

LAWS AND REGULATIONS FOR CERTIFIED NURSE AIDES

Title 54.1, Chapter 30 Certification of Nurse Aides.

The following are the sections of the Code (law) that state who may use the title of "Certified Nurse Aide" (C.N.A.), list an exception to the law, and state requirements to become a C.N.A. and to renew certification.

§ 54.1-3000. Definitions.

"Certified nurse aide" means a person who meets the qualifications specified in this article and who is currently certified by the Board.

"Practice of a nurse aide" or "nurse aide practice" means the performance of services requiring the education, training, and skills specified in this chapter for certification as a nurse aide. Such services are performed under the supervision of a dentist, physician, podiatrist, professional nurse, licensed practical nurse, or other licensed health care professional acting within the scope of the requirements of his profession.

§ 54.1-3001. Exemptions.

This chapter shall not apply to the following:

7. General care of the sick by nursing assistants, companions or domestic servants that does not constitute the practice of nursing as defined in this chapter;
12. Any person performing state or federally funded health care tasks directed by the consumer, which are typically self-performed, for an individual who lives in a private residence and who, by reason of disability, is unable to perform such tasks but who is capable of directing the appropriate performance of such tasks.

§ 54.1-3022. Use of the title "Certified Nurse Aide" or "C.N.A."-- No person shall use or assume the title "Certified Nurse Aide" or abbreviation "C.N.A." or any words, letters, signs, or devices to indicate that person is a certified nurse aide unless certified by the Board.

§ 54.1-3023. Application for certification by competency evaluation. -- Every applicant for certification by competency evaluation shall pay the required application fee and shall submit written evidence that the applicant:

1. Has not committed any act or omission that would be grounds for discipline or denial of certification under this article; and
2. Has successfully completed an education or training program approved by the Board.

§ 54.1-3024. Application for certification by endorsement. -- Every applicant for certification by endorsement shall pay the required application fee, shall submit the information required by the Board in the manner and form specified by the Board, and shall submit written evidence that the applicant:

1. Is certified to practice as a nurse aide by another state or territory of the United States (with requirements that are essentially similar to the requirements for certification set out in this article) and that such certification is in good standing;
2. Has not committed any act or omission that would be grounds for discipline or denial of certification under this article;
3. Has no record of abuse, negligent practice, or misappropriation of a patient's or resident's property or any disciplinary action taken or pending in any other state or territory against such certification.

§ 54.1-3025. Certification by competency evaluation. -- All applicants except those certified by endorsement shall be required to pass a clinical competency evaluation. Such evaluation shall be in written or oral form and shall include the following areas:

1. Basic nursing skills;
2. Personal care skills;
3. Recognition of mental health and social services needs;
4. Basic restorative services; and
4. Resident or patient rights.

§ 54.1-3025.1. Advanced certification; renewal.

A. The Board shall develop and promulgate regulations to establish a career advancement certification that will indicate enhanced competence in patient care tasks and enable certified nurse aides to expand the scope of the responsibilities and duties delegated to them. An advanced certificate shall be awarded upon successful completion of the required educational and training standards set by the Board. Each institution that desires to conduct programs to provide training for such advanced certificates shall be approved by the Board pursuant to § 54.1-3005.

B. An advanced certificate issued to a certified nurse aide shall be renewed biennially upon payment of any specified fee. The certified nurse aide shall submit proof of compliance with any requirements of law and regulation concerning competence as established by the Board.

§ 54.1-3026. Renewal of certification. -- Each certificate issued to practice as a nurse aide shall be renewed biennially upon payment of any specified fee. The nurse aide shall submit proof of compliance with any requirements of law and regulation concerning continued employment or competence as a condition of such renewal. The Board shall establish requirements for the renewal of certifications consistent with federal law.

§ 54.1-3027. Exclusions. -- This article shall not be construed to affect or apply to:

1. The gratuitous care of friends or family members;
2. A person for hire who does not represent himself as or hold himself out to the public as a certified nurse aide. However, a person for hire who is not a certified nurse aide in accordance with this article shall not hold himself out as a certified nurse aide or be employed as a certified nurse aide.

§ 54.1-3028.1. Nurse aide education programs.

