

## Virginia Law Permits Delegation to Unlicensed Professionals



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According to Virginia law, what tasks are physicians allowed to delegate to unlicensed professionals? This question arises frequently in the delivery settings of all medical specialties.

The following excerpt from the Virginia Medical Practice Act, Chapter 29 of Title 54.1 of the Code of Virginia, provides a starting point for answering this question:

**Section 54.1-2901. Exceptions and exemptions generally.**

A. The provisions of this chapter shall not prevent or prohibit:

6. Any practitioner licensed or certified by the Board [of Medicine] from delegating to personnel supervised by him, such activities or functions as are nondiscretionary and do not require the exercise of professional judgment for their performance and which are usually or customarily delegated to such persons by practitioners of the healing arts, if such activities or functions are authorized by and performed for such practitioners of the healing arts and responsibility for such activities or functions is assumed by such practitioners of the healing arts;

The following statutory language is also relevant:

**Section 54.1-3408. Professional use by practitioners.**

T. Pursuant to a specific order for a patient and under his direct and immediate supervision, a prescriber may authorize the administration of controlled substances by personnel who have been properly trained to assist a doctor of medicine or osteopathic medicine, provided the method does not include intravenous, intrathecal, or epidural administration and the prescriber remains responsible for such administration.

The *Regulations Governing the Practice of Medicine, Osteopathy, Podiatry, and Chiropractic* of the Virginia Board of Medicine state the following:

**18VAC85-20-29. Practitioner responsibility.**

A. A practitioner shall not:

1. Knowingly allow subordinates to jeopardize patient safety or provide patient care outside of the subordinate's scope of practice or area of responsibility. Practitioners shall delegate patient care only to subordinates who are properly trained and supervised;

According to Section 54.1-2901(A)(6), what “activities or functions” are “nondiscretionary and do not require the exercise of professional judgment for their performance”? And according to 18VAC85-20-29(A)(1), what duties are “outside of the subordinate’s scope of practice or area of responsibility,” and which subordinates are “properly trained”? Absent more specific explanatory language in the regulations and opinions of the Virginia Board of Medicine, the following excerpt from the United States Bureau of Labor Statistics *Occupational Outlook Handbook, 2008-09 Edition*, “Medical Assistants,” is instructive:

For clinical medical assistants, duties vary according to what is allowed by State law. Some common tasks include taking medical histories and recording vital signs, explaining treatment procedures to patients, preparing patients for examinations, and assisting physicians during examinations. Medical assistants collect and prepare laboratory specimens and sometimes perform basic laboratory tests on the premises, dispose of contaminated supplies, and sterilize medical instruments. They might instruct patients about medications and special diets, prepare and administer medications as directed by a physician, authorize drug refills as directed, telephone prescriptions to a pharmacy, draw blood, prepare patients for x-rays, take electrocardiograms, remove sutures, and change dressings.

Specific information about the general, clinical, and administrative skills of formally educated and credentialed medical assistants is described in the *2007-2008 Occupational Analysis of the CMA (AAMA)*, which is found online at <http://aama-ntl.org/resources/library/OA.pdf>. The accreditation standards for postsecondary medical assisting programs accredited by the Commission on Accreditation of Allied Health Education Programs (CAAHEP), or by the Accrediting Bureau of Health Education Schools (ABHES), are found—respectively—at [www.caahep.org](http://www.caahep.org) and [www.abhes.org](http://www.abhes.org).

The *Occupational Outlook Handbook* also states the following: “Employers prefer to hire experienced workers or those who are certified. Although not required, certification indicates that a medical assistant meets certain standard of competence.”

Currently, there are two medical assisting credentials that are accredited by the National Commission for Certifying Agencies: the Certified Medical Assistant of the American Association of Medical Assistants—CMA (AAMA); and the Registered Medical Assistant of the American Medical Technologists—RMA (AMT). Information about these credentials can be found—respectively—at [www.aama-ntl.org](http://www.aama-ntl.org) and [www.amt1.com](http://www.amt1.com).

Questions about the general legal principles pertinent to the delegation of duties by physicians according to Virginia law, and the law of other states, can be directed to this author at [dbalasa@aama-ntl.org](mailto:dbalasa@aama-ntl.org).

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