

**CONNECTICUT BOARD OF EXAMINERS FOR NURSING**

**MEMORANDUM OF DECISION**

In Re: Declaratory Ruling - Delegation By Licensed Nurses To Unlicensed Assistive Personnel  
April 5, 1995

PARTIES:

American Radiological Nurses' Association  
2021 Spring Road, Suite 600  
Oak Brook, Illinois 60521

Connecticut Nurses' Association  
377 Research Parkway, Suite 2D  
Meriden, Connecticut 06450

Connecticut League for Nursing  
P. O. Box 365  
Wallingford, Connecticut 06492

Connecticut Hospital Association  
110 Barnes Road  
P. O. Box 90  
Wallingford, Connecticut 06492

Connecticut Association for Home Care, Inc.  
110 Barnes Road  
Wallingford, Connecticut 06492

Connecticut Health Care Associates  
261 Center Street  
Wallingford, Connecticut 06492

Connecticut Department of Education  
Regional Vocational-Technical School System  
25 Industrial Park Road  
Middletown, Connecticut 06457

Connecticut Organization of Nurse Executives  
c/o Connecticut Nurses' Association  
377 Research Parkway, Suite 2D  
Meriden, Connecticut 06450

Connecticut Licensed Practical Nurses Association, Inc.  
85 New Park Avenue  
Hartford, Connecticut 06106

American Nephrology Nurses' Association  
North Woodbury Road/Box 56  
Pitman, New Jersey 08071

Connecticut Union of Disability Action Groups  
1155 Silas Deane Highway  
Wethersfield, Connecticut 06109

## **I. BACKGROUND AND PROCEDURAL SUMMARY**

To assist it in its regulatory function when it adjudicates questions pertaining to the role of the nurse\* when delegating nursing functions, as defined in Connecticut's Nurse Practice Act, Connecticut General Statutes Section 20-87 et seq., to unlicensed personnel, the Connecticut Board of Examiners for Nursing ("Board"), by the authority vested in it pursuant to the General Statutes of Connecticut Section 4-176 and Section 19-2a-1 of the Regulations of Connecticut State Agencies,\*\* issued a Notice of Hearing dated April 25, 1994, and held a public hearing on June 16, 1994, to consider the following issues:

- A. What case specific guidelines should be used to determine the appropriate delegation of nursing functions by the nurse to unlicensed personnel?
- B. What case specific guidelines should be used to determine what constitutes appropriate training and supervision of unlicensed personnel to whom the nurse delegates nursing functions?
- C. What constitutes the appropriate role of unlicensed personnel in assisting the nurse in the application of the nursing process? Is the unlicensed person allowed, by statute, to assist nurses in the following aspects of the nursing process, and if so, to what extent?
  1. Assessment - making observations, gathering data, identifying needs and problems and diagnosing human responses:
  2. Planning - developing comprehensive approaches to the total plan of care to meet the needs of clients and families:
  3. Implementation - carrying out therapeutic nursing techniques and comprehensive care plan:
  4. Evaluation - collecting data relevant to care outcomes and altering care to meet objectives designated in total plan.

\* Hereinafter "nurse" refers to licensed practical nurse, registered nurse and advanced practice registered nurse.

\*\* This declaratory ruling is not intended to impose requirements upon unlicensed personnel but to provide guidance to nurses indicating case specific circumstances under which a nurse may delegate nursing functions to unlicensed personnel.

- D. What is the scope of practice of unlicensed subsidiary personnel when "...assisting in the nursing care of patients if adequate medical and nursing supervision is provided..." as provided in General Statutes of Connecticut Section 20-101.
1. What would comprise "assisting in the nursing care of patients" as cited above?
  2. What would comprise "adequate medical and nursing supervision" as referenced in D, above, to protect and insure the public health and welfare of Connecticut citizens?
  3. Which selected functions, if any, may be carried out by unlicensed personnel under adequate medical and nursing supervision as referenced in D, above?
  4. What is the scope of practice within which unlicensed personnel may function when "assisting in the nursing care of patients" without risking the public health and safety of Connecticut citizens in the aforementioned issues A, B, C, and D1 through D3?
- E. What is meant by "the care of persons in their homes by domestic servants, housekeepers, nursemaids, companions, attendants or household aides of any type, whether employed regularly or because of an emergency of illness, if such persons are not initially employed in a nursing capacity" as provided in General Statutes of Connecticut Section 20-101:
1. What would comprise "the care of persons in their homes" as cited above?
  2. What would comprise not being "initially employed in a nursing capacity" as cited above?
  3. Which selected functions, if any, may be carried out by domestic servants, housekeepers, nursemaids, companions, attendants or household aides of any type, as referenced in E, above, without risking the public health and safety?