Nurse aide education programs designed to prepare nurse aides for certification shall be a minimum of 120 clock hours in length. The curriculum of such programs shall include communication and interpersonal skills, safety and emergency procedures, personal care skills, observational and reporting techniques, appropriate clinical care of the aged and disabled, skills for basic restorative services, clients' rights, legal aspects of practice as a certified nurse aide, occupational health and safety measures, culturally sensitive care, and appropriate management of conflict. The Board shall promulgate regulations to implement the provisions of this section.

The following section of the law describes the membership of the Board of Nursing and lists what the Board may do.

§ 54.1-3002. Board of Nursing; membership; terms; meetings; quorum; administrative officer. -- The Board of Nursing shall consist of 14 members as follows: eight registered nurses, at least two of whom are licensed nurse practitioners; two licensed practical nurses; three citizen members; and one member who shall be a registered nurse or a licensed practical nurse. The terms of office of the Board shall be four years.

§ 54.1-3005. Specific powers and duties of Board.

In addition to the general powers and duties conferred in this title, the Board shall have the following specific powers and duties:

1. To prescribe minimum standards and approve curricula for educational programs preparing persons for licensure or certification under this chapter;
2. To approve programs that meet the requirements of this chapter and of the Board;
3. To provide consultation service for educational programs as requested;
4. To provide for periodic surveys of educational programs;
5. To deny or withdraw approval from educational or training programs for failure to meet prescribed standards;
6. To provide consultation regarding nursing practice for institutions and agencies as requested and investigate illegal nursing practices;
7. To keep a record of all its proceedings;
8. To certify and maintain a registry of all certified nurse aides and to promulgate regulations consistent with federal law and regulation. The Board shall require all schools to demonstrate their compliance with § [54.1-3006.2](#) upon application for approval or reapproval, during an on-site visit, or in response to a complaint or a report of noncompliance. The Board may impose a fee pursuant to § [54.1-2401](#) for any violation thereof. Such regulations may include standards for the authority of licensed practical nurses to teach nurse aides;

9. To maintain a registry of clinical nurse specialists and to promulgate regulations governing clinical nurse specialists;
10. To license and maintain a registry of all licensed massage therapists and to promulgate regulations governing the criteria for licensure as a massage therapist and the standards of professional conduct for licensed massage therapists;
11. To promulgate regulations for the delegation of certain nursing tasks and procedures not involving assessment, evaluation or nursing judgment to an appropriately trained unlicensed person by and under the supervision of a registered nurse, who retains responsibility and accountability for such delegation;
12. To develop and revise as may be necessary, in coordination with the Boards of Medicine and Education, guidelines for the training of employees of a school board in the administration of insulin and glucagon for the purpose of assisting with routine insulin injections and providing emergency treatment for life-threatening hypoglycemia. The first set of such guidelines shall be finalized by September 1, 1999, and shall be made available to local school boards for a fee not to exceed the costs of publication;
13. To enter into the Nurse Licensure Compact as set forth in this chapter and to promulgate regulations for its implementation;
14. To collect, store and make available nursing workforce information regarding the various categories of nurses certified, licensed or registered pursuant to § [54.1-3012.1](#);
15. To expedite application processing, to the extent possible, pursuant to § [54.1-119](#) for an applicant for licensure or certification by the Board upon submission of evidence that the applicant, who is licensed or certified in another state, is relocating to the Commonwealth pursuant to a spouse's official military orders;
16. To register medication aides and promulgate regulations governing the criteria for such registration and standards of conduct for medication aides;
17. To approve training programs for medication aides to include requirements for instructional personnel, curriculum, continuing education, and a competency evaluation;
18. To set guidelines for the collection of data by all approved nursing education programs and to compile this data in an annual report. The data shall include but not be limited to enrollment, graduation rate, attrition rate, and number of qualified applicants who are denied admission;
19. To develop, in consultation with the Board of Pharmacy, guidelines for the training of employees of child day programs as defined in § [63.2-100](#) and regulated by the State Board of Social Services in the administration of prescription drugs as defined in the Drug Control Act (§ [54.1-3400](#) et seq.). Such training programs shall be taught by a registered nurse, licensed practical nurse, doctor of medicine or osteopathic medicine, or pharmacist;
20. In order to protect the privacy and security of health professionals licensed, registered or certified under this chapter, to promulgate regulations permitting use on identification badges of first name and first letter only of last name and appropriate title when practicing in hospital emergency departments, in psychiatric and mental health units and programs, or in health care facility units offering treatment for patients in custody of state or local law-enforcement agencies;
21. To revise, as may be necessary, guidelines for seizure management, in coordination with the Board of Medicine, including the list of rescue medications for students with epilepsy and other seizure disorders in the public schools. The revised guidelines shall be finalized and made available to the Board of Education by August 1, 2010. The guidelines shall then be posted on the Department of Education's website; and
22. To promulgate, together with the Board of Medicine, regulations governing the licensure of nurse practitioners pursuant to § [54.1-2957](#).

