

June 13, 2017

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Mr. Lamberti:

I am writing on behalf of home care and hospice agencies throughout New Hampshire to offer comments on the proposed amendment to the Board of Nursing rules Nur 404.04 – *Licensees with the Authority to Delegate Nursing Related Activities*. Home care and hospice agencies employ nurses and licensed nursing assistants, both of which are professional groups that are subject to these rules.

The authority for nurses to delegate medication administration to licensed nursing assistants is relatively new. The revisions to RSA 326-B:14, II, went into effect in September 2015 and the Board of Nursing's rules became effective in April 2016. The Granite State Home Health Association appreciates that the Board has made efforts to clarify the rules relating to situations in which delegation of medication administration are appropriate. After a thoughtful review of the rules, we are concerned that the proposed amendments to Nur 404 do not add clarity, rather they raise more questions and will lead to confusion among nurses and LNAs.

The proposed amendments to 404.04 are as follows:

(b) for nursing related tasks involving assistance with or the administration of medication, the following persons shall be eligible to be delegates:

(4) Any currently licensed LNA only when:

- a. The task is assistance with medication administration; or
- b. The task is administration of medications ***in a setting that involves administration of medication to stable clients*** and the LNA holds a certificate of medication administration issued in accordance with the provisions of Nur 802; ***or***
- c. The LNA ***that does not hold a certificate of medication administration*** is employed in the home care, residential care, adult day care, school setting or hospice care setting ***where the numbers of delegations for medication administration is limited to no more than two stable clients.***

Section (4) b.

It is unclear why the phrase ***“in a setting that involves administration of medication to stable clients”*** was added to the rule. Presumably, stable clients may be in any setting. The Nur 404 rules already establish parameters for when a nurse may delegate a task or a MNA may not administer medication.

- Nur 404.06 (a) (1) states that in order to delegate a nursing task, a delegating nurse shall “ensure the client’s condition is stable and predictable pursuant to Nur 101.21.”
- Nur 404.10 outlines circumstances where a MNA *may not* perform medication administration. These include:
 - (b) The delegating nurse is unavailable to monitor the progress of the client and the effect of the medication on a client; or
 - (c) The client is not stable or has changing needs.

The addition of ***“in a setting that involves administration of medication to stable clients”*** appears to imply that there are *settings* where a MNA may or may not administer medications, yet those settings are not defined. Since 404.10 (b) requires the availability of the delegating nurse, these settings are more likely to be institutional settings. If so, the rules should be more specific. If not, the phrase should be deleted from the proposed rule.

Section (4) c.

GSHHA agrees with the addition of the phrase ***“that does not hold a certificate of medication administration.”*** This phrase differentiates those LNAs who have the MNA and those who do not.

GSHHA opposes the addition of the phrase ***“where the numbers of delegations for medication administration is limited to no more than two stable clients.”*** We do not understand the phrase’s meaning or the intent.

- **The phrase appears to modify the preceding word “setting.”** If so, does this mean that in any of the settings listed in c., only two stable clients may receive medications administered by a LNA delegatee? What if there are more than two clients at a hospice house, an adult day center or a residential care setting for whom medication administration by a LNA delegatee might be appropriate? What are the parameters of this limitation? Is it per LNA shift, per day, per week? What is the purpose of limiting delegating medication administration to only two clients in a particular setting?
- **Was the Board intending that *each* LNA would be limited to delegated medication administration for just two stable clients?** If so, what are the parameters? Is it just two clients – regardless of the setting or time frame? Or is it per home care visit? Per shift? Per day?

While RSA 326-B:14, II-a (b) grants authority to the Board of Nursing to adopt rules which may include ***“limitations on the number of delegations per assistive personnel,”*** the limitations above are both unclear and arbitrary. Whether the intent is to limit delegated medication administration to two stable clients per setting or per LNA, the limitation will significantly curtail the use of this new statutory authority to delegate medication administration.

The purpose of HB 484 was to expand the availability of assistance for clients who may be unable to administer their own medications. With an aging population and a shrinking workforce, it is unrealistic to expect that only nurses should administer medications. Home care and hospice LNAs make multiple visits per day, and each of their clients may require this service. Proper delegation by a nurse, to a specific LNA, for a specific medication, for a specific client – all within the rules’ requirements for stable client, training, competency, assessment and documentation – is a safe and effective way to help a client in the settings outlined in the Nurse Practice Act. If the board wishes to limit the number of delegations, it should seek further input from nursing employers and professionals who are utilizing the delegation process.

Home care and hospice providers are willing to work with the Board to further clarify the current rules if necessary. In the meantime, the Granite State Home Health Association respectfully requests that the Board withdraw the initial rules proposal to amend Nur 404 (b) (4) b. and c.

Sincerely,

A handwritten signature in cursive script that reads "Gina Balkus".

Gina Balkus
Chief Executive Officer