

# Guidelines Regarding Utilization of Licensed Nurses (RNs and LPNs) and Unlicensed Assistive Personnel (UAP) in the Delivery of Nursing Care

## Introduction

These guidelines outline the appropriate utilization of registered professional nurses (RNs), licensed practical nurses (LPNs), and unlicensed assistive personnel (UAPs) in the delivery of nursing care. The guidelines focus on the responsibilities of the RN in supervising LPNs and UAPs. These guidelines are intended to be used as a standard and should be utilized by all healthcare organizations in the design and delivery of patient care throughout New York State.

### *I. Organizational Responsibilities*

Healthcare organizations are responsible for maintaining a working knowledge of regulations that pertain to the appropriate scope of practice for licensed practitioners and unlicensed workers working within the agency. The organization's delivery system must be designed to meet the needs of its patient population through:

- Ensuring that professional staff members provide care within their approved scopes of practice
- Evaluating the intensity and complexity of activities to establish the appropriate skill mix and staffing levels
- Conducting systematic evaluations of the effectiveness of the care delivery system and making appropriate adjustments

#### **Responsibilities of the organization include:**

- Developing appropriate position descriptions
- Recruiting qualified individuals
- Determining initial competency
- Providing appropriate education and training to maintain competency
- Communicating employee competencies to RN supervisors
- Providing the necessary time and reduced assignment load for preceptor RNs
- Preparing RNs to perform supervision and evaluation
- Providing the appropriate time for supervision
- Providing adequate orientation and cross-training for staff members who are floated to unfamiliar units
- Conducting ongoing evaluations of staff members at all levels
- Taking corrective action for substandard performance

## ***II. RN Scope of Practice in New York State***

The Nurse Practice Act, Article 139 of the New York State Education Law, defines the practice of the RN as *“diagnosing and treating human responses to actual or potential health problems through such services as casefinding, health teaching, health counseling, and provision of care supportive to or restorative of life and well-being, and executing medical regimens prescribed by a licensed physician, dentist or other licensed health care provider legally authorized under this title and in accordance with the commissioner’s regulations.”* (Nursing Guide to Practice, July 2003). Registered nurses are independent practitioners and do not require supervision when they provide nursing care to individuals or groups of people. RNs are prepared by education and clinical experience to assess, diagnose, plan, implement, and evaluate nursing care in all settings.

### **“Casefinding” includes but is not limited to:**

- Identification of epidemiological trends
- Client abuse assessment
- Early identification of emergent complications

### **“Health teaching” includes but is not limited to:**

- Patient teaching regarding possible side effects of medications
- Patient teaching regarding the disease process and management of disease in relation to the patient’s life situation, including factors related to culture and ethnicity
- Health care promotion, such as disease prevention, accident prevention, and normal child growth and development

### **“Health counseling” includes but is not limited to:**

- Mental health counseling
- Addiction counseling
- Health counseling related to management of chronic diseases

### **“Care restorative of life and well being” includes but is not limited to:**

- Rehabilitation services such as bowel/bladder training and ostomy/wound care
- Triage and continuous assessment for early signs and symptoms of post-operative complications, leading to timely intervention
- Ongoing surveillance and nursing intervention to rescue chronically ill persons from development of negative effects and secondary results of treatment

### **“Care supportive of life and well being” includes but is not limited to:**

- Hospice and palliative care
- Chronic pain management through non-pharmacological nursing measures such as ergo dynamic techniques, therapeutic touch, and rational-emotive therapy (RET)
- Public health care including elder care, well-baby care, school nursing, and industrial nursing

*(State Board for Nursing [SBFN], September 2005)*

Nursing diagnosis is defined in the Education Law as *“the identification of and discrimination between physical and psychosocial signs and symptoms essential to effective execution and management of the nursing regime. Such diagnostic privilege is distinct from a medical diagnosis.”* The SBFN further defines nursing diagnosis to include the *“collection and interpretation of patient clinical data, the development of nursing care goals, and subsequent establishment of a nursing care plan.”*

### **Advanced Practice Registered Nurses**

Article 139 of the New York State Education Law recognizes only nurse practitioners as Advanced Practice Registered Nurses (APRNs) and describes their scope of practice as *“the diagnosis of illness and physical conditions and the performance of therapeutic and corrective measures within a specialty area of practice, in collaboration with a licensed physician qualified to collaborate in the specialty provided.”* Nurse practitioners practice in accordance with written practice agreements and practice protocols.