The following sections of the law describe causes for disciplinary action against the certificate of a CNA or others licensed by the Board of Nursing and describe procedures related to disciplinary actions.

§ 54.1-104. Suspension of license, certificate, registration, permit, or authority for dishonor of fee payment; reinstatement.

The Department of Professional and Occupational Regulation and the Department of Health Professions may suspend the license, certificate, registration, permit, or authority it has issued any person who submits a check, money draft, or similar instrument for payment of a fee required by statute or regulation which is not honored by the bank or financial institution named. The suspension shall become effective 10 days following delivery by certified mail of written notice of the dishonor and the impending suspension to such person's address. Upon notification of suspension, the person may reinstate the license, certificate, registration, permit, or authority upon payment of the fee and penalties required under statute or regulation. Suspension under this provision shall be exempt from the Administrative Process Act (§ [2.2-4000](#) et seq.).

§ 54.1-2408. Disqualification for license, certificate or registration.

A board within the Department of Health Professions shall refuse to admit a candidate to any examination and shall refuse to issue a license, certificate or registration to any applicant if the candidate or applicant has had his license, certificate or registration to practice the profession or occupation revoked or suspended, and has not had his license, certificate or registration to so practice reinstated by the jurisdiction which revoked or suspended his license, certificate or registration, except as may be necessary to license a nurse eligible for reinstatement in another party state as consistent with the Nurse Licensure Compact.

§ 54.1-2408.1. Summary action against licenses, certificates, registrations, or multistate licensure privilege; allegations to be in writing.

A. Any health regulatory board may suspend the license, certificate, registration, permit, or multistate licensure privilege of any person holding a license, certificate, registration, permit, or licensure privilege issued by it without a hearing simultaneously with the institution of proceedings for a hearing, if the relevant board finds that there is a substantial danger to the public health or safety which warrants this action. A board may meet by telephone conference call when summarily suspending a license, certificate, registration, permit, or licensure privilege if a good faith effort to assemble a quorum of the board has failed and, in the judgment of a majority of the members of the board, the continued practice by the individual constitutes a substantial danger to the public health or safety. Institution of proceedings for a hearing shall be provided simultaneously with the summary suspension. The hearing shall be scheduled within a reasonable time of the date of the summary suspension.

B. Any health regulatory board may restrict the license, certificate, registration, permit, or multistate licensure privilege of any person holding a license, certificate, registration, permit, or licensure privilege issued by it without proceeding simultaneously with notification of an informal conference pursuant to §§ [2.2-4019](#) and [54.1-2400](#), if the relevant board finds that there is a substantial danger to the public health or safety that warrants this action. A board may meet by telephone conference call when summarily restricting a license, certificate, registration, permit, or licensure privilege if a good faith effort to assemble a quorum of the board has failed and, in the judgment of a majority of the members of the board, the continued practice by the individual constitutes a substantial danger to the public health or safety. The informal conference shall be scheduled within a reasonable time of the date of the summary restriction. Evidence establishing that the registration issued by the U.S. Drug Enforcement Administration to a person holding a license, certificate, registration, permit, or multistate licensure privilege has been suspended or voluntarily surrendered in lieu of disciplinary action is sufficient for a finding that there is a substantial danger to the public health or safety.

C. Allegations of violations of this title shall be made in writing to the relevant health regulatory board.

§ 54.1-2409. Mandatory suspension or revocation; reinstatement; hearing for reinstatement.

