

Legal implications of nursing

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The Tennessee Board of Nursing 1000-1-. 04 DISCIPLINE OF LICENSEES, UNAUTHORIZED PRACTICE OF PROFESSIONAL NURSING, CIVIL PENALTIES, SCREENING PANELS, SUBPOENAS, ADVISORY RULINGS, DECLARATORY ORDERS, AND ASSESSMENT OF COSTS. (c) Persons employed in institutions, agencies, or the office of a licensed physician or dentist, assisting in the nursing care of patients where adequate medical or nursing supervision or both is provided. Assisting is defined to mean helping, aiding or cooperating. Adequate supervision is defined to mean overseeing or inspecting with authority. The basic responsibility of the individual nurse who is required to supervise others is to determine which of the nursing needs can be delegated safely to others, and whether the individual to whom the duties are entrusted must be supervised personally. The following are tasks commonly performed by such persons: 1. Answers patients' signals, provides necessary assistance in conformance with delegated tasks, and notifies the appropriate nurse when the situation so indicates. 2. Assists with the admission, transfer and discharge of patients. 3. Assists with the dressing and undressing of patients. 4. Assists with the patients' baths. 5. Assists with the measuring of fluid intake and output of patients and the records on appropriate forms. 6. Assists with the collection of urine, stool, and sputum specimens. 7. Assists with the feeding of patients. 8. Assists with the weighing of patients. 9. Assists with the making of patients' beds. 10. Assists with the application and removal of such protective devices as side rails, footboards, and bed cradles. 11. When a registered nurse undertakes to supervise other nursing tasks requiring greater skill and knowledge by such persons, the following requirements shall apply: (i) Such persons shall assist

with and undertake only those nursing tasks which they are qualified to perform. (ii) The registered nurse shall supervise such persons. (iii) The registered nurse shall retain professional accountability for nursing care when such persons are performing these activities. (iv) The registered nurse shall not require assistance with or supervise nursing care activities or responsibilities by such persons contrary to the nurse practice act or rules and regulations to the detriment of patient care. (v) Such persons shall have had proper instruction and supervised practice and shall have demonstrated competency in the procedure or activity. (vi) There is documentation of continued competency by such persons in the performance of the procedure or activity. (vii) There are written policies and procedures regarding the conditions under which the procedure or activity shall be performed by such persons. (Rules of the TN Board of Nursing, 1994) Just like we use the five rights of drug administration when administering drugs, we should use the five rights of delegation to ensure we are making the appropriate decision when delegating duties to assistive personnel: The right task- Do the state laws and statutes regulate what can be delegated? Does the task involve nursing judgment? The right circumstance- Does the assistive personnel have sufficient time to perform the task properly? Do you have time to supervise sufficiently? The right person- Is this person qualified to do this task? Have they had sufficient training to safely complete the task? Should they perform the task on this particular patient? The right direction- Have you given the assistant a clear and concise description of the task, including its objective, any limits, and your expectations? The right supervision- Are you or another licensed experience nurse available to supervise the task?

(Sheehan, 2001, 1998) (3) Responsibility. (a) Responsibility. Each individual is responsible for personal acts of negligence under the law. Registered nurses are liable if they perform delegated functions they are not prepared to handle by education and experience and for which supervision is not provided. In any patient care situation, the registered nurse should perform only those acts for which each has been prepared and has demonstrated ability to perform, bearing in mind the individual's personal responsibility under the law. (b) Registered nurses, duly licensed by the State of Tennessee who practice nursing in this state are not prohibited from expanding their roles by the Nursing Practice Act. However, R. N.'s functioning in an expanded role assume personal responsibility for all of their acts. R. N.'s who manage the medical aspects of a patient's care must have written medical protocols, jointly developed by the nurse and the sponsoring physician(s). The detail of medical protocols will vary in relation to the complexity of the situations covered and the preparation of the R. N. using them.

1000-1-. 14 STANDARDS OF NURSING COMPETENCE. The Board requires all nurses to document evidence of competence in their current practice role. The Board believes that the individual nurse is responsible for maintaining and demonstrating competence in the practice role whether the recipient of the nursing intervention is the individual, family, community, nursing staff, nursing student body, or other.

