

10.32.12 Delegation of Acts by a ~~[Licensed]~~ Physician

.01 Scope.

A. This chapter governs the delegation of technical acts by a ~~[licensed]~~ physician to an[~~]:~~

~~(1) Assistant not otherwise authorized under the Health Occupations Article or the Education Article, Annotated Code of Maryland[~~], and~~~~

~~(2) RCIS assisting in the physician's performance of fluoroscopy during a cardiac catheterization procedure under certain circumstances as authorized under Regulation .06 of this chapter].~~

B. This chapter may not be construed:

(1) As establishing the licensure, certification, or registration by the Board of assistants~~[or registered cardiovascular invasive specialists];~~

(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 licensed physician and who is:

(a) Trained as defined in §B(17) 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 State Board of Physicians.]~~ *has the meaning stated in Health Occupations §, 14-101, Annotated Code of Maryland.*

(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 *unlicensed individual* ~~[assistant or RCIS 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 patient and the:~~

~~(i) Assistant; or~~

~~(ii) RCIS.] the supervisor is:~~

~~(a) Physically present on the premises;~~

~~(b) Personally treating the patient; and~~

~~(c) In the presence of the patient while services are provided.~~

~~[(6) "Fluoroscopy" means a technique for generating x-ray images and presenting them simultaneously and continuously as visible images.]~~

~~[(7)] (6) "Hospital" has the meaning stated in Health-General Article, §19-301, Annotated Code of Maryland.~~

~~[(8)] (7) "[Licensed] Physician" means[~~, unless the context requires otherwise, a physician, including a doctor of osteopathy, who is licensed by the Board to practice medicine.~~] an individual licensed to practice medicine in Maryland under Health Occupations Article, Title 14, Annotated Code of Maryland.~~

~~[(9) "MDE" means the Maryland Department of the Environment.]~~

~~[(10)] (8) "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.

~~[(11)] (9) "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.]~~ *the responsibility of the supervisor is:*

- (a) To be able to provide necessary direction;*
- (b) Be physically present in the facility; and*
- (c) To be able to respond immediately in person.*

~~[(12) "Perform fluoroscopy" means the energizing of a fluoroscopic x-ray system by an individual authorized in accordance with MDE regulations.]~~

~~[(13)] (10) "Readily retrievable" means [in a method by which a hospital can retrieve and produce the record for the Board upon request.]~~ *maintained in a method by which a health care facility, physician's office, or employer can retrieve and produce the record for the Board or the Office of Controlled Substances Administration of the Maryland Department of Health upon request.*

~~[(14) "Registered cardiovascular invasive specialist (RCIS)" means an individual who is credentialed by Cardiovascular Credentialing International or another credentialing body approved by the Board to assist in cardiac catheterization procedures under the direct, in-person supervision of a licensed physician.]~~

~~[(15)] (11) "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.~~

~~[(16)] (12) "Technical act" means a routine medical or surgical act [which] that does not require medical judgment and is performed with the supervision as specified within this chapter.~~

~~[(17)] (13) "Trained" means possessing the knowledge, skills, and abilities, as determined by the [licensed] physician, to perform delegated acts.~~

.03 Standards for the [Licensed] Physician Delegating to an Assistant.

A. A [licensed] 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 [licensed] 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 [licensed] physician without:

(1) The expressed consent of the other physician; and

(2) Informing the assistant.

.04 Scope of Delegation to an Assistant.

A. A [licensed] 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 [licensed] 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 [licensed] 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 [licensed] 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 [licensed] 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 [licensed] 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 [licensed] 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 ~~[licensed]~~ physician who possesses a dispensing permit may delegate the dispensing functions in accordance with the requirements of COMAR 10.32.~~[23]~~10.

F. A ~~[licensed]~~ 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 ~~[licensed]~~ physician; and

(5) Providing physical therapy.

.05 Prohibited Conduct ~~[and Penalties]~~.

A. An assistant ~~[or RCIS]~~ 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 ~~[or RCIS]~~ 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:

(1) Require an assistant ~~[or RCIS]~~ to perform a delegated act; or

(2) Permit an assistant ~~[or RCIS]~~ to delegate any act to another individual.

