

To: Division of Participant Enrollment and Service Review
Division of Clinical Support

From: Chief, Division of Clinical Support, Office of Long Term Services and Supports

Re: Standard Operating Procedure - Nurse Delegation

Purpose:

The purpose of this communication is to standardize policy and procedures for the Office of Long Term Services and Supports (OLTSS) when reviewing plans of service (POS) for participants enrolled in the Community Personal Assistance Services (CPAS), Community First Choice (CFC), Home and Community-Based Options Waiver (HCBOW) and Increased Community Services (ICS) programs as it relates to nurse delegation to unlicensed providers, Certified Medication Technicians (CMT) and Certified Nursing Assistants (CNA) across a continuum of care.

Background:

Personal assistance is a service provided through two Medicaid State Plan programs - CPAS and CFC. HCBOW and ICS participants may also receive personal assistance services (PAS) through CFC, if residing in a qualifying setting.

As defined in Code of Maryland Regulations (COMAR) 10.09.84.14, PAS includes the following when provided by a personal assistance provider:

- (1) Assistance with activities of daily living (ADL);*
- (2) Delegated nursing functions if this assistance is:
 - (a) Specified in the participant's plan of service; and*
 - (b) Rendered in accordance with the Maryland Nurse Practice Act, COMAR 10.27.11, and other requirements of the Maryland Board of Nursing;**
- (3) Assistance with tasks requiring judgment to protect a participant from harm or neglect;*
- (4) Assistance with or completion of instrumental activities of daily living (IADL), provided in conjunction with the services covered under §B(1)—(3) of this regulation; and*
- (5) Assistance with the participant's self-administration of medications, or administration of medications or other remedies, when ordered by a physician.*

Delegation is the act of authorizing an unlicensed provider, CMT or CNA to perform acts of registered nursing (RN) or licensed practical nursing while the delegating RN retains accountability for the tasks. A nursing task delegated by an RN must be within the nurse's responsibility, within the scope of a prudent nurse's judgment and able to be properly and safely performed by an unlicensed provider, CMT or CNA. **A delegated task completed by an unlicensed provider, CMT or CNA cannot require nursing knowledge, judgment or skill.**

Prior to delegating a nursing task to an unlicensed provider, CMT or CNA, a delegating RN must assess the individual (for whom the task is to be completed) and determine that their condition and the tasks to be performed are within the scope of delegation (10.27.11.05). Further, the

delegating RN must thoroughly assess and document that the individual's health care needs are chronic, stable, uncomplicated, routine and predictable, that the environment is conducive to the delegation of nursing tasks and that the individual is unable to perform his or her own care (10.27.11.03F, 10.27.09.3I). The delegating RN must also determine that delegation will not jeopardize the health and welfare of the individual (10.27.11.03B(2) and 10.27.11.05B) and be readily available during all hours that the unlicensed provider, CMT or CNA is performing (or may perform) delegated functions (10.27.11.04A-D).

Once the delegating RN has determined that delegation may occur, the nurse must develop a nursing plan of care, train the unlicensed provider, CMT or CNA and verify their competency to perform any delegated tasks. The nurse must also supervise and evaluate the performance of any delegated tasks by an unlicensed provider, CMT or CNA and be responsible for accurate documentation related to the delegated task (10.27.11.04).

The delegating RN is the primary decision maker when delegating a nursing task to an unlicensed provider, CMT or CNA. Nursing judgment must be exercised within the context of the Program (see definition below) and the employing facility's model of nursing practice, which includes a mechanism for identifying those who can perform delegated nursing tasks, reevaluation of the competency of those who perform delegated nursing tasks, recognizing that the final decision regarding delegation is within the scope of the nurse's professional judgment, determining the delegating nurse's ability to delegate and determining who may perform delegated nursing tasks (10.27.11.03, 10.27.11.09I). Policies and procedures must be in place related to the model of care, delegated tasks and medication administration for skills and tasks to be delegated (Medication Technician Training Program (MTTP), 10.27.09.02E(b)(iii)).