In addition to nurse practitioners, NYSNA recognizes other categories of APRNs, including nurse anesthetists, clinical nurse specialists, and nurse midwives. These are RNs who have met advanced educational and clinical requirements beyond those required for all RNs and are experts in specialized areas of practice.

### **III. LPN Scope of Practice in New York State**

Licensed practical nurses (LPNs) are dependent practitioners and must practice under the supervision of an RN, physician, dentist, or other approved health care practitioner such as a nurse practitioner, physician assistant, or podiatrist. The Nurse Practice Act defines the practice of a LPN as *“performing tasks and responsibilities within the framework of casefinding, health teaching, health counseling, and provision of supportive and restorative care under the direction of a registered nurse or licensed physician, dentist, or other licensed health care provider legally authorized under this title and in accordance with the commissioner’s regulations.”* (Nursing Guide to Practice, July 2003).

“Under the direction of a registered nurse” is understood to mean that a registered nurse is present on the premises or immediately available by telephone when professional services are rendered by a LPN. The degree of supervision shall be appropriate to the circumstances. LPNs receive specific education and training through an accredited institution that has met the state’s requirements and standards for excellence and quality. The National League for Nursing characterizes the LPN’s practice as caring for patients with common illnesses and providing basic therapeutic and preventive nursing procedures.

#### **Specific activities within and beyond the LPN scope of practice:**

- The LPN can delegate and supervise other LPNs in the delivery of care within the LPN’s legal scope of practice and level of competency.
- The LPN can supervise unlicensed assistive personnel.
- While LPNs can do data collection, they cannot do patient assessments.
- LPNs cannot independently develop the nursing care plan.
- LPNs cannot administer IV chemotherapy; however, bladder instillation of chemotherapy is permissible.

- LPNs cannot administer any direct IV push medications, except for saline and heparin flushes. They cannot administer an IV fluid bolus for plasma volume expansion, except in the outpatient chronic hemodialysis setting.
- Except in outpatient chronic hemodialysis settings, LPNs cannot access any form of central line, or venous chest or arm port line device.
- LPNs cannot do triage, case management, or mental health teaching.
- When an LPN is delivering home care, the RN must be immediately available by telephone.
- In long term care settings, an RN must be on-site at least eight hours out of the day and immediately available by telephone at all other times.

#### **IV. Unlicensed Assistive Personnel (UAP) Role and Responsibility**

Certain categories of unlicensed health care providers, such as operating room technicians, dialysis technicians, and nuclear medicine technicians, have been permitted in a limited manner to perform some activities that fall within the nursing scope of practice. The supervising RN, nurse practitioner, or physician, must remain responsible for the patient assessment, as that professional responsibility cannot be delegated to a UAP. Licensed practitioners in other healthcare professions, such as respiratory therapists, pharmacists, midwives, or physician assistants, may perform some nursing activities within their legally protected scopes of practice.

Under most circumstances, a UAP is a specifically trained individual who serves as an “extra pair of hands” to assist licensed nurses with *non-nursing functions* and *health-related activities* in delivering direct care to patients or clients. Non-nursing functions are generally classified as housekeeping, clerical, transportation, and dietary tasks. Health-related activities are direct patient care activities that are not within the legally protected scope of nursing practice and can be assigned to UAPs who have demonstrated competency. A health-related activity is one that does not require professional judgment or critical thinking and can be completed using a standard procedure.

##### ***Activities that can be assigned to UAPs:***

- Assisting with activities of daily living (feeding, bathing, ambulating, turning and positioning, grooming, toileting, etc.)
- Measuring vital signs
- Applying clean dressings
- Performing basic intake and output
- Providing oral suctioning and mouth care
- Delivering care of nails, hair, and skin

With additional training and demonstrated competency, UAPs may also be permitted to:

- Taking EKGs
- Using a glucometer
- Performing phlebotomy
- Caring for external catheters

- Assist with placement of braces and prostheses

***Activities that cannot be assigned to UAPs:***

- Assessing, evaluating, or problem solving
- Developing a nursing care plan
- Performing sterile or invasive procedures or techniques
- Inserting urinary catheters
- Delivering nasogastric or gastrostomy tube feedings
- Administering oxygen
- Performing tracheal suctioning, tracheostomy care, or respiratory care
- Administering medications, immunizations, or blood or blood products

***V. Delegation, Assignment, and Supervision***

In New York State, LPNs and UAPs are dependent members of the healthcare team who must be supervised by an RN or other authorized licensed professional. Supervision is defined as *“the active process of directing, guiding, and influencing the outcome of an individual’s performance of a task and should not be construed to be managerial supervisors on behalf of the employer”* (American Nurses Association, 2005). RNs can *delegate* nursing tasks to other RNs or LPNs, and LPNs can *delegate* to other LPNs. Delegation is the transfer of professional responsibilities to another person who is qualified by training, experience, and licensure to perform them. Health-related activities and non-nursing tasks can be *assigned* to UAPs, but the UAPs’ training and competence to perform the tasks must be made known to the supervising RN.

