

New York Governor Urges New York Legislature to Allow Medical Assistants to Administer Immunizations



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For over thirty years, New York law has not permitted licensed providers to delegate to medical assistants the administration of medication. On January 17, 2024, New York Governor Kathy Hochul submitted legislation to the New York State Senate and General Assembly that would permit physicians, nurse practitioners, and physician assistants to delegate to appropriately trained medical assistants the drawing up and administering of immunizations in outpatient settings under the licensed provider's authority and supervision.

This legislation is similar to the 2022 Connecticut legislation that allows licensed providers to delegate the administration of vaccines to educated and credentialed medical assistants.

One factor in the introduction of this legislation was the following resolution debated during the 2023 House of Delegates of the Medical Society of the State of New York:

Whereas, maintaining adequate clinical staffing levels ensures optimal access to primary care services and reduces stressors leading to primary care physician burn-out; and

Whereas, the ongoing shortage and cost to recruit and retain the limited pool of nurses has directly impacted access for private practice primary care services relative to hospital systems that regularly receive external funding, further stressing primary care physicians; and

Whereas, Credentialed Medical Assistants are an established contributor in supporting primary care, working under direct supervision of physicians, are educated

and trained in administrative and clinical tasks; and

Whereas, relative to neighboring states, the existing scope of work for Credentialed Medical Assistants as stated by the New York State Law Section 6530(11) is notably limited considering the training and education Credentialed Medical Assistants receive; and therefore be it

RESOLVED, that Medical Health Associates of Western New York, PLLC, the largest provider of pediatric primary care services in WNY with 55,000 pediatric and adolescent patients, supports legislation to require the New York State Department of Education to review and expand the scope of work of Credentialed Medical Assistants; therefore, be it further

RESOLVED, the legislation should result from input directly from organized primary care physician groups prior to being submitted to the New York State Department of Education for drafting; ... and be it further

RESOLVED, that the existing scope of work for other states, including Pennsylvania, Colorado, Ohio, and Florida be considered as appropriate alternatives to the scope of work currently in place in New York State.¹

For historical perspective, the following resolution was considered by the 1996 House of Delegates of the Medical Society of the State of New York. (The language from 1996 is being kept in the below.) I was the primary drafter of the following resolution, with significant assistance from Clive Caplan, MD, and AAMA Past President Janice Caplan, CMA-A (AAMA):

WHEREAS, for several decades physicians duly licensed by the State of New York

have had the de facto right to delegate to unlicensed personnel under their direct supervision certain clinical procedures which do not constitute the practice of medicine, require the exercise of any medical judgment, or are explicitly limited by New York law to only licensed allied health personnel;

WHEREAS, for several decades the unlicensed allied health professionals known as medical assistants have provided invaluable assistance to New York physicians in the administrative, clinical, and managerial aspects of practice;

WHEREAS, the New York State Department of Education and the New York Board of Nursing are currently taking the position that New York law prohibits physicians from delegating the administration of non-intravenous injections and other clinical duties to unlicensed employees functioning under the physician's direct supervision, and some clinics and physicians' offices have been inspected and cited for such alleged violations of New York law;

WHEREAS, the medical assisting profession is recognized by the United States Department of Labor, is listed in the *Dictionary of Occupational Titles* and the *Occupational Outlook Handbook*, and is projected by the United States Bureau of Labor Statistics to be one of the fastest growing health professions through the year 2005;

WHEREAS, joint accreditation of post-secondary academic programs in medical assisting has been done by the American Medical Association's Committee on Allied Health Education and Accreditation (CAHEA) and the Curriculum Review Board (CRB) of the American Association

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of Medical Assistants Endowment since 1969;

WHEREAS, the Certification Examination for Medical Assistants leading to the Certified Medical Assistant (CMA) credential has been given by the American Association of Medical Assistants since 1963;

WHEREAS, both the American Association of Medical Assistants and the New York State Society of Medical Assistants do not advocate licensure for medical assistants and do not intend to pursue licensure for medical assistants in New York State unless: (1) licensure is the only way of protecting the physician's right to delegate and the medical assistant's right to be delegated to; and (2) the Medical Society of the State of New York agrees that medical assisting licensing legislation should be pursued in the New York legislature;

RESOLVED, that it is the position of the Medical Society of the State of New York (MSSNY) to support the New York State Society of Medical Assistants (NYSSMA) in its efforts: (1) to protect the legal authority of licensed physicians to delegate to unlicensed personnel under their direct supervision certain clinical procedures which do not constitute the practice of medicine, require the exercise of any medical judgment, or are explicitly limited by New York law to only licensed allied health personnel; and (2) to protect the legal right of unlicensed personnel to be delegated such procedures by a supervising physician.

RESOLVED, that the Medical Society of the State of New York support the position of the New York State Society of Medical Assistants that medical assistants be allowed to continue to perform the usual

duties of their profession—including but not limited to functions such as telephone screening, venipuncture, administration of intramuscular and subcutaneous injections (including immunizations), placement of skin tests, performance of EKGs and other tests—under the direct supervision of a physician-employer, the physician having evaluated and approved of the medical assistant's ability to undertake any specific procedure or responsibility; and be it further

RESOLVED, that the Medical Society of the State of New York evaluate the various legal means to protect the physician's right to delegate and the unlicensed employee's right to be delegated to, and that if a statutory change is deemed to be the best or the only means of accomplishing the aforesaid ends, that the MSSNY develop and promote the appropriate legislation as part of its Annual Legislative Agenda until such ends have been accomplished.²

Further information about this New York legislation will be provided on the AAMA website and in *Medical Assisting Today*. ♦

Questions and thoughts about this article may be directed to the author at DBalasa@aama-ntl.org.

References

1. 2023 HOD Resolutions Referred to Council, Medical Society of the State of New York (2023). Accessed April 15, 2024. <https://www.mssny.org/wp-content/uploads/2023/09/Resolutions-Referred-to-Council-HOD-2023-1.pdf>
2. Medical Society of the State of New York. 1996.

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