A. Upon receipt of documentation by any court or government agency that a person licensed, certified, or registered by a board within the Department of Health Professions has (i) had his license, certificate, or registration to practice the same profession or occupation revoked or suspended for reasons other than nonrenewal or accepted for surrender in lieu of disciplinary action in another jurisdiction and has not had his license, certificate, or registration to so practice reinstated within that jurisdiction, unless such revocation, suspension, or surrender was based solely on the disciplinary action of a board within the Department or mandatory suspension by the Director of the Department or (ii) been convicted of a felony or has been adjudged incapacitated, the Director shall immediately suspend, without a hearing, the license, certificate, or registration of any person so disciplined, convicted, or adjudged. The Director shall notify such person or his legal guardian, conservator, trustee, committee, or other representative of the suspension in writing to his address on record with the Department. Such notice shall include a copy of the documentation from such court or agency, certified by the Director as the documentation received from such court or agency. Such person shall not have the right to practice within this Commonwealth until his license, certificate, or registration has been reinstated by the Board.

B. The clerk of any court in which a conviction of a felony or an adjudication of incapacity is made, who has knowledge that a person licensed, certified, or registered by a board within the Department has been convicted or found incapacitated, shall have a duty to report these findings promptly to the Director.

C. When a conviction has not become final, the Director may decline to suspend the license, certificate, or registration until the conviction becomes final if there is a likelihood of injury or damage to the public if the person's services are not available.

D. Any person whose license, certificate, or registration has been suspended as provided in this section may apply to the board for reinstatement of his license, certificate, or registration. Such person shall be entitled to a hearing not later than the next regular meeting of the board after the expiration of 60 days from the receipt of such application, and shall have the right to be represented by counsel and to summon witnesses to testify in his behalf. The Board may consider other

information concerning possible violations of Virginia law at such hearing, if reasonable notice is given to such person of the information.

The reinstatement of the applicant's license, certificate, or registration shall require the affirmative vote of three-fourths of the members of the board at the hearing. The board may order such reinstatement without further examination of the applicant, or reinstate the license, certificate, or registration upon such terms and conditions as it deems appropriate.

E. Pursuant to the authority of the Board of Nursing provided in Chapter 30 (§ [54.1-3000](#) et seq.) of this title, the provisions of this section shall apply, mutatis mutandis, to persons holding a multistate licensure privilege to practice nursing.

The following section of the Board of Nursing Regulations further explains the requirements to become certified as a CNA and states the rules for renewing or reinstating the certificate AND FOR KEEPING THE REGISTRY INFORMED OF ONE'S CURRENT MAILING ADDRESS AND NAME.

BOARD OF NURSING REGULATIONS FOR CERTIFIED NURSE AIDES

18VAC90-25-15. Identification; accuracy of records.

A. Any person regulated by this chapter who provides direct patient care shall, while on duty, wear identification that is clearly visible and indicates the appropriate title issued to such person by the board under which he is practicing in that setting. Name identification on a badge shall follow the policy of the facility in which the nurse aide is employed.

B. A certificate holder who has changed his name shall submit as legal proof to the board a copy of the marriage certificate, a certificate of naturalization, or court order evidencing the change. A duplicate certificate shall be issued by the board upon receipt of such evidence.

C. Each certificate holder shall maintain an address of record with the board. Any change in the address of record or in the public address, if different from the address of record, shall be submitted in writing or electronically to the board within 30 days of such change. All notices required by law and by this chapter to be mailed by the board to any certificate holder shall be validly given when mailed to the latest address of record on file with the board.

18VAC90-25-70. Initial certification for the nurse aide registry.

A. The board shall issue a certificate as a certified nurse aide to each applicant who qualifies for such a certificate under §§[54.1-3024](#), [54.1-3025](#), [54.1-3026](#) and [54.1-3028](#) of the Code of Virginia and provisions of this chapter.

B. Nurse aide competency evaluation.

1. The board may contract with a test service for the development and administration of a competency evaluation.

2. All individuals completing a nurse aide education program in Virginia shall successfully complete the competency evaluation required by the board prior to being certified and to using the title Certified Nurse Aide.

3. The board shall determine the minimum passing standard on the state examination.

C. Initial certification shall be for two years.

18VAC90-25-71. Certification by examination.

A. To be placed on the registry and certified by examination, the nurse aide must:

1. Have satisfactorily completed:

a. A nurse aide education program approved by the board;

b. At least one clinical nursing course that includes at least 40 hours of clinical experience involving direct client care within the past 12 months while enrolled in a nursing education program preparing for registered nurse or practical nurse licensure; or

c. A nursing education program preparing for registered nurse licensure or practical nurse licensure;

2. Pass the state examination required by the board; and

3. Submit the required application and testing fee as prescribed by the board.

B. An applicant who fails to take the board-approved skills and written portions of the state examination within two years of completion of the training or who has failed the examination in three attempts shall reenroll and successfully complete another approved nurse aide training program before reapplying.

