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Delegation to Medical Assistants under Florida Law

The Florida Medical Practice Act defines a *medical assistant* as “a professional multiskilled person dedicated to assisting in all aspects of medical practice under the direct supervision and responsibility of a physician.”¹ Because of this definition, some medical practice consultants have taken the position that medical assistants are only permitted to work under physicians. This argument is flawed, however, because of the language in the regulations of the Florida Board of Nursing. The purpose of this article is to demonstrate that Florida law permits medical assistants to work under advanced registered nurse practitioners as well as physicians.

Nursing Law Definitions

The Florida Nurse Practice Act contains the following definitions:

(3) “Advanced practice registered nurse” means any person licensed in this state to practice professional nursing and who is licensed in an advanced nursing practice, including certified nurse midwives, certified nurse practitioners, certified registered nurse anesthetists, clinical nurse specialists, and psychiatric nurses.

...

(21) “Registered nurse” means any person

licensed in this state ... to practice professional nursing.²

The regulations of the Florida Board of Nursing define *unlicensed assistive personnel* (UAP) as follows:

(1) “Unlicensed assistive personnel” (UAP) are persons who do not hold licensure from the Division of Health Quality Assurance of the Department of Health but who have been assigned to function in an assistive role to registered nurses or licensed practical nurses in the provision of patient care services through regular assignments or delegated tasks or activities and under the supervision of a nurse.³

Because medical assistants do not hold licensure from the Division of Health Quality Assurance of the Department of Health,³ my legal opinion is that medical assistants are classified as UAP under the Florida Board of Nursing regulations and therefore may “function in an assistive role to registered nurses or licensed practical nurses in the provision of patient care services through regular assignments or delegated tasks or activities and under the supervision of a nurse.”³

Operative Legal Principle

A category of health professionals defined in one statute may fall within a different definition in another statute. Thus, the fact that medical assistants are defined in the Florida

Medical Practice Act does not preclude them from being classified as UAP in the regulations of the Florida Board of Nursing.

UAP Scope of Service under the Regulations of the Florida Board of Nursing

Regulations of the Florida Board of Nursing set forth principles for determining tasks that are and are not delegable to UAP:

[64B9-14.001—Definitions]

(6) “Delegation” is the transference to a competent individual the authority to perform a selected task or activity in a selected situation by a nurse qualified by licensure and experience to perform the task or activity.

(7) “Delegator” is the registered nurse or licensed practical nurse delegating authority to the UAP.

(8) “Delegate” is the UAP receiving the authority from the delegator.³

...

[64B9-14.002—Delegation of Tasks or Activities]

In the delegation process, the delegator must use nursing judgment to consider the suitability of the task or activity to be delegated.

(1) Factors to weigh in selecting the task or activity include:

- (a) Potential for patient harm.
- (b) Complexity of the task.
- (c) Predictability or unpredictability of outcome including the reasonable potential for a rapid change in the medical status of the patient.
- (d) Level of interaction required or communication available with the patient.
- (e) Resources both in equipment and personnel available in the patient setting.

(2) Factors to weigh in selecting and delegating to a specific delegate include:

- (a) Normal assignments of the UAP.
- (b) Validation or verification of the education and training of the delegate.

(3) The delegation process shall include communication to the UAP which identifies the task or activity, the expected or desired outcome, the limits of authority, the time frame for the delegation, the nature of the supervision required, verification of delegate's understanding of assignment, verification of monitoring and supervision.

...

[64B9-14.003—Delegation of Tasks Prohibited]

The registered nurse or licensed practical nurse, under direction of the appropriate licensed professional as defined in Section 464.003(3)(b), F.S., shall not delegate:

(1) Those activities not within the delegating or supervising nurse's scope of practice.

(2) Nursing activities that include the use of the nursing process and require the special knowledge, nursing judgment or skills of a registered or practical nurse, including:

- (a) The initial nursing assessment or any subsequent assessments;
- (b) The determination of the nursing diagnosis or interpretations of nursing assessments;
- (c) Establishment of the nursing care goals and development of the plan of care; and
- (d) Evaluation of progress in relationship to the plan of care.

(3) Those activities for which the UAP has not demonstrated competence.⁴

Medical Assistants' Scope of Service under Florida Law

On first analysis, medical assistants' scope

Direct Supervision Definition

Direct supervision is defined in the regulations of the Florida Board of Medicine as requiring "the physical presence of the supervising licensee on the premises so that the supervising licensee is reasonably available as needed."⁵

of service under Florida law may seem complicated. However, the key to understanding the scope of service for medical assistants is to first determine which licensed providers are delegating to medical assistants the various tasks and duties. Medical assistants working under the authority and supervision of physicians must comply with the scope of service provisions in the Medical Practice Act. Medical assistants working under the authority and supervision of an advanced registered nurse practitioner must comply with the scope of service provisions in the regulations of the Florida Board of Nursing. ♦

Questions about this article may be emailed to AAMA CEO and Legal Counsel Donald A. Balasa, JD, MBA, at DBalasa@aama-ntl.org.

References

1. Fla Stat ch 458, §458.3485(1) (2021).
2. Fla Stat ch 464 §464.003 (2021).
3. Fla Admin Code R §64B9-14.001(1).
4. Fla Admin Code R §§64B9-14.001(5) (2020) to 64B9-14.003 (1996).
5. Fla Admin Code R §64B8-2.001(1)(a) (2018).