This ruling is intended to provide guidance to individual nurses and others on the issues discussed. If a nurse follows the guidance provided by this ruling, the Board, when adjudicating a specific case brought before it which contains an issue with respect to whether a respondent acted appropriately in delegating a specific function, will presume the respondent acted appropriately and in accordance with professional standards. In situations where a respondent has departed from the guidance provided by this ruling, the Board will consider the issue under the facts of the specific case presented and determine whether any violation of General Statutes of Connecticut Section 20-99 shall be found.

The Notice of Hearing identified twenty-seven documents in the Board's file. (Exhibits E-1 through E-27) By the date of the hearing an additional eleven exhibits had been received (Exhibits E-28 through E-38).

The hearing was held on June 16, 1994 at the Legislative Office Building, Hartford, Connecticut. Nine Board Members were present: Chair Janice Thibodeau, Barbara Gallo, Fernanda Giaquinto, Timothy Johnston, Mary Ellen O'Hurley, David Pinsky, Mary Prybylo, Jose Roman, Jr., and Bernard Shea. Assistant Attorney General Jane Comerford provided counsel to the Board.

Written petitions for party status were received from: American Radiological Nurses Association - May 12, 1994, Connecticut Nurses' Association - June 3, 1994, End Stage Renal Disease - June 3, 1994, Connecticut League for Nursing - June 9, 1994, National Kidney Foundation of Connecticut, Inc. - June 9, 1994, Connecticut Hospital Association - June 9, 1994, Connecticut Chapter of the American Nephrology Nurses' Association - June 10, 1994, The Connecticut Association for Home Care, Inc. - June 10, 1994, Connecticut Health Care Associates, National Union of Hospital and Health Care Employees, AFSCME - June 10, 1994, State of Connecticut Department of Education Regional Vocational-Technical School System - June 15, 1994, Connecticut Organization of Nurse Executives and the Connecticut Organization of Nurse Managers - June 15, 1994, Hollace Brooks, Disability Law Clinic University of Connecticut School of Law along with Michael Breen and Kerri Krupen - June 15, 1994, Carolyn J. Newcombe - June 6, 1994, Edward B. Bennett, III - June 10, 1994, Regina DeMarasse - June 14, 1994, Gary Gross - June 14, 1994, and Joan A. Vanasse - June 15, 1994.

At the hearing, party status was granted to: American Radiological Nurses' Association; Connecticut Nurses' Association; Connecticut League for Nursing; Connecticut Hospital Association; The Connecticut Association for Home Care, Inc.; Connecticut Health Care Associates; Connecticut Department of Education Regional Vocational-Technical School System; Connecticut Organization of Nurses Executives, the Connecticut Licensed Practical Nurses Association, Inc. and the American Nephrology Nurses' Association. No one requested intervenor status.

At the conclusion of the hearing party status was also granted to the Connecticut Union of Disability Action Groups.

Party status was denied to: End Stage Renal Disease, National Kidney Foundation of Connecticut, Inc., Hollace Brooks along with Michael Breen and Kerri Krupen, Carolyn J. Newcombe, Edward B. Bennett, III, Regina DeMarasse, Gary Gross, and Joan A. Vanasse.

The Board granted party status to those petitioners deemed to have significant impact on its decision making concerning delegation and supervision of unlicensed personnel. All other petitioners were allowed to give oral and/or written testimony along with those who signed up the day of the hearing to present testimony. Fifty-four written testimony exhibits were received at the hearing (Exhibits F-1 through F-54). Written supplemental statements were received into the record through July 15, 1994. These documents, Exhibits G-1 through G-20, were added to the record which already contained (Exhibits E-1 through E-38) and (F-1 through F-54). A total of 112 evidentiary exhibits are contained within the record.