In New York State, it is considered unprofessional conduct to delegate a nursing task to an unlicensed person. Part 29.1 (b) (10) of the *Rules of the Board of Regents* states that unprofessional conduct shall include *“delegating professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that such person is not qualified by training, by experience, or by licensure to perform them.”* Violations of this law should be reported to the State Education Department for investigation.

The education, skill, and time needed for an adequate assessment may vary from one patient to another, and subtle clinical clues may be missed when too many direct care activities are delegated or assigned. The RN must determine how much time can be spent away from the bedside. The RN must also consider how many people will interact with a particular patient and the effect of those interactions on the patient.

***Factors to consider when deciding to delegate or assign activities:***

- **Potential for harm:** What is the particular activity’s potential for harm? Certain nursing activities, particularly more invasive ones, carry a greater risk for patient harm. The greater the potential for harm, the more necessary it may be for a professional nurse to render care. The RN must determine how much risk the activity carries for the individual patient.
- **Complexity of task:** What psychomotor and cognitive skills are required to perform a particular activity? Activities involving more complex psychomotor skills and requiring expert nursing assessment and judgment should only be performed by a professional nurse. Support

personnel may learn to perform activities ranging from custodial to direct patient care. But as the required skills increase in complexity, greater consideration must be given to the support person’s prior training and demonstrated competency.

- **Problem solving and innovation required:** If a problem is suspected, does it require individualized problem solving to achieve a successful outcome? An otherwise uncomplicated activity may require special adaptation and innovative approaches for a particular patient. Adapting such an activity and evaluating its outcome are the responsibility of the professional nurse.
- **Unpredictability of outcome:** How predictable are the outcomes of an activity? When a patient’s individual response pattern to an activity has been established, assigning that activity to qualified support personnel may be considered. When a patient’s response is unpredictable or unknown, it is advisable to delegate the activity to an RN or LPN.
- **Required coordination and consistency of care:** Will assigning or delegating a health-related activity increase or decrease the amount of time a professional nurse can spend with a particular patient and that patient’s family? The nurse’s ability to effectively plan, coordinate, and evaluate a patient’s care is restricted when support personnel engage in most of the direct patient contact. (Adapted from the American Association of Critical-Care Nurses, 2004)

## VI. Title Protection

As of July 26, 2007 the state Nurse Practice Act reflects the passage of an amendment to Section 6903 protecting the practice of nursing and the use of title “registered professional nurse” or “licensed practical nurse.” This law forbids individuals who are not licensed either as a registered professional nurse (RN) or licensed practical nurse (LPN) from portraying themselves as nurses or using the title “nurse” or any abbreviation or reference thereof. Current titles such as Certified Nurse Aide (CNA) are not affected by this law. Individual cases of suspected abuse should be reported to the State Education Department Office of the Professions.

Title protection is a way to assure the public that the individual providing care has met the standards for licensure by New York State and is guided in practice and quality of those professional services by the *Scopes and Standards* and *Code of Ethics* developed by the American Nurses Association.