18VAC90-25-72. Certification by endorsement.

To be placed on the registry and be certified by endorsement, the nurse aide shall:

1. Be a graduate of a state-approved nurse aide education program that meets the requirements for clinical training and competency set forth in 42 CFR 483.152;
2. Have satisfactorily completed a competency evaluation program;
3. Be currently registered in another state, with no finding of abuse, neglect or misappropriation of property;
4. Submit the required application; and
5. Submit the required verification form to the credentialing agency in each state in which the applicant has been registered, certified, or licensed, unless electronic verification is available.

18VAC90-25-80. Renewal or reinstatement of certification.

A. Renewal of certification.

1. No less than 30 days prior to the expiration date of the current certification, a notice for renewal shall be sent by the board to the address of record of each currently certified nurse aide.
2. The certified nurse aide shall annually submit a completed renewal application with the required fee and attestation of performance of nursing-related activities for compensation within the two years immediately preceding the expiration date.
3. Failure to receive the application for renewal shall not relieve the certificate holder of the responsibility for renewing the certification by the expiration date.
4. A certified nurse aide who has not performed nursing-related activities for compensation during the two years preceding the expiration date of the certification shall repeat and pass the nurse aide state examination prior to applying for renewal of certification.

B. Reinstatement of certification.

1. An individual whose certification has lapsed for more than 90 days shall submit the required application and renewal fee and provide:
 - a. Verification of performance of nursing-related activities for compensation in the two years prior to the expiration date of the certificate and within the preceding two years; or
 - b. Evidence of having repeated and passed the nurse aide state examination.
 2. An individual who has previously had a finding of abuse, neglect, or misappropriation of property is not eligible for reinstatement of his certification, except as provided in 18VAC90-25-81, which provides a process for removal of the finding of neglect based on a single occurrence.
- C. A certified nurse aide whose certification has been suspended or revoked by the board and who is eligible for reinstatement may apply for reinstatement by filing a reinstatement application and fulfilling requirements of subsection B of this section.

18VAC90-25-81. Removal of a finding of neglect.

- A. If a finding of neglect was made against a certificate holder based on a single occurrence, an individual may petition for removal of the finding of neglect provided:
1. A period of at least one year has passed since the finding was made; and
 2. The individual demonstrates sufficient evidence that employment and personal history do not reflect a pattern of abusive behavior or neglect.
- B. A certificate holder can petition the board only once for removal of a finding of neglect.

The following section of Regulations lists some of the acts that may result in disciplinary action against the certificate of a CNA.

18VAC90-25-100. Disciplinary provisions for nurse aides.

The board has the authority to deny, revoke, or suspend a certificate issued, or to otherwise discipline a certificate holder upon proof that the certificate holder has violated any of the provisions of § 54.1-3007 of the Code of Virginia. For the purpose of establishing allegations to be included in the notice of hearing, the board has adopted the following definitions:

1. Fraud or deceit in order to procure or maintain a certificate shall mean but shall not be limited to:
 - a. Filing false credentials;
 - b. Falsely representing facts on an application for initial certification, reinstatement or renewal of a certificate; or
 - c. Giving or receiving assistance in taking the state examination.
2. Unprofessional conduct shall mean but shall not be limited to:
 - a. Performing acts beyond those authorized for practice as a nurse aide or an advanced certified nurse aide as defined in Chapter 30 (§ 54.1-3000 et seq.) of Title 54.1 of the Code of Virginia, and beyond those authorized by the Drug Control

Act (§ 54.1-3400 et seq. of the Code of Virginia) or by provisions for delegation of nursing tasks in Part VI (18VAC90-19-240 et seq.) of 18VAC90-19.

- b. Assuming duties and responsibilities within the practice of a nurse aide or an advanced certified nurse aide without adequate training or when competency has not been maintained;
- c. Obtaining supplies, equipment or drugs for personal or other unauthorized use;
- d. Falsifying or otherwise altering client or employer records, including falsely representing facts on a job application or other employment-related documents;
- e. Abusing, neglecting, or abandoning clients;
- f. Having been denied a license or certificate or having had a license or certificate issued by the board revoked or suspended;
- g. Giving to or accepting from a client property or money for any reason other than fee for service or a nominal token of appreciation;
- h. Obtaining money or property of a client by fraud, misrepresentation, or duress;
- i. Entering into a relationship with a client or the client's family that constitutes a professional boundary violation in which the nurse aide uses his professional position to take advantage of the vulnerability of a client or his family, to include actions that result in personal gain at the expense of the client, an inappropriate personal involvement or sexual conduct with a client;
- j. Violating state laws relating to the privacy of client information, including § 32.1-127.1:03 of the Code of Virginia; or
- k. Providing false information to staff or board members during the course of an investigation or proceeding.