Testimony at the hearing was provided by 61 individuals: Paula Jessen, Connecticut Emergency Nurses' Association; Barbara Pokorny, Connecticut Nurses' Association; Marilyn Richard, registered nurses; Jennifer Jackson, Connecticut Hospital Association and Jeanette Schreiber, Wiggin & Dana, representing the Connecticut Hospital Association; Donna Young, Connecticut Nurse Executive Organization; Wendy Woodcock on behalf of both the Connecticut Nurse Executive Organization and the Connecticut Organization of Nurse Managers; Susan McGinnis, Connecticut League for Nursing; Theresa Kukolja, Bristol Hospital; Kerri Krupen-McLain consumer; Hollace Brooks, Disability Law Clinic at the University of Connecticut School of Law; Sandra Trionfini, Connecticut Legal Services; Christine Ceccarelli, Connecticut Chapter of the American Nephrology Nurses Association; Patricia Johnson, New Britain General Hospital; Caroline Gentleman, Danbury Hospital; Hope Juckel-Regan, Bridgeport Hospital; Marlene Towers and Odeed Geismar, Connecticut Association of Nurse Anesthetists; Ann Richard, Manchester Memorial Hospital; Peg Moynihan, Hartford Hospital; Nancy Bafundo, Hartford Hospital; Patricia Merrick, American Radiological Nurses Association and the University Health Professions; Dorrie Taylor-Sullivan, University of Connecticut Health Center and John Dempsey Hospital; Diana Weaver, Yale-New Haven Hospital; Faine Gauthier, Association of School Nurses; Patricia Krin, Thomaston Public Schools; Cathy Panasuk, 1199 New England Health Care Employees Association Union; Liz Donahue, LPN; Patty Raffone, LPN; Janice Parizo, LPN; Kathy Rackus, LPN; Susan Stockwell, LPN; Carol Morse, LPN; Patricia Petrone, State of Connecticut Department of Education Vocational-Technical School System; Laurie Fleming, Connecticut Chapter of the American Association of Medical Assistants; Holly Mulren, certified medical assistants; Marcia Noll, Department of Mental Retardation; Brenda McGavran, Connecticut Association of Residential Facilities; Maruah Kurlick, on behalf of Martha Donovan who was representing Nurses from Private Provider Residential and Day Programs for Individuals with Mental Retardation; Brother Francis Smith, Connecticut Licensed Practical Nurses' Association; Mary Lou Millar, Connecticut Health Care Associates of the National Union of Hospital and Health Care Employees, AFSCME - AFL-CIO; Jenny Kitsen, End Stage Renal Disease Network of New England; Elizabeth Daubert on behalf of Virginia Humphrey of the Connecticut Association for Home Care, Inc.; Faith Vos Winkel, State Office of Protection and Advocacy for People with Disabilities; Kathy Jose, Community Services, Inc.; Shelley Teed-Wargo, on behalf of Dale Nielson of the Connecticut Union of Disability Action Groups; Sandra Roberts, Center for Independence and Access in New Haven, Connecticut; Shelley Teed-Wargo on behalf of Carolyn Newcombe, Independent Living Center in Eastern Connecticut; Shelley Teed-Wargo on behalf of Regina DeMarasse; Gary Gross, Joan Vanasse, Stacy Ives, RN, New Britain Citizens with Disabilities; James Suranski, Independents Unlimited. Written documentation was received by all of those providing oral testimony except for Dolly Stevens, individual testimony.

All Board members involved in this decision attest that they have either heard the testimony or have reviewed the record. The ruling is based on the record presented. Board members used their professional expertise to evaluate the testimony or record in terms of the General Statutes of Connecticut, Chapter 378.

## **II. PURPOSE OF THIS DECLARATORY RULING PROCEEDING**

Section 4-176 of the General Statutes of Connecticut authorizes administrative agencies to issue declaratory rulings.

That statute reads in relevant part:

- (a) Any person may petition an agency, or an agency may on its own motion initiate a proceeding, for a declaratory ruling as to the validity of any regulation, or the applicability to specified circumstances of a provision of the general statutes, a regulation, or a final decision on a matter with the jurisdiction of the agency....

The statute further provides that the agency has discretion in deciding whether or not to hold a hearing prior to issuing a ruling:

- (g) If the agency conducts a hearing in a proceeding for a declaratory ruling, the provisions of subsection (b) of section 4-177c, section 4-178 and section 4-179 shall apply to the hearing....

Accordingly, the Board decided to hold a hearing for the purpose of finding facts as a basis for its ruling.

