

Title 10 MARYLAND DEPARTMENT OF HEALTH

Subtitle 32 BOARD OF PHYSICIANS

Chapter 12 Delegation of Acts by a Licensed Physician to an Assistant Not Otherwise Authorized under the Health Occupations Article or the Education Article

Authority: Health General Article, §§19-114 and 19-118; Health Occupations Article, §14-306; Annotated Code of Maryland

.01 Scope.

A. This chapter governs the delegation of acts by a physician to an assistant not otherwise authorized under the Health Occupations Article or the Education Article, Annotated Code of Maryland.

B. This chapter may not be construed:

(1) As establishing the licensure, certification, or registration of assistants;

(2) To apply to certified, registered, or licensed professionals, or health occupation students acting pursuant to Health Occupations Article, Annotated Code of Maryland; and

(3) To mean that this chapter overrides or is to be used in lieu of more stringent regulations, policies, and procedures established by State licensure or certification requirements or Board-recognized accrediting agencies.

.02 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Assistant" means an individual to whom only routine technical acts are delegated by a physician and who is:

(a) Trained as defined in §B(9) of this regulation and not certified, registered, or licensed by the Board or any other State health occupation board; or

(b) Certified, registered, or licensed by the Board or any other State health occupation board and is not acting under the authority of that certification, registration, or license granted by a State health occupation board.

(2) "Board" means the Board of Physicians.

(3) "CLIA" means the federal Clinical Laboratory Improvement Amendments of 1988 (42 U.S.C. §263a) and the regulations promulgated under them, and 42 CFR Part 493, Subparts B and M.

(4) "Delegating physician" means a physician possessing an active license to practice medicine in this State who directs an assistant to perform technical acts.

(5) "Direct supervision" means oversight exercised by a delegating physician who is:

- (a) Personally treating the patient; and
- (b) In the presence of the assistant and the patient.

(6) "Microdermabrasion" means the use of a minimally invasive technique to gently exfoliate the dead, outermost layer of skin and is a method for improving superficial, environmental, aging, and hereditary skin changes by superficial, mechanically powered abrasion, often combined with application of topical crystals such as vitamin C.

(7) "On-site supervision" means oversight exercised by a delegating physician who is present at the site and able to be immediately available in person during the course of the performance of a delegated act.

(8) "Site" means any facility or location including those defined in Health-General Article, §§19-114 and 19-3B-01(b), Annotated Code of Maryland, used for the delivery of health services not covered in this chapter.

(9) "Technical act" means a routine medical or surgical act which does not require medical judgment and is performed with the supervision as specified within this chapter.

(10) "Trained" means possessing the knowledge, skills, and abilities, as determined by the physician, to perform delegated acts.

.03 Standards for the Delegating Physician.

A. A physician who delegates shall:

- (1) Evaluate the risk to the patient and the outcome of the delegated acts;
- (2) Delegate only those technical acts that are customary to the practice of the supervising physician;
- (3) Delegate only those technical acts for which the assistant has been trained;
- (4) Be responsible for the acts of the assistant; and
- (5) Supervise the assistant.

B. The responsibility for the delegated act cannot be transferred from the delegating physician to another physician without:

- (1) The expressed consent of the other physician; and
- (2) Informing the assistant.

.04 Scope of Delegation.

A. A physician may not delegate to an assistant technical acts which are exclusively limited to any individual required to be licensed, certified, registered, or otherwise recognized pursuant to any provision of the Health Occupations Article and the Education Article, Annotated Code of Maryland.

B. A physician may delegate technical acts consistent with national standards in the medical community and the approved policies and procedures of the sites for the delivery of health services in the following categories:

(1) Surgical technical acts that the delegating physician directly orders while present, scrubbed, and personally performing the surgery in the same surgical field; and

(2) Nonsurgical technical acts while the assistant is under the physician's direct supervision or on-site supervision if the assistant performs the act in accordance with procedures of the site.

C. At sites included in Health-General Article, §§19-114 and 19-3B-01(b), Annotated Code of Maryland, or any unit of those sites, a physician may delegate technical acts in compliance with State regulations and the policies, procedures, and supervisory structures of those sites.

D. At sites not included in Health-General Article, §§19-114 and 19-3B-01(b), Annotated Code of Maryland, when providing the following specified levels of supervision, a physician may delegate to an assistant technical acts which include but are not limited to:

(1) Without on-site supervision:

(a) Patient preparation for physician examination;

(b) Patient history interview;

(c) Collecting and processing specimens, such as performing phlebotomy and inoculating culture media;

(d) Preparation of specimens for selected tests including:

(i) Pregnancy tests,

(ii) Dipstick and microscopic urinalysis, and

(iii) Microbiology (rapid streptococcal testing and throat cultures);

(e) Laboratory tests that the physician is satisfied the assistant is qualified to perform under State and CLIA regulations;

(f) Clinical tests such as:

(i) Application of tuberculin skin tests,

(ii) Electrocardiography,

(iii) Administering basic pulmonary function tests; and

(iv) Visual field tests;

(g) Transmitting prescriptions to a pharmacy;

(h) Providing sample packets of medication, selected by a physician who is physically present at the time of selection, to patients as directed by the delegating physician and in conformance with Health Occupations Article, §12-102(a), (d), and (f), Annotated Code of Maryland;

(i) Preparing and administering oral drugs; and

(j) Microdermabrasion;

(2) With on-site supervision:

(a) Preparing and administering injections limited to intradermal, subcutaneous, and intramuscular (deltoid, gluteal, vastus lateralis) to include small amounts of local anesthetics;

(b) Establishing a peripheral intravenous line; and

(c) Injecting fluorescein-like dyes for retinal angiography; and

(3) With direct supervision, injecting intravenous drugs or contrast materials.

E. A physician who possesses a dispensing permit may delegate the dispensing functions in accordance with the requirements of COMAR 10.32.23.

F. A physician may not delegate to an assistant acts which include but are not limited to:

(1) Conducting physical examinations;

(2) Administering any form of anesthetic agent or agent of conscious sedation other than topical anesthetics or small amounts of local anesthetics;

(3) Initiating independently any form of treatment, exclusive of cardiopulmonary resuscitation;

(4) Giving medical advice without the consult of a physician; and

(5) Providing physical therapy.

.05 Prohibited Conduct.

A. An assistant acting beyond the scope of this chapter may be:

(1) Considered to be engaged in the unlicensed practice of medicine; and

(2) Subject to all applicable penalties and fines in accordance with Health Occupations Article, §§14-602 and 14-607, Annotated Code of Maryland, and COMAR 10.32.02.

B. A delegating physician, through either act or omission, facilitation, or otherwise enabling or forcing an assistant to practice beyond the scope of this chapter, may be subject to discipline for grounds within Health Occupations Article, §14-404(a), Annotated Code of Maryland, including, but not limited to, practicing medicine with an unauthorized person or aiding an unauthorized person in the practice of medicine.

C. A delegating physician may not require an assistant to perform a delegated act.

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