3. For the purposes of interpreting provisions of subdivision 7 of § 54.1-3007 of the Code of Virginia, a restriction on nurse aide certification shall be interpreted as having a finding of abuse, neglect, or misappropriation of patient property made in another state or being placed on the abuse registry in another state.

This section discusses the requirements for advanced certification of nurse aides.

Part III. Advanced Certification.

18VAC90-25-110. Requirements for initial certification as an advanced certified nurse aide.

A. In order to be certified as and use the title of "Advanced Certified Nurse Aide," an applicant shall meet the following qualifications:

- 1. Hold current certification as a certified nurse aide in Virginia;
- 2. Have been certified for at least three years as a certified nurse aide;
- 3. Have never had a finding of abuse, neglect, or misappropriation of patient property entered on a nurse aide registry in any jurisdiction and have not had any disciplinary actions taken by the board within the five years preceding application for advanced certification;
- 4. Have a recommendation for advanced certification from a licensed nurse who has supervised the applicant in providing direct patient care for at least six months within the past year; and
- 5. Have successfully completed a minimum of 120 hours of advanced training in an approved program that includes a competency evaluation acceptable to the board.

B. An application for certification shall be accompanied by an application fee as specified in 18VAC90-25-16.

18VAC90-25-120. Renewal and reinstatement of certification as an advanced certified nurse aide.

A. Current certification as a nurse aide in Virginia must be maintained in order to hold certification as an advanced certified nurse aide.

B. Renewal. If an individual is not eligible to renew as a certified nurse aide, certification as an advanced certified nurse aide may not be renewed. An advanced certification shall be renewed concurrently with the renewal of the basic certification as a nurse aide in Virginia by:

- 1. Submitting a completed renewal form and renewal fee as specified in 18VAC90-25-16; and
- 2. Attesting to completion of at least three contact hours per year of continuing education and training in any of the competency areas identified in the advanced certification training program. The board may grant an extension or waiver of the continuing education requirement based on good cause shown by the certified nurse aide.

C. Late renewal. An advanced certified nurse aide may renew certification for 90 days following the expiration date by meeting the requirements of subsection A of this section.

D. Reinstatement. If an advanced certification has not been renewed for 90 days following the expiration date, it shall only be reinstated if the applicant for reinstatement:

- 1. Holds current certification as a nurse aide in Virginia;

2. Submits a completed reinstatement application on a form provided by the board;
3. Pays the reinstatement fee as specified in 18VAC90-25-16; and
4. Provides evidence that the applicant has completed all required hours of continuing education and training.

The following sections of the Board of Nursing Regulations govern what nursing tasks can be appropriately delegated by a Registered Nurse to unlicensed persons (which may include CNAs).

**PART VII.
DELEGATION OF NURSING TASKS AND PROCEDURES.**

18VAC90-19-240. Definitions for delegation of nursing tasks and procedures.

The following words and terms when used in this part shall have the following meanings unless the content clearly indicates otherwise:

"Delegation" means the authorization by a registered nurse to an unlicensed person to perform selected nursing tasks and procedures in accordance with this part.

"Supervision" means guidance or direction of a delegated nursing task or procedure by a qualified, registered nurse who provides periodic observation and evaluation of the performance of the task and who is accessible to the unlicensed person.

"Unlicensed person" means an appropriately trained individual, regardless of title, who receives compensation, who functions in a complementary or assistive role to the registered nurse in providing direct patient care or carrying out common nursing tasks and procedures, and who is responsible and accountable for the performance of such tasks and procedures. With the exception of certified nurse aides, this shall not include anyone licensed or certified by a health regulatory board who is practicing within his recognized scope of practice.

18VAC90-19-250. Criteria for delegation.