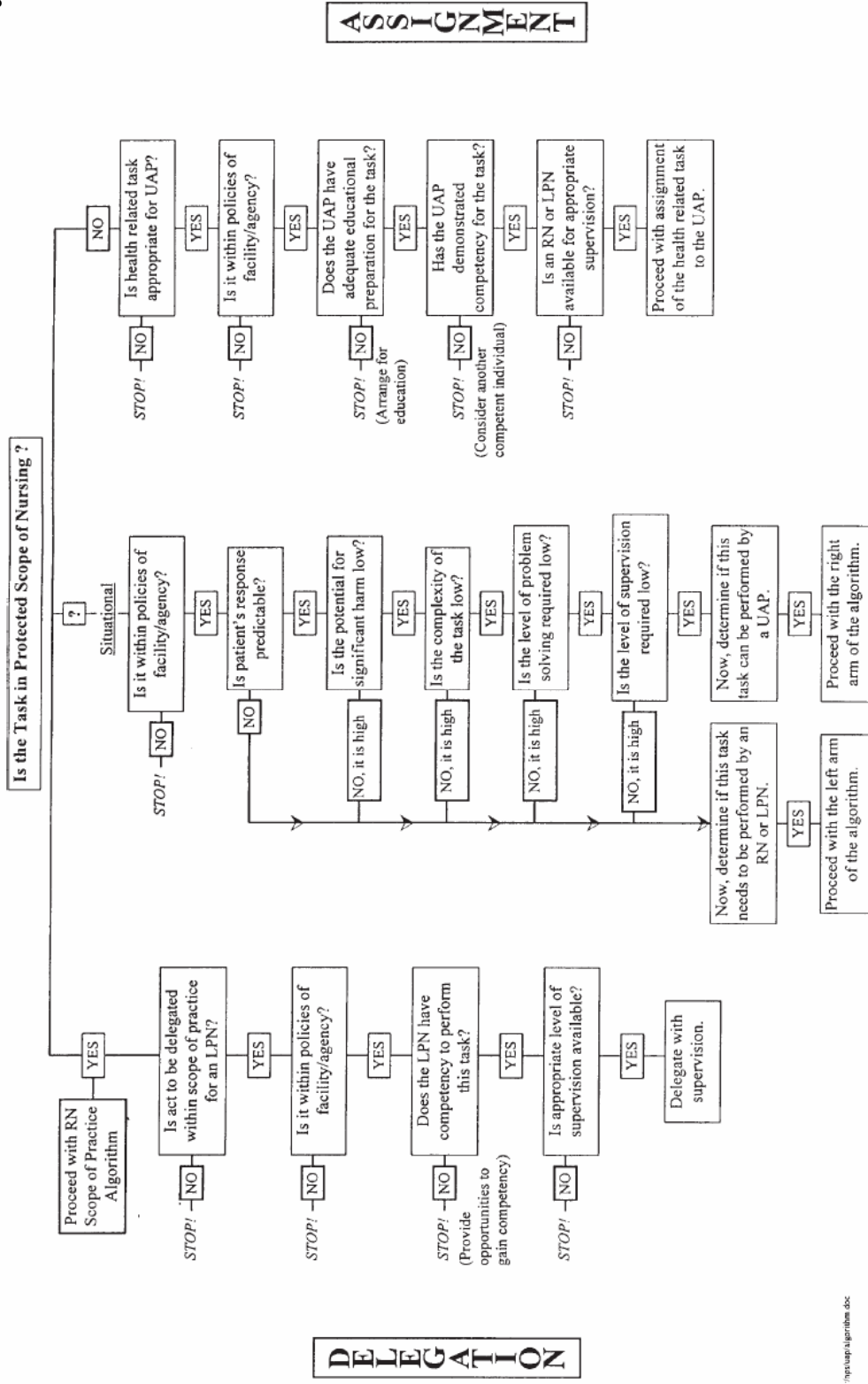
Whether or not a title is appropriate can be determined by analyzing whether the title would lead the public to believe that the individual holds professional licensure. For example, the proliferation of a **new** title, such as “nurse extender,” would lead the public to believe that this could be an advanced nursing position. **Existing** titles that contain the word “nurse” or “nursing” and contextually assist the RN are appropriate and can continue to be used by facilities.

This law is enforceable only if the public understands it. To ensure continued protection and respect for the title of “nurse,” NYSNA urges all nurses to educate and enlighten the public and healthcare organizations to this important amendment in the New York State Education Law.

