



STATE OF NEW YORK
OFFICE OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES

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ADMINISTRATIVE MEMORANDUM - #2003-01

**TO: Directors of Developmental Disabilities Services Offices
Executive Directors of Agencies Providing Residential Services**

**FROM: Helene DeSanto
Executive Deputy Commissioner
Office of Mental Retardation and Developmental Disabilities**

**Johanna Duncan-Poitier
Deputy Commissioner
Office of the Professions
New York State Education Department**

**SUBJECT: Registered Nursing Supervision of Unlicensed Direct Care Staff in Residential Facilities
Certified by the Office of Mental Retardation and Developmental Disabilities**

DATE: January 2003

Suggested Distribution:

Registered Professional Nurses
Licensed Practical Nurses
Quality Compliance Staff
Program/Direct Care Staff
Administrative Staff

Purpose:

This administrative memorandum has been developed to define the appropriate level of supervision, by a registered professional nurse, that is to be provided to unlicensed direct care staff who perform tasks or activities commonly identified as nursing procedures pursuant to section 6908(1)(b) of New York State Education Law.

Applicability:

This directive applies to all certified community-based residences, with the exception of family care homes, where two or more consumers receive services, including Intermediate Care Facilities (ICFs), Community Residences (CRs), and Individual Residential Alternatives (IRAs). This directive and the provisions of section 6908(1)(b) of the New York State Education Law do not apply to non-certified residential settings.

Definitions:

A Registered Professional Nurse (RN) shall be responsible for the supervision of unlicensed direct care staff in the performance of nursing tasks and activities. It is the responsibility of the employing agency to ensure that all staff is adequately trained regarding the elements of clinical nursing supervision, and the difference between clinical nursing supervision and administrative supervision.

Adequate nursing supervision is the provision of guidance by an RN for the accomplishment of a nursing procedure, including:

- initial training of the task or activity; and
- periodic inspection of the actual act of accomplishing the task or activity.

The amount and type of nursing supervision required will be determined by the RN responsible for supervising the task or activity, and will depend upon:

- the complexity of the task;
- the skill, experience and training of the staff; and
- the health conditions and health status of the consumer.

Frequency of Visits:

The frequency of visits to certified community-based residences with two or more consumers shall be at the discretion of the RN responsible for supervision but in no case shall visits occur less frequently than once a week.

Professional Nursing Availability:

There shall be an RN available to unlicensed direct care staff 24 hours a day, 7 days a week. The RN must be either on site or immediately available by telephone. The residence RN or, during off-hours, the RN on-call will be immediately notified of changes in medical orders for a consumer and/or of changes in a consumer's health status.

Plan of Nursing Services:

The RN is responsible for developing an individualized plan for nursing services for any consumer who requires nursing care, including those who require medication administration for diagnosed medical conditions. Such plans will be updated at least annually or whenever there is a significant change in the consumer's condition.

The RN shall document that direct care staff have been educated about the chronic conditions and related health care needs of each consumer in their care.

The RN shall ensure that there is a consumer specific medication sheet for each medication that is administered. This sheet shall include all of the information required by 14 NYCRR section 633.17(a)(17)(iii) [See Attachment].

Nursing Procedures:

It shall be the responsibility of the Registered Professional Nurse to determine which nursing procedures unlicensed direct care staff will be allowed to perform, and which unlicensed staff will be allowed to perform them. The Registered Professional Nurse shall exercise professional judgement as to when delegation is unsafe and/or not in the consumer's best interest.

When making a decision regarding a nursing task or activity, the RN shall assess the following:

- complexity of the task;
- condition/stability of the consumer; and
- training, skill and experience of the staff involved, including relevant factors related to the individual's ability to safely provide nursing services.

In no case will an RN allow direct care staff to perform a nursing procedure that is outside the scope of practice of an LPN.

Training:

RNs who do not have previous experience in the field of mental retardation/developmental disabilities (MR/DD) nursing will be required to complete an orientation for registered nurses in MR/DD nursing within three months of being hired.

