

**To:** Interested Parties

**From:** The Executive Secretary to the New York State Board for Medicine

**Re:** Utilization of Unlicensed Persons in Clinical Settings and Private Medical Offices

**Date:** April 2010, revised December 2023

It has come to the attention of the Office of the Professions that a significant number of physicians' offices are utilizing unlicensed persons to assist in the care of their patients. The Board for Medicine takes this opportunity to clarify the functions that can be performed by such unlicensed persons.

Section 6530 (11) of Education Law states that "permitting, aiding or abetting an unlicensed person to perform activities requiring a license" constitutes unprofessional conduct. Accordingly, medical tasks may only be delegated to persons who are *authorized by law to perform the delegated task. The fact that an unlicensed person may be "competent" to perform the task does not confer the legal authorization to engage in an activity that is restricted to licensed persons. Licensed professionals, including physicians, who knowingly delegate a medical task to a person who is not legally authorized to perform such a task are guilty of professional misconduct.* Below are lists of tasks that can and cannot be performed by unlicensed persons in New York State. These lists include those tasks that the board offices most frequently receive questions about from practitioners. However, they are **not** exhaustive lists. Thus, practitioners may be called upon to make determinations as to whether tasks that are not mentioned in these lists may be delegated to an unlicensed person. In making those determinations, practitioners with authority to order and/or delegate medical tasks should be guided by the principle that tasks that require the exercise of medical judgment and assessment, or tasks that are specifically restricted to licensed professionals, may not be delegated to unauthorized persons. Such tasks must be performed by licensed persons who, by virtue of their education and licensure, are presumed to possess the level of professional judgment and assessment skills that will ensure safe practice<sup>1</sup>. Unlicensed persons may not perform any tasks protected or restricted under the scope of practice of any other licensed profession. This document specifically refers to unlicensed persons assisting in medical procedures.

<sup>1</sup> It should be noted that, pursuant to 8 NYCRR §29.1(b)(9), unprofessional conduct includes practicing or offering to practice beyond the scope permitted by law, or accepting and performing professional responsibilities which the licensee knows or has reason to know that he/she is not competent to perform, or performing without adequate supervision professional services which the licensee is authorized to perform only under the supervision of a licensed professional, except in an emergency situation where a person's life or health is in danger.

Please note that "Medical Assistant" is not a title that is licensed or otherwise recognized in New York State. Persons who have obtained certification as Certified Medical Assistants, through a national organization, may present that credential to employers, but that does **not** afford them any additional privileges to perform extra tasks in New York State because they are still

unlicensed persons. It is good practice for practitioners to identify unlicensed persons and their role to patients.

Tasks that may be performed by unlicensed persons must be performed after appropriate training and the supervising physician is responsible for determining if the unlicensed person is capable of performing such task or tasks. Tasks that **may** be performed by unlicensed persons include the following:

- Secretarial work such as assembling charts or assisting with billing
- Measuring vital signs
- Performing ECGs
- Assisting an authorized practitioner, under the direct and personal supervision of said practitioner, to carry out a specific task that does not require medical judgment or decision-making
- Removing sutures or staples under the supervision of a physician or other appropriately licensed person, provided that the patient is evaluated, at a minimum, immediately before the procedure by an appropriately licensed professional
- Act as scribe and enter History and Physical information, chief complaint, medications, allergies, and family history into a chart or Electronic Medical Record and assisting patient in filling out self-report questionnaire
- Collecting and preparing laboratory specimens and transcribing results without interpreting or assessing the following:
  - Urine dipsticks
  - Phlebotomy, if properly trained and in a CLIA-waived facility
  - Finger Sticks
  - Cheek Swabs
  - Throat Swabs
  - Superficial cultures
- Performing basic hearing and vision tests
- Providing prepared family education and instruction
- Changing or applying wound dressings (not casts)
- Applying allergen patch test but not interpreting it
- **Open sterile packages, under the continuous and direct supervision of an appropriately licensed and credentialed individual**

Tasks that **cannot** be performed by unlicensed persons include:

- Triage
- Drawing up or administering vaccinations or immunizations, including preparing and administering allergens
- Drawing up any medication in syringes
- Administering medications through any route
- Administering contrast dyes or injections of any kind
- Placing sutures and other forms of wound closure
- Taking x-rays or independently positioning patients for x-rays
- Applying or removing casts

- First assisting in surgical procedures
- Inserting or removing IVs or catheters of any kind
- Relaying positive test results to patients
- Teaching patients self-injection of medications or self-catheterization
- Performing EMGs or other nerve conduction studies
- Set up or manipulate any sterile field
- Perform pre-procedural preparation/disinfection

The Board trusts that this information is helpful and urges you to assist your professional colleagues by disseminating this information. If we can be of assistance in any way, please do not hesitate to contact us by e-mail [medbd@nysed.gov](mailto:medbd@nysed.gov) or by telephone at 518-474-3817 ext. 560