A. Delegation of nursing tasks and procedures shall only occur in accordance with the plan for delegation adopted by the entity responsible for client care. The delegation plan shall comply with provisions of this chapter and shall provide:

1. An assessment of the client population to be served;
2. Analysis and identification of nursing care needs and priorities;
3. Establishment of organizational standards to provide for sufficient supervision that assures safe nursing care to meet the needs of the clients in their specific settings;
4. Communication of the delegation plan to the staff;
5. Identification of the educational and training requirements for unlicensed persons and documentation of their competencies; and
6. Provision of resources for appropriate delegation in accordance with this part.

B. Delegation shall be made only if all of the following criteria are met:

1. In the judgment of the delegating nurse, the task or procedure can be properly and safely performed by the unlicensed person and the delegation does not jeopardize the health, safety, and welfare of the client.
2. The delegating nurse retains responsibility and accountability for nursing care of the client, including nursing assessment, planning, evaluation, documentation, and supervision.
3. Delegated tasks and procedures are within the knowledge, area of responsibility, and skills of the delegating nurse.
4. Delegated tasks and procedures are communicated on a client-specific basis to an unlicensed person with clear, specific instructions for performance of activities, potential complications, and expected results.
5. The person to whom a nursing task has been delegated is clearly identified to the client as an unlicensed person by a name tag worn while giving client care and by personal communication by the delegating nurse when necessary.

C. Delegated tasks and procedures shall not be reassigned by unlicensed personnel.

D. Nursing tasks shall only be delegated after an assessment is performed according to the provisions of 18VAC90-19-260.

18VAC90-19-260. Assessment required prior to delegation.

Prior to delegation of nursing tasks and procedures, the delegating nurse shall make an assessment of the client and unlicensed person as follows:

1. The delegating nurse shall assess the clinical status and stability of the client's condition; determine the type, complexity, and frequency of the nursing care needed; and delegate only those tasks that:

- a. Do not require the exercise of independent nursing judgment;
 - b. Do not require complex observations or critical decisions with respect to the nursing task or procedure;
 - c. Frequently recur in the routine care of the client or group of clients;
 - d. Do not require repeated performance of nursing assessments;
 - e. Utilize a standard procedure in which the tasks or procedures can be performed according to exact, unchanging directions; and
 - f. Have predictable results and for which the consequences of performing the task or procedures improperly are minimal and not life threatening.
2. The delegating nurse shall also assess the training, skills, and experience of the unlicensed person and shall verify the competency of the unlicensed person to determine which tasks are appropriate for that unlicensed person and the method of supervision required.

18VAC90-19-270. Supervision of delegated tasks.

- A. The delegating nurse shall determine the method and frequency of supervision based on factors that include:
- 1. The stability and condition of the client;
 - 2. The experience and competency of the unlicensed person;
 - 3. The nature of the tasks or procedures being delegated; and
 - 4. The proximity and availability of the registered nurse to the unlicensed person when the nursing tasks will be performed.
- B. In the event that the delegating nurse is not available, the delegation shall either be terminated or delegation authority shall be transferred by the delegating nurse to another registered nurse who shall supervise all nursing tasks delegated to the unlicensed person, provided the registered nurse meets the requirements of 18VAC90-19-250 B 3.
- C. Supervision shall include:
- 1. Monitoring the performance of delegated tasks;
 - 2. Evaluating the outcome for the client;
 - 3. Ensuring appropriate documentation; and
 - 4. Being accessible for consultation and intervention.
- D. Based on an ongoing assessment as described in 18VAC90-19-260, the delegating nurse may determine that delegation of some or all of the tasks and procedures is no longer appropriate.

18VAC90-19-280. Nursing tasks that shall not be delegated.

- A. Nursing tasks that shall not be delegated are those that are inappropriate for a specific, unlicensed person to perform on a specific patient after an assessment is conducted as provided in 18VAC90-19-260.
- B. Nursing tasks that shall not be delegated to any unlicensed person are:
- 1. Activities involving nursing assessment, problem identification, and outcome evaluation that require independent nursing judgment;
 - 2. Counseling or teaching except for activities related to promoting independence in personal care and daily living;
 - 3. Coordination and management of care involving collaboration, consultation, and referral;
 - 4. Emergency and nonemergency triage;
 - 5. Administration of medications except as specifically permitted by the Virginia Drug Control Act (§ 54.1-3400 et seq. of the Code of Virginia); and
 - 6. Circulating duties in an operating room.