

Dear Senators HEIDER, Nuxoll, Bock, and
Representatives WOOD, Perry, Rusche:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the
The Board of Nursing:
IDAPA 23.01.01 - Rules of the Idaho Board of Nursing (Docket No. 23-0101-1301) - **Proposed Rule**.

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research
and Legislation no later than fourteen (14) days after receipt of the rules analysis from Legislative
Services. The final date to call a meeting on the enclosed rules is no later than 10/07/2013. If a meeting is
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules analysis
from Legislative Services. The final date to hold a meeting on the enclosed rules is 11/05/2013.

The germane joint subcommittee may request a statement of economic impact with respect to a
proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement,
and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has
been held.

To notify Research and Legislation, call 334-4845, or send a written request to the address on the
memorandum attached below.



Jeff Youtz
Director

Legislative Services Office Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Health & Welfare Committee and the House Health & Welfare Committee
FROM: Principal Legislative Research Analyst - Brooke Brouman
DATE: September 18, 2013
SUBJECT: The Board of Nursing

IDAPA 23.01.01 - Rules of the Idaho Board of Nursing (Docket No. 23-0101-1301) - **Proposed Rule**

The Board of Nursing submits notice of rulemaking, which includes the following proposed rules changes:

(1) Adds to the partial list of licensed registered nurse and licensed practical nurse functions to include engaging "in other interfaces with health care providers and other workers in settings where there is not a structured nursing organization and in settings where health care plays a secondary role, where the nurse needs to identify the nursing role and responsibility for the particular type of interface, for example, teaching, supervising, consulting, advising, etc."; and

(2) Eliminates a specific list of procedures and functions that should not be delegated to unlicensed assistive personnel.

There is no negative fiscal impact on the state general fund as a result of this rulemaking.

Negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 3, 2013 Idaho Administrative Bulletin.

The Board's proposed rule is authorized pursuant to the provisions of Section 54-1404, Idaho Code.

cc: Board of Nursing
Sandra Evans, M.A .Ed., R.N., Executive Director

IDAPA 23 - BOARD OF NURSING

23.01.01 - RULES OF THE IDAHO BOARD OF NURSING

DOCKET NO. 23-0101-1301

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 54-1404, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 18, 2013.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Delegation is the process of transferring to a competent individual the authority to perform a selected nursing task in a selected situation. The nurse's decision to delegate a specific task/function/activity should not be restricted by regulation but should, instead, be dependent on the needs of the client, stability of client condition, complexity of the task, predictability of outcome and available resources to meet these needs and the judgment of the nurse. This rule is necessary to allow licensed nurses to appropriately delegate without limiting their authority to determine which tasks can be safely delegated in any individual circumstance and/or setting and to engage in other relationships where the structure and/or setting is not conducive to the delegation process and where the patient/client will benefit from the identified role and responsibilities of the nurse. Thus rulemaking deletes the list of specific functions codified at IDAPA 23.01.01.490.06 that cannot be delegated to an unlicensed assistive person by a licensed nurse, thereby allowing nurses to determine appropriate tasks/functions/activities that can be safely delegated in a given situation based on the nurse's informed judgment that the safety and well-being of the client will not be compromised by delegation of the task; and adds to the partial listing of tasks that fall within a licensed nurse's functions to include engaging in interfaces other than delegation in certain settings codified at IDAPA 23.01.01.401.02 and 460.02.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: None.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 3, 2013 Idaho Administrative Bulletin, [Vol. 13-7, pages 69 and 70](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Sandra Evans, M.A. Ed., R.N., Executive Director, (208) 334-3110 ext. 2476.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 25, 2013.

DATED this 31st day of July, 2013.

Sandra Evans, M.A. Ed., R.N.
Executive Director
Board of Nursing

280 N. 8th St. (8th & Bannock), Ste. 210
P. O. Box 83720, Boise, ID 83720-0061
Phone: 334-3110 ext. 2476 / Fax: (208) 334-3536

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 23-0101-1301

401. LICENSED REGISTERED NURSE (RN).

In addition to providing hands-on nursing care, licensed registered nurses work and serve in a broad range of capacities including, but not limited to, regulation, delegation, management, administration, teaching, and case management. Licensed registered nurses, also referred to as registered nurses or as “RNs,” are expected to exercise competency in judgment, decision making, implementation of nursing interventions, delegation of functions or responsibilities, and administration of medications and treatments prescribed by legally authorized persons. (5-3-03)

01. Standards of Practice. A licensed registered nurse adheres to the decision-making model set forth in Section 400 of these rules. (5-3-03)

02. Functions. A partial listing of tasks within the licensed registered nurse’s function follows. This listing is for illustrative purposes only, it is not exclusive. The licensed registered nurse: (5-3-03)