### Examples of Appropriate and Inappropriate Uses of the Title “Nurse”

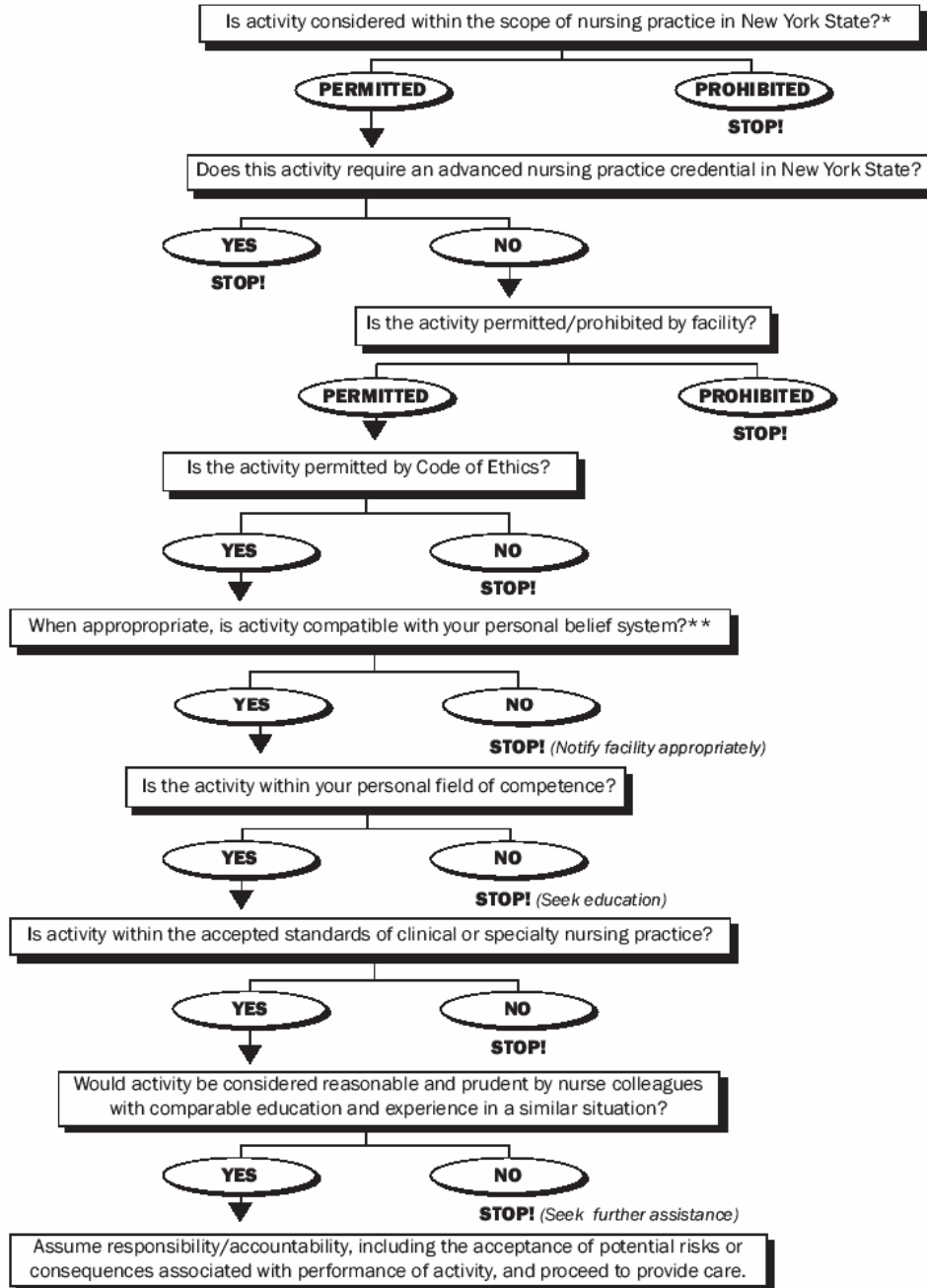
<i>Appropriate</i>	<i>Inappropriate</i>
Nursing Assistant	Baby Nurse
Nurse Aide	Nurse Extender

# VII. Algorithms



©/nrc/uap/algorithms.doc

**ALGORITHM ON RN SCOPE OF PRACTICE  
NEW YORK STATE NURSES ASSOCIATION**



\*If unsure of answer, move along algorithm until you come to a definite stop.

\*\*In New York State Civil Rights Law, Section 79, an individual's right to conscience is addressed and permits one to refuse to assist in an abortion if certain criteria are met. The Nurse Practice Act in New York State is Article 139 of the Education Law.

This algorithm was developed under the direction of the Executive Committee of the NYSNA Functional Unit of Nurse Administrators and Managers.

## **Additional Resources and References:**

*Delegation, Assignment, and Supervision*, NYSNA brochure, 2006

NYSNA Position Statement: *Protecting Nursing's Scope of Practice* <http://www.nysna.org>

NYSNA Position Statement: *Registered Professional Nursing's Utilization of Unlicensed Assistive Personnel* <http://www.nysna.org>

*The Scope of Practice of Licensed Practical Nurses*, memo from the NY State Education Department, September 2005 <http://www.op.nysed.gov/>

*The Practice of IV Therapy by Licensed Practical Nurses in Acute Care Settings*, memo from the NY State Education Department, September 2004 <http://www.op.nysed.gov/>

*The Practice of IV Therapy by Licensed Practical Nurses in the Long Term Care Settings*, memo from the NY State Education Department, September 2004 <http://www.op.nysed.gov/>