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Comments to the Montana Board of Medical Examiners

Protecting patients in Montana from substandard medical assisting services

The following comments concerning the proposed New Rule I “Medical Assistant—Delegation and Supervision” were submitted to the Montana Board of Medical Examiners on May 29, 2018. Following the comments is an excerpt from the proposed new rules.

The Montana Society of Medical Assistants (MSMA) and the American Association of Medical Assistants (AAMA) submit the following comments on the proposed New Rule I “Medical Assistant—Delegation and Supervision” of the Montana Board of Medical Examiners, Montana Department of Labor and Industry.

The MSMA and AAMA agree with the Montana Board of Medical Examiners that the current medical assistant rule is “confusing and arcane and no longer reflects current practice in the medical field.” We thus commend the Board of Medical Examiners for submitting a total rewrite of the rule and for the clarity and straightforwardness of the proposed new rule.

The primary public policy objective of the [MSMA and AAMA] is to protect patients from substandard medical assisting services. In light of this objective, the MSMA and AAMA express concern with the following section of the proposed rule:

(c) personally provide onsite direct supervision as defined by ARM [Administrative Rules of Montana] 24.156.501 to a medical assistant to whom the health care provider has delegated:

- (i) injections other than immunizations;
- (ii) invasive procedures;
- (iii) conscious sedation monitoring;
- (iv) allergy testing;
- (v) intravenous administration of blood products; or
- (vi) intravenous administration of medication; and

It is the position of the Montana Society of Medical Assistants and the American Association of Medical Assistants that the above tasks should be delegable only to medical assistants: (1) who have graduated from a postsecondary, programmatically accredited medical assisting program and (2) who

have a current medical assisting credential, such as the CMA (AAMA), accredited by a national accrediting body such as the National Commission for Certifying Agencies (NCCA). Only those medical assistants who have demonstrated mastery of the required knowledge and psychomotor skills by completing an accredited medical assisting program, passing a standardized medical assisting examination, and maintaining the credential by periodic recertification should be delegated the tasks set forth in (c)(i through vi).

Thank you for your consideration. Please do not hesitate to contact AAMA CEO and Legal Counsel Donald A. Balasa, JD, MBA, dbalasa@aama-ntl.org with any questions. ♦

Questions from readers may be directed to Donald A. Balasa, JD, MBA, at dbalasa@aama-ntl.org, or by calling the AAMA at 800/228-2262.

Reference

1. Medical assistant—delegation and supervision. *MAR*. 2018;(9):941-943. <http://boards.bsd.dli.mt.gov/Portals/133/Documents/med/RULES/24-156-84pro-arm.pdf>. Accessed July 25, 2018.

Excerpt from *Montana Administrative Register § 24-156-84*

4. The proposed new rules are as follows:

NEW RULE I MEDICAL ASSISTANT—
DELEGATION AND SUPERVISION

(1) A health care provider authorized by 37-3-104, MCA, [Montana Code Annotated] may delegate administrative and clinical tasks which are within the delegating health care provider's scope of practice to medical assistants who:

- (a) work in the delegating health care provider's office under the general supervision of the delegating health care provider; and
- (b) are known by the delegating health care provider to possess the education, training, knowledge, and skill to perform the delegated tasks in keeping with the standard of medical care owed by the delegating health care provider to the patient.

(2) A health care provider's knowledge of a medical assistant's education, training, knowledge, and skill to perform delegated tasks may be evidenced by:

- (a) documentation of the medical assistant's graduation from an accredited medical assistant program;
- (b) completion of education and training courses which are substantially equivalent to curriculum taught by accredited medical assistant programs;
- (c) the delegating health care provider's personal knowledge of instruction, training, and experience provided directly to the medical assistant by the delegating health care provider; or
- (d) other objective evidence known to the health care provider.

(3) A health care provider delegating administrative and/or clinical tasks to a medical assistant shall:

- (a) require that the medical assistant record in the patient's medical records:
 - (i) the identity of the medical assistant to whom the health care provider has delegated tasks included in the patient's care; and
 - (ii) the clinical tasks delegated to the medical assistant;
- (b) ensure through oversight and supervision that the medical assistant's performance of the delegated tasks meets the standard of medical care owed by the delegating health care provider to the patient;
- (c) personally provide onsite direct supervision as defined by ARM 24.156.501 to a medical assistant to whom the health care provider has delegated:
 - (i) injections other than immunizations;
 - (ii) invasive procedures;
 - (iii) conscious sedation monitoring;
 - (iv) allergy testing;
 - (v) intravenous administration of blood products; or
 - (vi) intravenous administration of medication; and
- (d) require medical assistants to wear a name badge which includes the title: "Medical Assistant."

(4) Health care providers shall not delegate to medical assistants:

- (a) medical tasks which are outside the delegating health care provider's scope of practice;
- (b) medical tasks which the delegating health care provider is not authorized to perform;
- (c) surgery as defined in ARM 24.156.501;
- (d) medical tasks which the medical assistant is not qualified by education, training, knowledge, and skill to perform in keeping with the standard of medical care owed by the delegating health care provider to the patient; or
- (e) who previously held a health care provider license of any kind in any jurisdiction which was restricted, suspended, revoked, or voluntarily relinquished in lieu of discipline for unprofessional conduct in a health care profession.

AUTH: 37-3-104, 37-3-203, MCA

IMP: 37-3-102, 37-3-104, MCA

REASON: In 2017, the legislature passed House Bill 476 that allowed physician assistants to supervise and delegate tasks to medical assistants. Amendments to 37-3-104, MCA, required the board to adopt guidelines by administrative rule to implement the bill's provisions. Additionally, the board has not amended the current rule since its adoption in 2006. The board concluded that the rule is confusing and arcane and no longer reflects current practice in the medical field. Because the proposed amendments resulted in a complete rewrite of the current medical assistants' rule, the board is repealing ARM 24.156.640 and adopting this new rule in its place.