It is the responsibility of the RN to provide initial and on-going training to unlicensed direct care staff in all nursing tasks and/or functions that they will perform. The RN must periodically review that the performance of unlicensed staff is consistent with standards of care and training.

Medication administration, tube feeding and diabetic care shall be taught utilizing a standard curriculum approved by the Office of Mental Retardation and Developmental Disabilities (OMRDD).

Diabetic care shall be taught by either:

- A Certified Diabetic Educator (CDE). In those instances where the CDE is not a RN, the administration of insulin shall be taught by an RN;

OR

- An RN who has successfully completed an OMRDD approved train-the-trainer course to teach diabetes care to unlicensed direct care staff. Approval to teach diabetic care to unlicensed direct care staff shall be for a period of one year. Continued approval will be dependent upon completion of annual knowledge/skill maintenance training.

Unlicensed direct care staff will be separately certified for medication administration, tube feeding and insulin administration and shall be recertified on an annual basis.

Resident managers who have not previously completed the didactic portion of the OMRDD-approved medication administration curriculum shall be required to do so. However, residence managers will not be certified to administer medication unless they are also designated as “staff providing direct care services” as defined in 14 NYCRR section 633.99 [See Attachment].

It is the intent of the regulation that the staff not only has the responsibility for direct care in the job description, but that they are also actually providing direct hands-on care. It is recognized that many unit supervisors and/or house managers do routinely provide direct care to consumers. Each agency must determine which supervisors and/or house managers within their agency meet the letter, the spirit and the intent of the regulation.

Clinical Evaluations:

The RN shall conduct annual clinical performance evaluations for unlicensed direct care staff for procedures that include but are not limited to medication administration. This evaluation shall become part of the employee’s annual performance evaluation.

Staffing Ratios:

The following items shall be considered when establishing an RN/consumer ratio for RNs assigned to provide nursing services in community based residences:

- the health status/stability of the consumers;
- the type of residential facility;
- the actual number of direct care staff, both full and part time, who are to be trained and supervised;
- the number of Licensed Practical Nurses to be supervised;
- the number of certified residences involved, their geographic location and proximity to each

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- other and proximity to health care providers; and
- the degree of additional nursing services provided by external nursing agencies.

Based on the evaluation of these factors, the provider agency shall establish a registered nurse/consumer ratio that ensures consistently adequate nursing supervision. In no instance shall this ratio to exceed one full time equivalent of an RN to 50 consumers (1:50). Some ratios will need to be significantly less than this based upon evaluation of the above factors.

RN/consumer ratios shall be re-evaluated within one week if there are any significant changes in any of the factors listed above and RN assignments adjusted accordingly.

If an RN is acting as the supervising nurse for the agency and also has responsibility for one or more residences, only that portion of her/his time that is devoted to the residences may be used in calculating the ratio.

Effective Date:

May 1, 2003

Contact Information:

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Attachment

14 NYCRR SECTION 633.17(a)(17)(iii)

- (iii) For the safety of the people residing in or attending a facility and as a support to those staff who have medication administration related responsibilities, there shall be information specific to each person on all medications to be administered to that person while at or under the supervision of the facility and its staff. The sponsoring agency shall ensure maintenance of this information for people in family care homes and provide the information to the family care provider. For each medication a person is taking, this information shall include:
 - (a) name of person taking the medication;
 - (b) name of medication;
 - (c) directions with regard to correct dose, form, method/route of administration, time of administration;
 - (d) start and stop dates, if applicable;
 - (e) expected therapeutic effects for the person taking the medication;
 - (f) possible side effects to the person taking the medication; and
 - (g) name of prescribing, ordering or approving practitioner.

14 NYCRR SECTION 633.99

- (cx) Services, staff providing direct care. For purposes of medication administration, an employee who, by job description, is responsible for providing the day-to-day hands-on care, training, guidance, direction, assistance, support, etc. to persons in a facility. Employees hired to provide professional or any other services cannot be designated as providing "direct care services."