

October 11, 2016

Lorena Silva, MSN-L, MBA, DNP, RN

Executive Director

Board of Registration in Nursing

239 Causeway Street, Suite 500, 5th Floor

Boston, Massachusetts 02114

Re: Proposed Amendments to the Board’s Regulations at 244 CMR 3.00, 6.00, 7.00 and 10.00

Dear Executive Director Lorena Silva,

The Massachusetts Health & Hospital Association (MHA), on behalf of our member hospitals and health systems, appreciates the opportunity to submit comments on the Board of Registration in Nursing’s proposed amendments to the Board’s regulations at 244 CMR 3.00, 6.00, 7.00 and 10.00. While MHA and our members are generally supportive of the direction and intent of the changes, we would like to formally request that the Board allow additional time for review by delaying the comment deadline so that organizations like MHA and others may work more closely with their respective members to obtain detailed feedback on the specific proposed changes to the nursing regulations.

If the delay in the comment period is granted, we look forward to the opportunity to further process the proposed regulatory changes in their entirety. However, in advance of your determination on the request for delay, the attached comments highlight our support specifically for the changes to 244 CMR 3.05 and outline additional clarifications that we believe should be considered. We believe that the proposed changes are important to ensure that provider organizations are able to work with all appropriate staff to ensure the continued development of innovative health delivery methods that are aligned with the goals and expectations of state and federal healthcare reform efforts.

One essential element is the ability of hospitals and other provider groups to work across the healthcare workforce in a manner that best ensures the safe, timely and efficient provision of services and medications. The proposed changes would help ensure that such delegation is performed consistent with both licensure requirements and quality and safety considerations, while enabling licensed staff to utilize necessary professional judgment to determine when it is safe to delegate certain activities.

Thank you for your consideration of these comments. If you have any questions about our comments, please do not hesitate to contact Anuj Goel (MHA’s Vice President of Legal and Regulatory Affairs) at (781) 262-6034 or [agoel@mhalink.org](mailto:agoel@mhalink.org).

Sincerely,

Anuj K. Goel, Esq.

Vice President, Legal & Regulatory Affairs

**MHA Requested Changes to BoRN proposed amendments to 244 CMR 3.05**

**October 11, 2016**

**Definitions:**

We would request that the Board consider including a definition of “employing agency” in either section 3 or Section 10. While this term may have some general meaning that is commonly used by the profession, given the specific use throughout the proposed regulations, it would be helpful to clarify if this term is used to mean various provider types (e.g., hospitals, clinics, home care or other such organizations).

**General Criteria for Delegation: (244 CMR 3.05(2)**

We support the overall changes to 244 CMR 3.05 as it provides direction and control for delegation to be within the licensure scope and management of the nurse who is allowing such activities. We also support the proposed regulations as it indicates that the nurse and not the employer can determine if the delegation should occur. That being said, we do believe that there should be some clarifications to this section to ensure that the organization that is employing the nurse and the delegated staff is able to obtain any necessary information to ensure that quality and safety standards are being met, including full information if a delegation is occurring. To that end we request the following changes:

* In 3.05(2), subpart (f), we would request removing the last sentence that starts with “Uniform Training” and instead replace the sentence with the following sentence. The purpose of this change is to clarify a more appropriate list of factors to consider when allowing such delegation. In addition, it is important to clarify that any information that is used to determine appropriate delegation should be provided to the delegating nurse and the organization employing the staff for internal operations as well as quality and safety considerations:
  + *Prior work experience, current certification, and uniform training within that role may be used by the employing agency and the nurse as a basis to presume the baseline competencies of an unlicensed person.*
* In 3.05(2), subpart (g), we would ask for a technical edit to remove the words “to be” and replace them with “that may be” – this change would be consistent with the rest of the sentence that outlines other factors to be considered

**Supervision (244 CMR 3.05(3)**

To ensure consistency with the clarifications outlined above, we request a technical clarification to 3.05(3)(b) by replacing the sentence with the following. The purpose of this change is to ensure that the ongoing assessment of the delegated staff is based on meeting the competencies outlined in the prior section (as clarified above). We believe this was the intent of the changes and would ensure an appropriate connection to the delegation criteria and supervision criteria. The proposed subpart (b) should read: *(b) the continued capability and competency (as outlined in 3.05(2)(f), of the unlicensed person to perform the activity;*

**Delegation of Nursing Activities (244 CMR 3.05(4)**

Consistent with the operational process for reporting of adverse events in other DPH regulations, we would ask for clarification to 244 CMR 3.05(4)(d)(6). Specifically, replacing the words “adverse side effects to be reported to a licensed nurse”, we request that the language be replaced with: “*the reporting of any adverse side effects to the delegating nurse and to an appropriate contact within the employing agency*…”. It is critical that the delegating nurse and the employing organization should be made aware of any adverse medication results for quality and safety protections.

**Nursing activities that may not be delegated (244 CMR 3.05(5)**

While we support the goal of this section, we request clarification to 244 CMR 3.05(5)(a)(2). As drafted, the language is confusing and would prevent any and all delegation as it is circular in meaning and content. The goal, we believe, is that if a delegating nurse is aware that there is a predictable adverse event or side effect that will result in a negative outcome, then the delegation should not occur. If so, we request that the following change occur – *3.05(5)(a)(2) “may lead to a predictable adverse side effect that will result in a negative outcome for the patient, or”.*