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Delegation and supervision

SCBME clarifies scope of medical assisting practice

On October 4, 2017, the South Carolina Board of Medical Examiners issued an advisory opinion on the delegation and supervision by physicians of unlicensed professionals, such as medical assistants. The following are excerpts from this opinion:

The [South Carolina] [my brackets] Medical Practice Act specifically addressed the circumstances under which tasks may be delegated to an unlicensed person. Section 40-47-30(A) provides, “[A] person may not practice medicine in this State unless the person is twenty-one years of age and has been authorized to do so pursuant to the provisions of this article. Nothing in this article may be construed to:

“(5) prohibit a licensed physician from delegating tasks to unlicensed personnel in the physician’s employ and on the premises if:

(a) the task is delegated directly to unlicensed personnel by the physician and not through another licensed practitioner;

(b) the task is of a routine nature involving neither the special skill of a licensed person nor significant risk to the patient if improperly done;

(c) the task is performed while the physician is present on the premises and in such close proximity as to be immediately available to the unlicensed person if needed;

(d) the task does not involve the verbal transmission of a physician’s order or prescription to a licensed person if the licensed person requires the order to be in writing; and

(e) the unlicensed person wears an appropriate badge denoting to a patient

the person’s status. The unlicensed person shall wear a clearly legible identification badge or other adornment at least one inch by three inches in size bearing the person’s first name at a minimum and staff position. The identification badge must be worn in a manner so that it is clearly visible to patients at all times.”

S.C. Code Ann. § 40-47-20 (20) states “immediately available” for the purpose of supervising unlicensed personnel means “being located within the office and ready for immediate utilization when needed.”

... The Board anticipates that a close working relationship exists between the supervising physician and the supervised unlicensed personnel such that the physician will determine in his or her individual judgment which tasks may be delegated appropriately to the unlicensed personnel

It is my legal opinion that South Carolina physicians are permitted to delegate to knowledgeable and competent medical assistants working under their direct/on-site supervision in outpatient settings certain types of medication administration.

and, further, confirm that these tasks do not require the special skill of a licensed person, including, but not limited to, a licensed nurse.

The Board recognizes that unlicensed personnel may also be supervised by licensed nurses as set forth in the Nurse Practice Act. Specifically, § 40-33-20(61) defines “unlicensed assistive personnel” or “UAP” as “persons not currently licensed by the board as nurses who perform routine nursing tasks that do not require a specialized knowledge base or the judgment and skill of a licensed nurse. Nursing tasks performed by a UAP must be performed under the supervision of an advanced practice registered nurse, registered nurse, or selected licensed practical nurse.” Section 40-33-42 further provides:

(A) An advanced practice registered nurse, registered nurse, or licensed practical nurse is responsible for the delegation and supervision of nursing tasks to unlicensed assistive personnel. Tasks that may be assigned to unlicensed assistive personnel must be stated in the employers’ policies, and the employer shall verify the training of this personnel and their competencies to perform the tasks.

(B) Tasks which may be delegated and performed under supervision may include, but are not limited to:

- (1) meeting patients’ needs for personal hygiene;
- (2) meeting patients’ needs relating to nutrition;

(3) meeting patients’ needs relating to ambulation;

(4) meeting patients’ needs relating to elimination;

(5) taking vital signs;

(6) maintaining asepsis;

(7) observing, recording, and reporting any of the tasks enumerated in the subsection.

(C) *Subject to the rights of licensed physicians and dentists under state law, the administration of medications is the responsibility of a licensed nurse as prescribed by the licensed physician, dentist, and other authorized licensed provider or as authorized in an approved written protocol or guidelines. Unlicensed assistive personnel must not administer medications, except as otherwise provided by law.* [Emphasis added.]

The Board [of Medical Examiners] finds the specific provisions from the Nurse Practice Act *informative* regarding which tasks require the special skill of a licensed nurse. The Board cautions physicians to consider whether a proposed task is appropriate for delegation to an unlicensed person or whether the special skill of a licensed person is required. Physicians should refrain from delegating any tasks to an unlicensed person that involve either the special skill of a licensed person or pose significant risk to the patient if improperly done. At all times, the supervising physician

is responsible for ensuring patient safety.¹ [Emphasis added.]

As quoted, the South Carolina Nurse Practice Act does not permit nurses—including registered nurses, advanced practice registered nurses (including nurse practitioners), and licensed practical nurses—to delegate to unlicensed professionals, such as medical assistants, the administration of medication. However, the South Carolina Nurse Practice Act and the regulations and policies of the South Carolina Board of Nursing have no authority over South Carolina physicians. This is the legal basis for the South Carolina Board of Medical Examiners stating in the advisory opinion that the provisions of the Nurse Practice Act regarding delegation to unlicensed professionals, such as medical assistants, are “informative” but not binding or determinative.

Consequently, it is my legal opinion that South Carolina physicians are permitted to delegate to knowledgeable and competent medical assistants working under their direct/on-site supervision in outpatient settings certain types of medication administration.

It is also my legal opinion that if there is a likelihood of significant harm to a patient if an injectable substance is prepared improperly, the delegating physician must verify the identity and the dosage of the injectable substance before it is administered by the medical assistant. ♦

Questions? Contact Donald A. Balasa, JD, MBA, at dbalasa@aama-ntl.org, or call 800/228-2262.

Reference

1. South Carolina Board of Medical Examiners. The supervision of unlicensed personnel and the corporate practice of medicine. http://www.llr.state.sc.us/pol/Medical/pdf/Laws/AO_Supervision%20of%20Unlicensed%20Personnel%20and%20the%20Corporate%20Practice%20of%20Medicine.pdf. Approved October 4, 2017. Accessed November 6, 2017.