## **III. FINDINGS OF FACT**

### **A. DELEGATION**

1. The Board finds that Chapter 378, Section 20-101, of the General Statutes of Connecticut allows delegation of nursing functions to unlicensed personnel by the registered nurse, and when indicated, the licensed practical nurse working under the direction of a registered nurse. In part, "no provision of this chapter shall...prohibit... subsidiary workers in general hospitals from assisting in the nursing care of patients if adequate medical and nursing supervision is provided;...This chapter shall not prohibit the care of persons in their homes by domestic servants, housekeepers, nursemaids, companions, attendants or household aides of any type, whether employed regularly or because of an emergency of illness, if such persons are not initially employed in a nursing capacity." Authority to perform selected nursing tasks in selected situations is transferred to competent\* unlicensed personnel. (Exhibit E-14, p. 6). However, the registered nurse retains responsibility for the total nursing process and for its outcomes in all situations where delegation has occurred.

- \* Hereinafter "competent" is defined by the Board as follows: unlicensed assistive personnel are presumed to have baseline competency if they are certified as a Certified Nursing Assistant or Home Health Aide (Department of Public Health and Addiction Services Regulations Sections 19-13-D8t, 19-13-D66 to 19-13-D92) or hold another Board approved State certification, and if documentation of task specific competency, specific to the task being delegated, exists. If the nurse delegates a task to an unlicensed personnel who does not hold such certification and competency validation, the nurse bears responsibility to verify that the person to whom the task is being delegated is competent to perform such task.

2. Also, the General Statutes of Connecticut, Section 20-9, identifies those persons to whom a physician licensed to practice medicine and surgery may delegate responsibilities as follows: a physician assistant licensed pursuant to Section 20-12b, Advanced Practice Registered Nurse, Registered Nurse and Licensed Practical Nurse. The registered nurse shall be responsible for determining what aspects of the medical and nursing regimen the registered nurse may delegate to the licensed practical nurse and unlicensed personnel, consistent with this ruling regardless of the setting\* in which this occurs. This is consistent with Section 20-87a which states, in part, that licensed nurses execute "...the medical regimen under the direction of a licensed physician or dentist." Therefore, the "Performance of non-nurse delegated and non-nurse supervised nursing activities by unlicensed persons constitutes practicing nursing without a license and is not in the interest of the health, safety, and welfare of the public". (Exhibit E-14, p. 6)
  
3. The registered nurse retains responsibility for the total nursing process and for its outcomes in all situations where delegation has occurred. (See Memorandum of Decision [Declaratory Ruling RE: LPN], February 7, 1989, p. 13)
  
4. The nurse, when making decisions about delegation, shall consider:
  - . client safety and the potential for client harm;
  - . the stability and acuity of the client's condition;
  - . the nature and complexity of the task (as referenced in Subsection F of this section);
  - . the type of technology employed in providing nursing care with consideration given to the knowledge and skill required to effectively use the technology;
  - . relevant infection control and safety issues;
  - . the requisite competency of the person to whom the task is being delegated, as referenced in the definition of "competent," as specified on page 7;
  - . the ability of the nurse to provide supervision and evaluation of the specific task being delegated (as referenced in Subsection D1 and 2 of this section);
  - . the adequacy of resources available to the nurse to support, direct, supervise and evaluate the delegated activity;
  - . the proximity and availability of the nurse responsible for delegation or assistance (as referenced in Subsection D1 and 2 of this section).

Therefore, consistent with Exhibits E-21, pp. 1-2 and F5, pp. 16 and 17, the Board finds that a nurse may delegate to an individual who in the nurse's judgment has been shown to be competent, on a case-by-case basis, a simple task (one that does not require nursing judgment to proceed from one step to the next) in a known and predictable patient situation.

- \* Hereinafter "setting" includes any environment in which a licensed nurse is delegating nursing functions to unlicensed personnel. For this ruling "setting", "agency" and "facility" are used interchangeably.

5. Based upon Exhibit E-37, p. 2, the Board further finds that the nurse shall retain accountability for appropriate delegatory decisions and supervision and the coordination of nursing care. The role of client advocate dictates that the nurse shall make all delegation decisions on the sole basis of client welfare.

