

PHYSICIAN DELEGATION REGULATION

Act 472 of the 101st 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.