

- C. Each year with the application for renewal of an active permit as an RA or RPA in this state, the Board will include a form which requires the person holding the permit to certify by signature under penalty of perjury, and discipline by the Board, that he or she has met the stipulating continuing medical education requirements. In addition, the Board may randomly require the RA or RPA submitting such certification to demonstrate, prior to renewal of the permit, satisfaction of continuing medical education requirements stated in his or her certification.
- D. Continuing medical education records must be kept by the permit holder in an orderly manner. All records relative to continuing medical education must be maintained by the licensee for at least 3 years from the end of the reporting period. The records or copies of the forms must be provided or made available to the Arkansas State Medical Board upon request.
- E. Failure to complete continuing education hours as required, or failure to be able to produce records reflecting that one has completed the required minimal medical education hours shall be a violation and may result in the permit holder having his permit suspended and/or revoked.

History: Adopted: February 7, 2008

REGULATION 31 PHYSICIAN DELEGATION REGULATION

Act 472 of the 87th General Assembly of the State of Arkansas, as of the year 2009, authorized Physicians to delegate the performance of certain medical practices or tasks to qualified and properly trained employees (commonly referred to as medical assistants), who are not licensed or otherwise specifically authorized by Arkansas law to perform the practice or task. This Regulation will set forth standards to be met and the procedures to be followed by the Physician when delegating to employees.

Definitions for Purposes of this Regulation:

1. "Physician" means an individual licensed by the Arkansas State Medical Board to practice medicine in the State of Arkansas.
2. "Medical Practice" means those tasks or functions that are delegated to a qualified and properly trained employee, including the administration of drugs, pursuant to Act 472 of 2009 and this Regulation.
3. "Delegate" means to authorize a qualified and properly trained employee to perform a medical practice that does not conflict with a provision of the Arkansas Code that specifically authorizes an individual to perform a particular practice.
4. "Supervision" means the act by a Physician in directing and overseeing an employee who performs a delegated medical practice.
5. "Medical Assistant" means an employee of a Physician who has been delegated medical practices or tasks, and who has not been licensed by or specifically authorized to perform the practice or task pursuant to other provisions of Arkansas law.

Section 1. General Provisions

- A. The delegating Physician remains responsible for the acts of the employee performing the delegated medical practice;
- B. The employee performing the delegated medical practice shall not be represented to the public as a licensed physician) licensed nurse, licensed physician's assistant, or other licensed healthcare provider; and
- C. Medical practices delegated pursuant to this statute and regulation shall be performed under the physician's supervision.

Section 2. Procedures for Delegating a Medical Practice

- A. Prior to delegating a medical practice or task, the physician shall determine the following:
 - 1) That the medical practice or task is within that Physician's authority to perform;
 - 2) That the medical practice or task is indicated for the patient;
 - 3) The appropriate level of supervision for the Physician to exercise while the medical practice or task is being performed;
 - 4) That the person to whom the medical practice or task is being delegated is qualified and properly trained to perform the medical practice or task; and
 - 5) That the medical practice is one that can be appropriately delegated when considering the following factors:
 - i. That the medical practice can be performed without requiring the exercise of judgment based on medical knowledge;
 - ii. That the results of the medical practice are reasonably predictable;
 - iii. That the medical practice can be safely performed according to exact, unchanging directions;
 - iv. That the medical practice can be performed without the need for complex observations or critical decisions; and
 - v. That the medical practice can be performed without repeated medical assessments.

Section 3. Additional Requirements for Delegating the Administration of Drugs

- A. A Physician may only delegate the administration of drugs that do not require substantial, specialized judgment and skill based on knowledge and application of the principles of biological, physical, and social sciences.
- B. Administration of drugs, delegated pursuant to this Regulation, shall only be permissible within the physical boundaries of the delegating physician's offices;
- C. The Physician shall evaluate the acuity of the patient and make a determination that delegation is appropriate;
- D. The Physician shall determine the competency of the person to whom the administration of drugs is being delegated through training and experience, including the physician's personal observation.

Section 4. Prohibitions

- A. A physician shall not transfer his or her responsibility for supervising an unlicensed person in the performance of a delegated

- medical practice, except to another physician who has knowingly accepted that responsibility;
- B. A physician shall not authorize or permit an unlicensed person to whom a medical practice is delegated to delegate the performance of that practice to another person;
 - C. A physician shall not delegate to an unlicensed person the administration of anesthesia;
 - D. A physician shall not delegate a medical practice that is not within the authority of that physician or is beyond the physician's training, expertise, or normal course of practice; and
 - E. A physician shall not delegate a medical practice to an unlicensed person if the practice is beyond that person's competence.

Adopted: February 4, 2010; Effective Date June 1, 2010

REGULATION 32 ETHICAL VIOLATIONS FOR PHYSICIANS

Pursuant to Act 1178 of the 87th General Assembly, the Arkansas State Medical Board determines that the following conduct is an ethical violation:

- A. A licensed physician engaging in sexual contact, sexual relations or a romantic relationship with a patient concurrent with the physician-patient relationship; or a licensed physician engaging in the same conduct with a former patient, if the physician uses or exploits trust, knowledge, emotions or influence derived from the previous professional relationship. A patient's consent to, initiation of, or participation in the sexual relationship or conduct with the physician does not change the nature of the conduct nor the prohibition.
- B. A licensed physician reveals or discloses confidential communications or information concerning a patient without the consent of the patient unless said disclosure is authorized or required by law or by the need to protect the individual patient or the public interest.
- C. A licensed physician fails to disclose to a patient that the physician has an ownership interest in a facility or service to which the physician refers the patient that is outside of the physician's own practice.
- D. A licensed physician utilizing words or acts which sexually harass co-workers or employees or patients within the clinic or hospital setting.
- E. A licensed physician grossly over-utilizing or ordering or performing tests or procedures on a patient when that may result in harm to the patient.

Adopted: February 4, 2010; Effective: April 1, 2010

REGULATION 33

NOTIFICATION OF CHANGE OF PRACTICE

In order to avoid defrauding, misrepresenting or deceiving the public or the Board, a Licensee will inform the Arkansas State Medical Board within 30 days of his or her terminating, retiring from, or relocating his or her practice setting. The Licensee will

inform the Board of his or her new location and address and of his or her practice setting if applicable, and further inform the Board of where the patient records are stored, who is the custodian of those records and how the patients or other individuals may obtain the records.

Adopted: June 3, 2010; Effective: July 1, 2010