Definitions

1. Certified Medication Technician (CMT): An unlicensed person who completes a 20-hour course in medication administration approved by the Maryland Board of Nursing ("the Board") and is certified by the Board.
2. Certified Nursing Assistant (CNA): An unlicensed person certified by the Board as a nursing assistant after having completed a Nursing Assistant Program approved by the Maryland Higher Education Commission or the Board.
3. Clinical judgment: A nurse's conclusion that recognizes, then correctly interprets, relevant clinical data to determine the best response for a patient.
4. Chronic: A condition in existence for greater than six months.
5. Delegation: The act of authorizing an unlicensed individual, CMT or CNA to perform acts of registered nursing or licensed practical nursing. The delegating nurse: (a) Invests authority to act on behalf of the registered nurse to an unlicensed person; (b) Authorizes the unlicensed person to augment and supplement the care the registered nurse provides; and (c) Retains the accountability and responsibility for the delegated act.
6. Predictable: Health is stable and delegable treatments and/or medications are prescribed in standard times of performance without "as needed" or PRN component that requires the assessment, knowledge, judgment or skill of a nurse.

7. Program: The state entity responsible for authorization of services under the service models where delegation in unstructured settings may occur (10.27.11.05H(1)):
 - a. Supervised group living settings;
 - b. Supervised or sheltered work settings;
 - c. Independent living settings;
 - d. Schools;
 - e. Correctional institutions;
 - f. Hospice care;
 - g. Adult medical day care centers; and
 - h. Childcare centers established for children with health or medical conditions or both.
8. Routine: Those activities that are necessary on a daily basis for a patient to gain or maintain a level of functioning.
9. Readily Available:
 - a. A structured setting:
 - i. The delegating nurse is physically present on the unit; and
 - ii. The nurse may transfer responsibility for the nursing supervision and delegation to another nurse who then becomes the nurse delegating the nursing functions; and
 - b. Other settings: The delegating nurse is on the premises or else is available by telephone to perform troubleshooting and triage related to the delegated tasks and condition of the individual.
10. Self-direction: A participant is directing services and care, including skilled nursing tasks and medication administration. The Program will only authorize the self-direction of skilled nursing services if the task meets the delegation requirements outlined in this SOP.
11. Self-administration: Administration of medication to oneself or self-performance of a skilled nursing task by a cognitively aware individual. The Program will cover assistance with self-administration of medication or self-performance of a skilled nursing task when prescribed by a physician and supervised by an RSA RN.
12. Stable: Health without fluctuation, deterioration or decline.
13. Uncomplicated: Nursing tasks with minimal steps or functions that present low risk to an individual.

Eligibility:

A skilled nursing task may be delegated to an unlicensed provider, CMT or CNA if the following criteria are met: 1) the participant's condition is chronic, stable, uncomplicated, routine and predictable; 2) the environment is conducive to the delegation of nursing tasks and 3) the participant is unable to perform his or her own care (10.27.11.03F). The delegating RN must visit the participant's home at least every 45 days and evaluate the participant, the staff performing the delegated task and the documentation. If the participant does not meet the criteria outlined in COMAR 10.27.11.03F, then the delegating RN must visit at least every two weeks to evaluate and determine if the nursing tasks may be safely delegated and the unlicensed provider, CMT or CNA is competent to perform the delegated tasks (10.27.11.04D). If

the RN is delegating treatment of any stage 3 or 4 wound, including medication application, then the RN must make an on-site visit at least every seven days to assess the participant's status and observe the performance of the provider (10.27.11.05H).

Procedure:

1. During the first level of POS review, the reviewer must identify: 1) whether the applicant/participant is requesting assistance with skilled nursing tasks and 2) whether the requested tasks are delegable. The reviewer should review the applicant/participant's most recent interRAI assessment and compare it to the service requests in the POS to determine whether all skilled nursing needs have been identified¹.
 - a. Commonly requested tasks that **do NOT require delegation**:
 - i. Emptying a urinary collection device; and
 - ii. Applying/removing a condom catheter.
 - b. Skilled tasks that **ARE delegable** to an unlicensed provider, CMT or CNA²:
 - i. Medication administration as outlined below, when delegated to a CMT:
 1. Medication by metered dose inhalant, nebulizer and oxygen by nasal cannula or mask;
 2. Medication by gastrostomy or jejunostomy tube or rectal tube if the RN has calculated the dosage;
 3. Oral medication, including:
 - a. Measuring as prescribed an amount of liquid medication where the RN has calculated the dose; and
 - b. Administering a fraction of a tablet if the RN has cut the tablet;
 4. Medication by subcutaneous injection if the RN has calculated the dose;
 5. Medication administered by topical route excluding stage 3 and 4 pressure ulcers and wound care;
 6. Medication administered by suppository route;
 7. Medication drops administered by routes involving eye, ear and nose; and
 8. Medications as approved by MBON for the Program as found in the Special Procedures chapter of the MTTP;
 - ii. G-tube feedings, G-tube flushes and G-tube venting;
 - iii. Applying and removing continuous positive airway pressure (CPAP) equipment;
 - iv. Colostomy care (e.g., applying adhesive);
 - v. Finger stick for blood glucose;

¹ If the applicant/participant is enrolled in the Model Waiver, Rare and Expensive Case Management or the Early and Periodic Screening, Diagnostic and Treatment program and receiving private duty nursing, please consult with a clinical reviewer or the OLTSS, Division of Nursing Services to determine if the skilled task is continuous and requires a licensed nurse.

