

## Scope of Practice for Medical Assistants under Oregon Law

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## Oregon Medical Board

### Use of Unlicensed Healthcare Personnel (Accessed June 7, 2022)

With ever-increasing demands on the time and resources of physicians, the role of unregulated healthcare personnel is expanding. As a result, high quality patient care depends on the contributions of a wide variety of personnel, including medical assistants. When establishing expectations and limitations for medical assistants in a medical office, the OMB advises that patient safety should be the primary factor.

The physician is responsible for ensuring that the medical assistant is qualified and competent to perform any delegated services. It is within the physician's judgment to determine that the medical assistant's education, training and experience is sufficient to ensure competence in performing the service at the appropriate standard of care. Performance of delegated services is held to the same standard of care applied to the supervising physician, and the physician is ultimately accountable for the actions of his or her supervised personnel.

Unlicensed healthcare personnel must be adequately supervised by a licensed physician. **Examples of supervision include verifying the correct medication and dosage prior to administration of medicine by a medical assistant and being physically present in the facility when services are performed by a medical assistant.** (emphasis added)

The physician may not allow any unlicensed healthcare personnel to practice medicine as defined by the Oregon Medical Practice Act. Unlicensed healthcare personnel may not provide independent medical judgment. Therefore, medical assistants should not provide assessments, interpretations, or diagnoses and should not perform invasive procedures [with the exception of intramuscular, intradermal, subcutaneous injections, and venipuncture].

Physicians should exercise caution when employing a person who has education and training as a healthcare professional but is working as an unlicensed medical assistant. In this situation, it may be tempting for the physician to delegate (or the medical assistant to perform) duties beyond the scope of unlicensed healthcare personnel.

Medical assistants and other unlicensed healthcare personnel must maintain patient confidentiality to the same standards required of physicians. Medical assistants must be clearly identified by title when performing duties. This can be accomplished through wearing a name tag with the designation of "medical assistant" and clearly introducing oneself as a "medical assistant" in oral communications with patients and other professionals.

In order to fulfill its mission to protect the health, safety and well-being of Oregonians, the OMB asks physicians to follow these guidelines and to be mindful of patient safety when delegating services to other healthcare personnel. *-Adopted October 2012*

#### **Restrictions on medical assistants' scope of service/practice**

- Medical assistants must not be delegated (and must not perform) any tasks for which they are not sufficiently **knowledgeable and competent**.
- Medical assistants may not be delegated and may not perform tasks that require the exercise of independent clinical judgment or the making of clinical assessments, evaluations, or interpretations.

- It is not permissible for medical assistants to perform tasks that are restricted in state law to other health professionals—often licensed health professionals (e.g., physical therapy, acupuncture)
- Medical assistants may perform the verbatim-conveying, and verbatim-receiving and documenting, of information for the delegating provider.
- Medical assistants may perform patient education as long as the content is approved by the delegating provider and does not require the exercise of clinical judgment.

### **Entering and pending orders**

Common law principles applicable in all American jurisdictions permit physicians, nurse practitioners, and physician assistants to assign to knowledgeable and competent medical assistants working under their authority the verbatim entering and pending of prescription/medication, diagnostic imaging, and laboratory orders into the computerized provider order entry (CPOE) system based on the provider’s standing order or verbal order. However, the provider generally must review, approve, and sign the order before it may be transmitted.

### **Legal risks**

- If a medical assistant performs a task in a negligent manner, both the delegating provider and the medical assistant may be held liable civilly for negligence (malpractice).
- If a medical assistant performs a task not permitted by state law (even if the task is performed in a competent manner), both the delegating provider and the medical assistant may be subject to legal sanctions for delegating a task, or performing a task, not within the medical assistant’s scope of service/practice.
- If a medical assistant performs a task not performable by medical assistants under state law, and performs the task in a negligent manner, both the delegating provider and the medical assistant could be liable both: (1) civilly for negligence; and (2) for delegating or performing a task not within the medical assistant’s scope of service/practice.

### **Making scope of service/practice determinations**

- To formulate a legal opinion on whether a particular task is delegable to medical assistants when state law does not address the legality or when state law is ambiguous, I often begin my analysis by evaluating whether the task is *usually and customarily* delegated to medical assistants in the state and in other states. I also determine whether the task is contained in the “Core Curriculum” of the current CAAHEP *Standards and Guidelines for the Accreditation of Educational Programs in Medical Assisting*.
- It may be prudent to ask the *malpractice insurance carrier* for the practice/clinic/health system whether it would cover any negligence by a medical assistant in performing certain tasks. The insurance carrier should be asked to put its opinion in writing.

The following tasks are included in the “Core Curriculum” of the CAAHEP *Standards for the Accreditation of Educational Programs in Medical Assisting*. These are the **clinical** tasks that students must demonstrate proficiency in to graduate from a CAAHEP-accredited medical assisting program:

- o Measuring vital signs
- o Performing electrocardiography
- o Performing venipuncture
- o Performing pulmonary function testing
- o Calculating proper dosages of medication for administration
- o Administering oral and parenteral (excluding IV) medications
- o Obtaining specimens and performing CLIA-waived tests
- o Performing wound care
- o Performing dressing changes