- a.** Assesses the health status of individuals and groups; (5-3-03)
- b.** Utilizes data obtained by assessment to identify and document nursing diagnoses which serve as a basis for the plan of nursing care; (5-3-03)
- c.** Collaborates with the patient, family, and health team members; (5-3-03)
- d.** Develops and documents a plan for nursing intervention based on assessment, analysis of data, identified nursing diagnoses and patient outcomes; (5-3-03)
- e.** Is accountable and responsible for implementation of planned and prescribed nursing care;(5-3-03)
- f.** Maintains safe and effective nursing care by: (5-3-03)
 - i.** Maintaining a safe environment; (5-3-03)
 - ii.** Evaluating patient status and instituting appropriate therapy or procedures which might be required in emergency situations to stabilize the patient’s condition or prevent serious complications in accordance with standard procedures established by the policy-making body in the health care setting, including but not limited to administration of intravenous drugs and starting intravenous therapy based on protocols if the patient has been assessed and determined to be in peril; (5-3-03)
- iii.** Acting as a patient’s advocate; (5-3-03)
- iv.** Applying principles of asepsis and infection control and universal standards when providing nursing care; (5-3-03)
- v.** Implementing orders for medications and treatments issued by an authorized prescriber; and (5-3-03)
- vi.** Providing information and making recommendations to patients and others in accordance with employer policies; (5-3-03)
- g.** Utilizes identified goals and outcomes to evaluate responses to interventions; (5-3-03)
- h.** Collaborates with other health professionals by: (5-3-03)
 - i.** Communicating significant changes in a patient’s status or responses to appropriate health team professionals; (5-3-03)

- ii. Coordinating the plan of care with other health team professionals; and (5-3-03)
- iii. Consulting with nurses and other health team members as necessary; (5-3-03)
- i. Teaches the theory and practice of nursing; and (5-3-03)
- j. Facilitates, mentors and guides the practice of nursing formally and informally in practice settings. (5-3-03)

k. Engages in other interfaces with healthcare providers and other workers in settings where there is not a structured nursing organization and in settings where health care plays a secondary role, where the nurse needs to identify the nursing role and responsibility for the particular type of interface, for example, teaching, supervising, consulting, advising, etc. ()

03. Chief Administrative Nurse. A licensed registered nurse functioning as chief administrative nurse is accountable and responsible for: (5-3-03)

- a. Prescribing, directing and evaluating the quality of nursing services including but not limited to staff development and quality improvement; (7-1-96)
- b. Assuring that organizational policies and procedures, job descriptions and standards of nursing practice conform to the Nursing Practice Act and nursing practice rules; (7-1-96)
- c. Assuring that the knowledge, skills and abilities of nursing care staff are assessed and that nursing care activities do not exceed the legally defined boundaries of practice; and (7-1-96)
- d. Assuring that documentation of all aspects of the nursing organization is maintained. (7-1-96)

04. Management Role. A licensed registered nurse functioning in a management role shall be accountable and responsible for: (5-3-03)

- a. The quality and quantity of nursing care provided by nursing personnel under his supervision; (5-3-03)
- b. Managing and coordinating nursing care in accordance with established guidelines for delegation; and (5-3-03)
- c. Providing leadership in formulating, interpreting, implementing, and evaluating the objectives and policies of nursing practice. (7-1-96)

(BREAK IN CONTINUITY OF SECTIONS)

460. LICENSED PRACTICAL NURSE (LPN).

Licensed practical nurses function in dependent roles. Licensed practical nurses, also referred to as LPNs, provide nursing care at the delegation of a licensed registered nurse, licensed physician, or licensed dentist pursuant to rules established by the Board. The stability of the patient's environment, the patient's clinical state, and the predictability of the outcome determine the degree of direction and supervision that must be provided to the licensed practical nurse. (5-3-03)

01. Standards. The licensed practical nurse shall be personally accountable and responsible for all actions taken in carrying out nursing activities and adheres to the decision-making model set forth in Section 400 of these rules. (5-3-03)

02. Functions. A partial listing of some of the functions that are included within the legal definition of licensed practical nurse, Section 54-1402(3), Idaho Code, (Nursing Practice Act) follows. This list is for example

only, it is not complete. The licensed practical nurse: (5-3-03)

- a. Contributes to the assessment of health status by collecting, reporting and recording objective and subjective data; (5-3-03)
- b. Participates in the development and modification of the plan of care; (5-3-03)
- c. Implements aspects of the plan of care; (5-3-03)
- d. Maintains safe and effective nursing care; (5-3-03)
- e. Participates in the evaluation of responses to interventions; (5-3-03)
- f. Fulfills charge nurse responsibilities in health care facilities as allowed by state and federal law; (5-3-03)
- g. Delegates to others as allowed by application of the decision-making model; and (5-3-03)
- h. Accepts delegated assignments only as allowed by application of the decision-making model. (5-3-03)
- i. Engages in other interfaces with healthcare providers and other workers in settings where there is not a structured nursing organization and in settings where health care plays a secondary role, where the nurse needs to identify the nursing role and responsibility for the particular type of interface, for example, teaching, supervising, consulting, advising, etc. ()