~~[D. A hospital that fails to comply with the requirements of Health Occupations Article, §14-306, Annotated Code of Maryland, and this chapter may be assessed a civil penalty of up to \$5,000 for each instance.]~~

.06 RCIS Assistance in the Delegating Physician's Performance of Fluoroscopy.

A. ~~Scope of Regulation.~~

~~(1) This regulation governs:~~

~~(a) A licensed physician's delegation of technical acts to an RCIS assisting in the physician's performance of fluoroscopy provided the delegation is in accordance with the entirety of this chapter; and~~

~~(b) The responsibilities of the hospital in which the cardiac catheterization laboratory is located to verify and document the qualifications of an RCIS and to ensure that all requirements of Health Occupations Article, §14-306, Annotated Code of Maryland and this regulation are met for each procedure.~~

~~(2) This regulation does not limit a licensed physician from delegating technical acts to an RCIS who is not assisting in the physician's performance of fluoroscopy provided the delegation is in accordance with Regulations .01—.05 of this chapter.~~

B. ~~An RCIS assisting in a delegating physician's performance of fluoroscopy shall:~~

~~(1) Possess an active RCIS certification issued by Cardiovascular Credentialing International or another credentialing body approved by the Board;~~

~~(2) Complete 40 hours of:~~

~~(a) Accredited didactic education in fluoroscopic radiation physics and fluoroscopic patient safety; and~~

~~(b) Clinical fluoroscopic training supervised by a radiologist, radiographer, or radiologist assistant who is physically present in the room with the RCIS to instruct the clinical fluoroscopic training;~~

~~(3) In the hospital, wear an identification badge displaying in readily visible type:~~

~~(a) The name of the RCIS; and~~

~~(b) A designation by the hospital of verification of the RCIS' credentials and completion of requirements to assist in a physician's performance of fluoroscopy; and~~

~~(4) Comply with any additional requirements as established by:~~

~~(a) MDE;~~

~~(b) The Joint Commission; and~~

~~(c) Federal and State laws and regulations.~~

~~C. Responsibilities:~~

~~(1) The hospital shall:~~

~~(a) Verify that the RCIS has met the requirements in §B of this regulation before permitting an RCIS to assist in a delegating physician's performance of fluoroscopy;~~

~~(b) Issue to the RCIS an identification badge in accordance with §B(3) of this regulation;~~

~~(c) Keep on-site all documentation of the RCIS' certification and the additional training required under this regulation;~~

~~(d) Permit the Board, at any reasonable hour, to inspect the hospital's documentation of the RCIS' certification and training to ensure compliance with this regulation;~~

~~(e) Regarding radiation machines and fluoroscopy services, comply with any additional requirements as established by:~~

~~(i) MDE;~~

~~(ii) The Joint Commission; and~~

~~(iii) Federal and State laws and regulations; and~~

~~(f) Verify that the acts delegated to the RCIS are in accordance with the scope of this chapter.~~

~~(2) The delegating physician shall:~~

~~(a) Exercise direct supervision of the RCIS when the RCIS is assisting the delegating physician in the delegating physician's performance of fluoroscopy;~~

~~(b) Delegate only technical acts involved in the physician's performance of fluoroscopy in accordance with Regulation .03 of this chapter; and~~

~~(c) Verbally direct each technical act performed by the RCIS.~~

~~(3) The RCIS:~~

~~(a) May not perform fluoroscopy;~~

~~(b) Shall perform technical acts to assist the delegating physician in the delegating physician's performance of fluoroscopy only upon verbal direction from the delegating physician;~~

~~(c) May not delegate any act to another individual; and~~

~~(d) May not engage in prohibited conduct as set out in Regulation .05 of this chapter.]~~

.06 Enforcement.

~~[A.]~~ The Board shall conduct any necessary investigation regarding the failure to comply with the requirements of Health Occupations Article, §14-306, Annotated Code of Maryland, and this chapter.

~~[B. Any matter regarding a hospital's failure to comply with the requirements of Health Occupations Article, §14-306, Annotated Code of Maryland, and Regulation .06 of this chapter shall be adjudicated in accordance with COMAR 10.32.02.~~