

BEFORE THE ALABAMA BOARD OF NURSING

IN THE MATTER OF:)	IN RE: PETITION FOR
)	DECLARATORY RULING
JENNIFER WHITE)	
1-105108 (ACTIVE) MSL)	
)	
Petitioner.)	

DECLARATORY RULING

COMES NOW the Alabama Board of Nursing, by and through its Executive Officer Peggy Sellers Benson, RN, MSHA, MSN, NE-BC, and issues the following ruling:

QUESTION PRESENTED

Pursuant to Alabama Board of Nursing Administrative Code § 610-X-7-.11, is it within the scope of practice for a Registered Nurse to oversee MAC certified personnel to (a) administer medication to individuals in independent senior living communities and (b) administer medication to individuals in the home setting (not to include assisted living, skilled nursing or memory care communities)?

FINDINGS OF FACT

1. By petition dated September 3, 2021, Petitioner submitted a petition for declaratory ruling. Petitioner is a licensed registered nurse in Alabama.

Petitioners seek a declaratory ruling regarding whether a Registered Nurse may “oversee” MAC certified personnel to (a) administer medication to individuals in independent senior living communities and (b) administer medication to individuals in the home setting (not to include assisted living, skilled nursing or memory care communities).

2. Petition states: “Right at Home is a third party provider for many independent senior living communities. Right at Home is Joint Commission Accredited and provides private pay skilled services and non-skilled services. We are seeing a large need to help staff our communities and allow or seniors to age in place more affordably. Approving this rule would accomplish this goal while maintaining quality of care.”

JURISDICTION

Pursuant to Section 41-22-11 of the Code of Alabama (1975), the Alabama Board of Nursing has jurisdiction to issue declaratory rulings with respect to the validity of a rule, with respect to the applicability to any person, property or state of facts of any rule or statute enforceable by it, or with respect to the meaning and scope of any order of the agency, if a written petition for declaratory ruling is filed by a person who states with specificity the reason why the person is substantially affected by the rule at issue. See also Alabama Board of Nursing Administrative Code § 610-X-1-.09. Petitioners are substantially affected by the Board’s rule regarding delegation to medication assistants, certified in settings other than mental health residential community programs.

CONCLUSIONS OF LAW

1. A petition for declaratory ruling to the Alabama Board of Nursing should state the name and address of the petitioner, a statement of facts sufficient to show that the petitioner is substantially affected by the rule, and identification of the rule, statute or order and the reasons for the questions. Alabama Board of Nursing Administrative Code § 610-X-1-.09. Petitioner has satisfied these requirements.
2. The practice of professional nursing includes the promotion of health and prevention of illness and executing medical regimens according to approved medical protocols and standing orders, including administering medications and treatments prescribed by a legally authorized prescriber. Alabama Board of Nursing Administrative Code § 610-X-6-.04(1)(d) and (g). The Alabama Nurse Practice Act permits “persons, including nurse aides, orderlies, and attendants” to “carry[] out duties necessary for the support of nursing services, including those duties which involve supportive nursing services performed in hospitals or elsewhere . . . under the supervision of professional nurses.” Ala. Code § 34-21-6.
3. Delegation is “the act of authorizing a competent individual to perform selected nursing activities supportive to licensed nurses in selected situations while retaining accountability for the outcome if the delegation is to an unlicensed individual.” ABN Administrative Code § 610-X-7-.01(1).
4. A Medication Assistant, Certified (MAC) is an “unlicensed assistive personnel who has successfully completed a Board-approved curriculum for assistance with medications, or a comparable program in another state, and holds a valid medication assistant certification (MACE). ABN Administrative Code § 610-X-7-.01(2).
5. It is unclear what Petitioner means when she asks whether a Registered Nurse may “oversee” a Medication Assistant, Certified. There are instances in which a licensed nurse may delegate limited medication administration tasks to a Medication Assistant, Certified outside of a mental health residential community program; however, pursuant to ABN Administrative Code § 610-X-7-.11(1)(a), such delegation may only occur in a “licensed healthcare facility.”
6. A review of the Alabama Department of Public Health laws and regulations reveals that the facilities licensed by ADPH do not include independent senior living communities or individual patient homes. <https://www.alabamapublichealth.gov/providerstandards/rules.html> (last accessed September 10, 2021).

RULING

The Petition for a Declaratory Ruling is hereby granted, and the Alabama Board of Nursing hereby rules as follows:

1. Pursuant to Alabama Board of Nursing Administrative Code § 610-X-7-.11(1)(a), a registered nurse may not delegate limited medication administration tasks to a Medication Assistant, Certified, to be performed in an independent senior living community or an individual home setting because these locations are not licensed healthcare facilities.

DONE and **ORDERED** on this the 17th day of September, 2021.

ALABAMA BOARD OF NURSING



PEGGY SELLERS BENSONRN, MSHA, MSN, NE-BC
EXECUTIVE OFFICER

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on the 20th day of September, 2021, a true and correct copy of the foregoing Declaratory Ruling was served by forwarding the same by United States certified mail, postage prepaid, and addressed as follows:

JENNIFER WHITE
1446 MONTGOMERY HWY, STE B
BIRMINGHAM, AL 35126

ALABAMA BOARD OF NURSING



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