

## Legal Issues for the Mental Health Nurse

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Executive Officer

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## Alabama Board of Nursing

- Legislature passed first law establishing Board in 1915
- Initial approach was to standardize nursing education requirements
- Voluntary registration
- License represents:
  - Specialized knowledge
  - Independent judgment
  - Fitness and Capacity to practice

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## Legal Foundation of Nursing Practice

- Nurse Practice Act: statutes passed by legislature; broad language; provides authority for Board to pass regulations
- ABN Administrative Code: regulations passed by Board to clarify, amplify, and explain the statutes
  - Proposed rules posted on Board's web site
  - Requires 35 day public notice and comment period
  - If Board approves, rules become effective in another 35 days after filing

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## Examples of Statutes

- **PRACTICE OF PROFESSIONAL NURSING.** The performance, for compensation, of any act in the care and counseling of persons or in the promotion and maintenance of health and prevention of illness and injury based upon the nursing process which includes systematic data gathering, assessment, appropriate nursing judgment and evaluation of human responses to actual or potential health problems through such services as case finding, health teaching, health counseling; provision of care supportive to or restorative of life and well-being; and executing medical regimens including administering medications and treatments prescribed by a licensed or otherwise legally authorized physician or dentist. A nursing regimen shall be consistent with and shall not vary any existing medical regimen. Additional acts requiring appropriate education and training designed to maintain access to a level of health care for the consumer may be performed under emergency or other conditions which are recognized by the nursing and medical professions as proper to be performed by a registered nurse.
- **Code of Ala. 1975, § 34-21-1(3)(a)**

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## Another Example

- **PRACTICE OF PRACTICAL NURSING.** The performance, for compensation, of acts designed to promote and maintain health, prevent illness and injury and provide care utilizing standardized procedures and the nursing process, including administering medications and treatments, under the direction of a licensed professional nurse or a licensed or otherwise legally authorized physician or dentist. Such practice requires basic knowledge of the biological, physical and behavioral sciences and of nursing skills but does not require the substantial specialized skill, independent judgment and knowledge required in the practice of professional nursing. Additional acts requiring appropriate education and training may be performed under emergency or other conditions which are recognized by the nursing and medical professions as proper to be performed by a licensed practical nurse.
- **Code of Ala., 1975, § 34-21-1(3)(b)**

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## Examples of Regulations

- **Chapter 610-X-6, Standards of Nursing Practice**
  - .01: Standards of Practice
  - .02: Conduct and Accountability
    - (10): Accept individual responsibility and accountability for timely reporting of illegal, substandard, unethical, unsafe, or incompetent nursing practice directly to the Board of Nursing

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## ADMH Residential Community Programs

- ABN Administrative Code, Rule 610-X-6-.15
- History: Filed November 22, 2005. Effective December 27, 2005.
- Had the required 35 day notice and comment period
- After approval by Board, reviewed by Legislative Oversight Committee

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## Definitions Important to Understand Regulation

- (1) Accountability: Answerable or responsible for action.
- (2) Delegation: The act of authorizing a competent individual to perform acts supportive to registered nurses or licensed practical nurses in selected situations.
- (4) Responsibility: The charge to do something that is expected performance.
- **ABN Admin. Code**, Rule 610-X-2-06(1), (2), (4)

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## Section One

- The RN or LPN who provides care in residential community mental health programs certified by the ADMH is accountable and responsible for the nursing care delivered to patients in those settings.

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## Section Two

- RNs or LPNs who provide nursing care in the residential community health setting may delegate specific limited tasks to designated unlicensed assistive personnel.

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## Section Three

- The RN is accountable for determining the tasks that may be safely performed by the unlicensed assistive personnel in residential community mental health settings following appropriate training and demonstration of competency.

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## Section Four

- Specific delegated tasks shall not require the exercise of independent nursing judgment or intervention.
- How do you determine nursing judgment?

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## Specific Tasks Prohibited

- Catheterization, clean or sterile
- Administration of injectable medications
- Administration of rectal or vaginal medications (Board will revise this rule in January to allow Diastat and other emergency drugs)

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## More Tasks Prohibited

- Calculation of medication dosages other than measuring a prescribed amount of liquid medication or breaking a scored tablet
- Tracheotomy care, including suctioning
- Gastric tube insertion, replacement, or feedings

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## More Prohibited Tasks

- Invasive procedures or techniques
- Sterile procedures
- Ventilator care
- Receipt of verbal or telephone orders from a licensed prescriber

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## Section Five

- ASSISTING WITH DELIVERY OF PRESCRIBED ORAL, TOPICAL, INHALANT, EYE or EAR MEDICATIONS:
  - It is not medication administration
  - May only be delegated to a mental health worker by the RN or LPN only when the following conditions are met:
    - Medication assistant identified by RN or LPN.
    - Mental health worker selected by the RN or LPN required to successfully complete 24 hour course approved by the Board

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## Section Six

- Mental health nurse required to provide periodic and regular evaluation and monitoring of the individual performing the delegated tasks.
- Quality Monitoring
  - Training
  - Competency
  - Documentation
  - Error Reporting
  - Seven Rights

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## Section Seven

- RN or LPN delegating task may at any time suspend or withdraw delegation of specific tasks to mental health worker(s).
- Practice Recommendation: Maintain documentation of the withdrawal or suspension of the delegation and the specific task(s).

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DELEGATION TO UNLICENSED SCHOOL PERSONNEL:

ASSISTING STUDENTS WITH MEDICATION

SCHOOL: \_\_\_\_\_

FOR THE \_\_\_\_\_ YEAR THE FOLLOWING UNLICENSED (NONMEDICAL) PERSONNEL ARE ELIGIBLE FOR DELEGATION OF CERTAIN MEDICATIONS TO STUDENTS:

DATE ELIGIBLE (Passing 24-hour Course)	NAME OF UAP	JOB TITLE	DATES MONITORED (RN, Principal, & Supervisor Regarding Delegation Practice)	DATE DELEGATION RESUMED OR REVOKED
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SIGNATURE OF DELEGATING RN

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## Contact Information

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## Questions?

- Handout: Chapter 610-X-6, Standards of Nursing Practice ([ABN Administrative Code](#))
- Nurse Practice Act and ABN Administrative Code are available on web site for free
- Proposed rules posted on web site
- List serve: names and email addresses of mental health nurses

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