(1) Standards of Nursing Practice for the Registered Nurse (a) Standards Related to the Registered Nurse's Responsibility to Implement the Nursing Process - The Registered Nurse shall: 1. Conduct and document nursing assessments of individuals and groups by: (i) collecting objective and subjective data in an accurate and

timely manner. (ii) accurately sorting, selecting, reporting and recording the data. (iii) validating, refining and modifying the data by utilizing available resources including interactions with the client, family, significant others, and health team members. 2. Establish critical paths and teaching plans based on individual patient's plans of care after prioritizing need upon completion of a comprehensive assessment. 3. Develop the plan of care/action based on a comprehensive assessment, desired outcomes, and current knowledge. 4. Safely implement the plan of care/action either directly or by delegation. 5. Establish and maintain a therapeutic nurse/client relationship. 6. Seek resources for patients/clients with cultural, physical or language barriers. 7. Use appropriate teaching skill for individual or group teaching. 8. Evaluate the responses of individuals or groups to nursing interventions and revise the plan of care where appropriate. Evaluation shall involve the client, family, significant others and health team members. 9. Communicate accurately in writing and orally with recipients of nursing care and other professionals. (b) Standards Related to the Registered Nurse's Responsibilities as a Member of the Nursing Profession - The Registered Nurse shall: 1. Integrate knowledge of the statutes and regulations governing nursing and function within the legal and ethical boundaries of nursing practice. 2. Demonstrate personal responsibility for currency of practice and individual nursing actions. 3. Identify practice abilities and limitations and obtain instruction and supervision as necessary when implementing essential functions of the practice role. 4. Consult with nurses and other health team members and make referrals as necessary. 5. Report unsafe practice and unsafe practice conditions to recognized legal

authorities and to the Board where appropriate. 6. Delegate to another only those nursing measures which that person is prepared or qualified to perform. 7. Supervise others to whom nursing activities are delegated. 8. Retain professional accountability for nursing care when delegating nursing interventions. 9. Conduct practice without discrimination on the basis of age, race, religion, sex, sexual preference, national origin, language, handicap or disease. 10. Demonstrate a respect for the dignity and rights of clients regardless of social or economic status, personal attributes or nature of health problems. 11. Protect confidential information unless obligated by law to disclose such information. 12. Demonstrate respect for the property of clients, family, significant others and the employer. 13. Participate in activities designed to improve health care delivery in any setting. 14. Exhibit ethical behavior. (Rules of the TN Board of Nursing, 1994)

References

Rules of the Tennessee Board of Nursing: 1000 Nursing. (1994). Sheehan, J. (2001). Legally speaking. Delegating to UAPs -- a practical guide. Rn, 64(11), 65.

Sheehan, J. (1998). Legally speaking. Directing UAPs -- safely... unlicensed assistive personnel. Rn, 61(6), 53.

Questions

Question 1 The measurement and documentation of vital signs is expected for clients in a long term facility. Which staff type would it be a priority to delegate these tasks to? A) Practical nurse (PN) B) Registered Nurse (RN) C) Unlicensed assistive personnel (UAP) D) Volunteer

C: Unlicensed assistive personnel (UAP)

The measurement and recording of vital signs may be delegated to UAP. This falls under the umbrella of routine task with stable clients. Other considerations for delegation of care to UAP would be: Who is capable and is the least expensive worker to do each task?

Question 2 Which client data

should the nurse act upon when a home health aide calls the nurse from the client's home to report these items? A) " The client has complaints of not sleeping well for the past week" B) " The family wants to discontinue the home meal service, meals on wheels" C) " The urine in the urinary catheter bag is of a deeper amber, almost brown color" D) " The partner says the client has slower days every other day" C: " The urine in the urinary catheter bag is of a deeper amber, almost brown color" Home health aides need to report diverse information to nurses through phone calls and documentation. The nurse who develops the plan of care for a specific client, and supervises the aide, must identify potential danger signs which require immediate action and follow-up. The color of the urine requires follow-up evaluation.

Question 6 An unlicensed assistive personnel (UAP), who usually works in pediatrics is assigned to work on a medical-surgical unit. Which one of the questions by the charge nurse would be most appropriate prior to making delegation decisions? A) " How long have you been a UAP? " B) " What type of care did you give in pediatrics? " C) " Do you have your competency checklist that we can review? " D) " How comfortable are you to care for adult clients? " C: " Do you have your competency checklist that we can review? " The UAP must be competent to accept the delegated task. Further assessment of the qualifications of the UAP is important in order to assign the right task.