² Must adhere to COMAR 10.27.11.03F, 10.27.11.04C and 10.27.11.05H(1)

- vi. Nasal suctioning; and
 - vii. Wound care for Stage 1 and 2 wounds with and without medication treatment;
- c. Skilled tasks that **MAY be delegable** to an unlicensed provider, CMT or CNA³:
- i. A combined G/J-tube or J-tube feedings and flushes;
 - ii. J-tube medication administration;
 - iii. Clean intermittent catheterization;
 - iv. Wound care for Stage 3 and 4 wounds with and without medication treatment⁴;
 - v. Applying and removing bilevel positive airway pressure (BiPAP) equipment when ordered for overnight use;
 - vi. Chest vest percussion therapy;
 - vii. Digital disimpaction if part of a routine bowel protocol;
 - viii. Changing urinary bags (nephrostomy, ileostomy and urostomy only); and
 - ix. Documenting or obtaining specific information (i.e., vital signs);
- d. Skilled tasks that **ARE NOT delegable**⁵:
- i. Ventilator care;
 - ii. Tracheostomy care (e.g., suctioning, collar changes);
 - iii. Flushing/irrigations to ostomies or catheters;
 - iv. Deep suctioning (pharyngeal);
 - v. Sterile catheterization or catheter changes;
 - vi. High flow O2 (> 6 liters cannula/mask);
 - vii. Sterile procedures;
 - viii. BiPAP requiring setting changes or a need greater than eight hours daily (i.e., more than overnight);
 - ix. Non-routine tasks;
 - x. Indwelling catheter or stoma tube changes;
 - xi. Peritoneal dialysis;
 - xii. Cough assist device;
 - xiii. Wound VAC care;
 - xiv. Wound debridement or wound packing;
 - xv. Hemodialysis or dialysis catheter care;
 - xvi. Manual chest percussion;
 - xvii. Inserting or adjusting medication dosages on insulin pumps;
 - xviii. Drainage tubes;
 - xix. Oral chemotherapy that requires special techniques and during initiation of treatment;
 - xx. Anything that is administered intravenously;
 - xxi. Calculation of any medication dose;

³ Must adhere to COMAR 10.27.11.03F, 10.27.11.04C and 10.27.11.05H(1)

⁴ Requires documentation that the delegating RN is visiting the participant every seven days

⁵ Any task that is performed "as needed" (i.e., not routine) or requires an adjustment in settings based on an individual's condition (i.e., assessment) is not a delegable nursing task.

- xxii. Administration of medications by way of a tube inserted in a cavity of the body, except G- and J-tubes and rectal tubes as noted above;
 - xxiii. Administration of medications by injection route, with the exception of those delivered subcutaneously;
 - xxiv. Feeding, inserting or caring for a nasogastric tube;
 - xxv. Placing medications in a pill dispenser (pill caddy) as it is a form of dispensing medication;
 - xxvi. Assessment to determine an individual's status, needs or treatment modalities; and
 - xxvii. Any nursing task that requires the knowledge, skills or clinical judgment of a nurse.
2. If skilled needs exist and assistance with skilled tasks is requested on the POS, the reviewer must determine whether the tasks have been (or will be) appropriately delegated by an RN.
 - a. For a provisional or initial POS, the plan must include a statement indicating that a CMT is being requested for medication administration, if applicable, and that delegation is being requested for all other skilled tasks.
 - b. For revised and annual POS, the plan must include documentation supporting active delegation by an RSA RN. This documentation may consist of a care plan from the RSA RN supporting delegation, the RSA checklist completed by a nurse monitor indicating delegation or an indication in a visit note completed by a nurse monitor that delegation by the RSA RN is occurring.
 3. If the POS does not include the required information or supporting documentation indicated above, the reviewer should return the plan to the applicant/participant's Supports Planner via a clarification request. If after the plan is returned, the documentation is still insufficient, the reviewer should deny the request for assistance with skilled tasks and issue a denial letter.