### **B. CONCLUSION: DELEGATION**

1. No task is to be delegated to unlicensed personnel without the consent of the delegating registered nurse, and the licensed practical nurse, if participating in said delegation, and through which the delegation may occur. It is the responsibility of said nurses to determine if adequate resources and support are available to them to support, direct, supervise and evaluate the delegation activity. (Exhibit F-21, p. 3) In addition, the criteria identified in Subsection A of this Section, shall be applied. Therefore, in any situation in which a nurse, including a licensed practical nurse under the direction of a registered nurse, is delegating a specific task, the final say as to the appropriateness of the specific task delegation to unlicensed personnel rests with the nurse. (Hearing Transcript, June 16, 1994, p. 52)
2. No delegation shall be made without the delegating nurse making a determination that, in the nurse's professional judgment, the delegated task can be properly and safely performed by unlicensed personnel to whom it is to be delegated, and that such delegation is consistent with the client's safety and welfare. (Exhibit F-5, p. 10) If either the registered nurse, or the licensed practical nurse, responsible for the delegation believes that specific task delegation cannot safely occur, such nurse shall refuse to delegate that task and document, in writing and in a timely fashion, that he or she has informed his/her supervisor of this fact, and of its impact on client care.

### **C. TRAINING AND SUPERVISION**

1. The Board finds that the case-by-case analysis of what constitutes the appropriate training and supervision of unlicensed personnel to whom the nurse may delegate nursing functions remains the responsibility of the registered nurse responsible for the overall plan of care for the client. (Exhibit E-37, p. 3) Institutional policy does not abdicate the nurse's responsibility to ensure the appropriate delegation of the appropriate act to the appropriate unlicensed personnel at the appropriate time and circumstances, as referenced in Subsection A4, above. However, the nurse shall only delegate nursing functions to unlicensed personnel in the presence of clearly written agency policies and role definitions, and documented competencies of the unlicensed personnel specific to the task being delegated. (Exhibit E-29, pp. 14.1)

#### **D. CONCLUSION: TRAINING AND SUPERVISION**

1. When delegating to unlicensed personnel includes tasks which meet client's basic human needs and activities of daily living, the delegating nurse shall ascertain that individuals to whom these tasks are delegated have demonstrated skill competency. (Exhibit E-38, p. 3) Uniform training and certification of unlicensed personnel may be used as a basis to presume baseline competencies and serve to protect the safety and well-being of clients. (Exhibit F-39, p. 4) Therefore, certification as a Certified Nursing Assistant (Exhibit F-8, p. 2; Hearing Transcript, June 16, 1994, pp. 67, 203) or Home Health Aide may provide guidance. (Department of Public Health and Addiction Services regulations Sections 19-13-D8t, 19-13-D66 to 19-13-D92) Certification for unlicensed personnel in the acute care setting pursuant to regulations promulgated by the Department of Health and Addiction Services in response to this ruling may be utilized. Also, documentation of task specific instruction requiring periodic validation of current theoretical and clinical competency by unlicensed personnel may provide guidance to a nurse before any such delegation may occur. (Hearing Transcript, June 16, 1994, p. 54) Also, the nurse shall only delegate nursing functions to unlicensed personnel in the presence of clear written agency policies and role definitions, and documented competencies of the unlicensed personnel specific to the task being delegated. (Exhibit E-29, pp. 14.1)
2. Supervision of unlicensed personnel shall include: guidelines for each nursing task, including initial direction, and periodic evaluation of implementation and evaluation of outcomes. (Exhibit E-14, p. 7; Hearing Transcript, June 16, 1994, p. 188) The proximity and availability of the nurse responsible for delegation, as well as the nurse's knowledge of principles of delegation and supervision, also determine the appropriateness of delegation. (Hearing Transcript, June 16, 1994, p. 55) The registered nurse shall be on-site in in-patient, long-term care and clinic/out-patient settings. In community/home health care settings, the registered nurse shall be available by phone and for on-site consultation as needed.

#### **E. NURSING PROCESS**

1. Assessment and Evaluation - The nurse may delegate selected nursing tasks to unlicensed personnel if the nursing activities do not require nursing assessment and judgment during implementation. The criteria that follow, and those referenced in Subsections B and D of this section, shall be met. The registered nurse is solely responsible for the assessment, planning, and evaluation phases of the nursing process. The registered nurse may determine that the unlicensed personnel may collect certain objective and subjective data and report changes in client conditions which fall outside normal parameters of client status. The nurse shall determine what data require verification or further action. Interpretation of reports or diagnostic parameters is the responsibility of the nurse. Also, comparing client outcomes to objectives and making adjustments in the plan of care are the ultimate responsibility of the registered nurse, with the assistance of the licensed practical nurse.