461. -- 489. (RESERVED)

490. UNLICENSED ASSISTIVE PERSONNEL (UAP).

The term unlicensed assistive personnel, also referred to as “UAP,” is used to designate unlicensed personnel employed to perform nursing care services under the direction and supervision of licensed nurses. The term unlicensed assistive personnel also includes licensed or credentialed health care workers whose job responsibilities extend to health care services beyond their usual and customary roles and which activities are provided under the direction and supervision of licensed nurses. (5-3-03)

01. Not a Substitute for the Licensed Nurse. Unlicensed assistive personnel may complement the licensed nurse in the performance of nursing functions, but may not substitute for the licensed nurse; unlicensed assistive personnel may not redelegate a delegated act. (5-3-03)

02. Delegation. The nursing care tasks that may be delegated to unlicensed assistive personnel shall be stated in writing in the practice setting. Decisions concerning delegation will be determined in accordance with the provisions of Section 400 of these rules. (5-3-03)

03. Training. The following training requirements apply to all unlicensed assistive personnel. The training program shall: (5-3-03)

- a. Include written objectives which describe the expected outcomes for the learner and which can be evaluated by written or oral examination and by clinical demonstration of competency or application; (5-3-03)
- b. Incorporate learning experiences appropriate to the stated objectives; (5-3-03)
- c. Be conducted by licensed registered nurses and other licensed health professionals, including, but not limited to, physicians, pharmacists, psychologists, social workers, and dieticians; (5-3-03)
- d. Include an evaluation mechanism to determine the effectiveness of the program; and (5-3-03)
- e. Address the general unlicensed assistive personnel curriculum content areas set forth in Paragraph

681.04.g. of these rules. (5-3-03)

04. Nurse Aide Registry. In addition to the foregoing training requirements, UAP desiring placement on the Nurse Aide Registry must comply with the requirements set forth in Sections 600 through 681 of these rules. (5-3-03)

05. Assistance With Medications. Where permitted by law, after completion of a Board-approved training program, unlicensed assistive personnel in care settings may assist patients who cannot independently self-administer medications, provided that: (5-3-03)

- a. A plan of care has been developed by a licensed registered nurse; (7-1-96)
- b. The act has been delegated by a licensed nurse; (7-1-96)
- c. Written and oral instructions have been given to the unlicensed assistive personnel by a licensed nurse concerning the reason(s) for the medication, the dosage, expected effects, adverse reactions or side effects, and action to take in an emergency; (7-1-96)
- d. The medication is in the original pharmacy-dispensed container with proper label and directions or in an original over-the-counter container or the medication has been removed from the original container and placed in a unit container by a licensed nurse. Proper measuring devices must be available for liquid medication that is poured from a pharmacy-dispensed container. Inventories of narcotic medications must be maintained; (7-1-96)
- e. Any medication dosages not taken and the reasons thereof are recorded and reported to appropriate supervisory persons; and (5-3-03)
- f. Assistance with medication may include: breaking a scored tablet, crushing a tablet, instilling eye, ear or nose drops, giving medication through a pre-mixed nebulizer inhaler or gastric (non-nasogastric) tube, assisting with oral or topical medications and insertion of suppositories. (7-1-96)

06. Prohibitions and Limitations. Unlicensed assistive personnel are prohibited from performing any licensed nurse functions that are specifically defined in Section 54-1402, Idaho Code. (~~3-30-07~~)

~~a.~~ Unlicensed assistive personnel may not be delegated procedures involving acts that require nursing assessment or diagnosis, establishment of a plan of care or teaching, the exercise of nursing judgment, or procedures requiring specialized nursing knowledge, skills or techniques. (~~5-3-03~~)()

~~b.~~ *Examples of procedures that should not be delegated to unlicensed assistive personnel include, but are not limited to:* (5-3-03)

- ~~i.~~ *Sterile procedures;* (5-3-03)
- ~~ii.~~ *Preparation or administration of injections;* (5-3-03)
- ~~iii.~~ *Start, stop or adjust any IV therapy;* (5-3-03)
- ~~iv.~~ *Oxygen adjustment without clear direction from a licensed nurse;* (5-3-03)
- ~~v.~~ *Nasogastric tube feedings or medication administration;* (5-3-03)
- ~~vi.~~ *Mixing or compounding medications;* (5-3-03)
- ~~vii.~~ *Prepare, apply or adjust intermittent positive pressure breathing machines;* (5-3-03)
- ~~viii.~~ *Assisting with either preparation or administration of non-routine medications; and* (5-3-03)
- ~~ix.~~ *Any act not consistent with Subsection 490.02 of these rules.* (5-3-03)