, friend, or legal guardian of the minor child or incompetent adult receiving care.
3. Designated care aide means the person hired by the competent adult or caretaker to provide care for the competent adult, minor child, or

- incompetent adult.
4. Health maintenance activities mean activities that the minor child or adult is unable to perform for himself or herself.
 5. The attending physician, advanced practice nurse, or registered nurse must determine a designated care aide under the direction of a competent adult or caretaker can safely perform the activity in the minor child's or adult's home.
 6. Home shall not include nursing home, assisted living facility, residential care facility, an intermediate care facility, or hospice care facility.
 7. Health maintenance activities that are not exempted by the Consumer Directed Care Act of 2005 include:
 - a. Physical, psychological, and social assessment which requires nursing judgment, intervention, referral, or follow-up;
 - b. Formulation of the plan of nursing care and evaluation of the client's response to the care rendered;
 - c. Tasks that require nursing judgment or intervention;
 - d. Teaching and health counseling;
 - e. Administration of any injectable medications (intradermal, subcutaneous, intramuscular, intravenous, intraosseous, or any other form of injection) or intravenous therapy.
 - f. Receiving or transmitting verbal or telephone orders.
 8. The designated care aide must demonstrate the ability of safely perform the health maintenance activity.

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