2. Planning - No component of nursing care planning may be delegated by a nurse to unlicensed personnel.
3. Implementation - Due to the fact that the practice of nursing is diversifying and constantly evolving no single list can provide an appropriate classification for all the client care activities that may or may not be delegated in particular cases or settings. (Exhibit F-5, p. 11) Therefore it becomes even more critical for the nurse to have evidence of skill competency of individuals to whom the nurse is delegating those activities. Unlicensed personnel may carry out certain planned approaches of client care. These approaches are planned by the registered nurse for clients and involve activities of daily living and basic human needs. These approaches can be delegated if they do not require assessment (other than data collection as described in Subsection E1, above), planning, judgment, adaptation or evaluation. (Hearing Transcript, June 16, 1994, p. 190) Nursing procedures, which require an understanding of the nursing process, or nursing assessment and judgment during implementation, are licensed activities. Therefore, a nurse may not delegate responsibility for the implementation of a task which requires such knowledge or skills. Medication administration by any route, including those required for the initiation and termination of dialysis, remains a licensed activity and shall not be delegated, unless specific statutory exemptions exist.

#### **F. CONCLUSION: NURSING PROCESS**

1. The Board finds that the nurse may delegate selected nursing tasks, which assist in implementing the registered nurse directed plan of care, to unlicensed personnel. Said nursing tasks shall not require nursing assessment, judgment, planning, and evaluation during implementation. (Hearing Transcript, June 16, 1994, pp. 44, 53) The delegated task shall be within the area of responsibility of the delegating nurse and shall not be such as requires any unlicensed personnel to exercise the knowledge, judgment, or skill required of a nurse. Collecting, reporting and assisting in documentation of data may be delegated. Activities which meet or assist the client in meeting basic human needs (Exhibit F-7, p. 3) and activities of daily living may be delegated. No task may be delegated which requires an understanding of nursing process and principles necessary to recognize and/or manage complications. (Exhibit F-13, p. 6) Health counseling, teaching, case finding and referral may never be delegated to unlicensed personnel. Medication administration by any route, remains a licensed activity, unless a specific statutory exemption exists. Nursing procedures, which require an understanding of the nursing process, or nursing assessment and judgment during implementation, are licensed activities. Therefore, a nurse may not delegate responsibility for the implementation of a task which requires such knowledge or skills.

### **G. SUBSIDIARY PERSONNEL**

1. Section 20-101 of the General Statutes of Connecticut states, in part, "Construction of chapter. Permitted practices. Temporary practice. No provision of this chapter shall confer any authority to practice medicine or surgery nor shall this chapter prohibit any person from the domestic administration of family remedies or the furnishing of assistance in the case of any emergency; nor shall it be construed as prohibiting persons employed in state hospitals and state sanatoriums and subsidiary workers in general hospitals from assisting in the nursing care of patients if adequate medical and nursing supervision is provided;...."
  
2. The nurse exercises professional judgment within his or her scope of practice in determining what client care activities are appropriate for assignment to specific unlicensed personnel. The Board finds that such determination is on a case-by-case basis consistent with the criteria referenced in Subsections A through F1, of this section. The sole criterion of the existence of limited personnel resource allocation is not a sound rationale for such delegation.

### **H. CONCLUSION: SUBSIDIARY PERSONNEL**

1. The delegating nurse shall be solely responsible for determining what nursing activity may be delegated to unlicensed personnel in any specific situation and the required degree of supervision the unlicensed personnel will need. Application of the appropriate aforementioned criteria, referenced in Subsections A through G1 of this section, shall be made by the nurse responsible for the delegation.

### **I. HOME CARE**

1. Section 20-101 of the General Statutes of Connecticut states, in part, "Construction of chapter. Permitted practices. Temporary practice....This chapter shall not prohibit the care of persons in their homes by domestic servants, housekeepers, nursemaids, companions, attendants or household aides of any type, whether employed regularly or because of an emergency of illness, if such persons are not initially employed in a nursing capacity." However, if unlicensed personnel are hired initially to provide nursing services the criteria contained in the aforementioned Subsections A through H1, inclusive, do apply. (Hearing Transcript, June 16, 1994, p. 70) Therefore, the issue is not one of defining what would comprise "...the care of persons in their homes..." and which selected functions, if any, would be carried out by such personnel, rather, the issue is defining what would comprise being "...initially employed in a nursing capacity." This is a question of statutory construction. The language of the statute is clear. That is, individuals initially employed for reasons other than to provide nursing assistance to an individual within the home, are individuals exempted from licensure under this statute.

2. In the case of Personal Care Attendants (Exhibit G-11), in situations where competent adults are directly hiring Personal Care Attendants, and said adults are directing their own care, with implementation of such care assisted by Personal Care Attendants, decisions pertaining to assessment, planning and evaluation rest with the client. (Hearing Transcript, June 16, 1994, p. 225) Therefore, when the client is able to engage in said assessment, planning and evaluation, and is merely directing someone else to assist that client in implementing that plan on him or herself, licensed activities are not being engaged in by the Personal Care Attendant. Therefore, the criteria specified in Subsections A through I of this Section are not applicable.

#### **J. HOME CARE: CONCLUSION**

1. Section 20-101 of the General Statutes of Connecticut states, in part, "Construction of chapter. Permitted practices. Temporary practice...This chapter shall not prohibit the care of persons in their homes by domestic servants, housekeepers, nursemaids, companions, attendants or household aides of any type, whether employed regularly or because of an emergency of illness, if such persons are not initially employed in a nursing capacity." Therefore, in such situations the provision of this ruling shall not apply.
2. Also, in the case of Personal Care Attendants, hired directly by competent adults who are directing their own care and retain responsibility for the assessment, planning, implementation and evaluation of that care, said Personal Care Attendants may assist in the implementation of care without being subject to the provisions of this ruling.

#### **IV. CONCLUSIONS**

Therefore, general criteria for delegating nursing tasks by nurses to unlicensed personnel are as follows: (For A through G, below Exhibit F-5, p. 21)

- A. The nurse delegating the activity is directly responsible and accountable for the nursing care given to the client. [The registered nurse retains ultimate accountability for appropriate delegatory decisions, supervision and the coordination of care].
- B. The final decision as to what nursing activity can be safely delegated to unlicensed personnel for a particular patient is determined by the nurse on a case-by-case basis based on his/her professional judgment.
- C. The nurse must make an assessment of the client's nursing care needs prior to delegating the nursing activity.

D. The nursing activity must be one that a reasonable and prudent nurse would determine to be delegable within the scope of nursing judgment; that would not require unlicensed personnel to exercise nursing judgment; and that can be properly and safely performed by unlicensed personnel without jeopardizing the client's welfare.

E. Unlicensed personnel shall have skill competencies necessary for the proper performance of the task; the nurse shall evaluate unlicensed personnel's competency to perform the nursing task.

F. In addition, the Board concludes that when delegating to unlicensed personnel tasks which meet client's basic human needs and activities of daily living the delegating nurse shall ascertain that individuals to whom these tasks are delegated have demonstrated skill competencies. Uniform training and certification of unlicensed personnel may be used as a basis to presume baseline competencies and serve to protect the safety and well-being of clients. Therefore, certification as a Certified Nursing Assistant or Home Health Aide may provide guidance. (Department of Public Health and Addiction Services regulations Sections 19-13-D8t, 19-13-D66 to 19-13-D92.) Unlicensed assistive personnel are presumed to have baseline competency if they are certified as Certified Nursing Assistant or Home Health Aide (Department of Public Health and Addiction Services Regulations Sections 19-13-D8t, 19-13-D66 to 19-13-D92) or hold another Board approved State certification, and if documentation of task specific competency, specific to the task being delegated, exists. If the nurse delegates a task to an unlicensed personnel who does not hold such certification and competency validation, the nurse bears responsibility to verify that the person to whom the task is being delegated is competent to perform such task.

G. The nurse shall adequately supervise the performance of the delegated nursing activity in accordance with the requirements of supervision. These shall include, but not be limited to, initial direction, periodic evaluation of implementation and evaluation of outcomes. The registered nurse shall be on-site in in-patient, long-term care and clinic/out-patient settings. In community/home health care settings the registered nurse shall be available by phone and for on-site consultation as needed.

H. If either the registered nurse, or the licensed practical nurse, responsible for the delegation believes that specific task delegation cannot safely occur, such nurse shall refuse to delegate that task and document, in writing and in a timely fashion, that he or she has informed his/her supervisor of this fact, and of its impact on client care.

I. When the nurse comes under scrutiny for disciplinary action by the Board, the Board will hold this nurse accountable for the delegation of nursing tasks to unlicensed personnel, as set forth herein.

This Declaratory Ruling shall become effective on April 5, 1995.

Voted on at Hartford, Connecticut the 5th day of April, 1995.

BOARD OF EXAMINERS FOR NURSING

By Timothy J. Johnston