
Medical Assisting Scope of Practice and Federal and National Updates

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**Michigan Osteopathic Association Practice
Managers Program**

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Definition

- Medical assistants are unlicensed allied health professionals who work under direct/onsite provider supervision in outpatient settings and are delegated clinical and administrative tasks.
- Medical assistants do not work in inpatient settings as medical assistants *per se*.

Requirements for employment

- As is the case with most states, Michigan law does not require medical assistants to have formal medical assisting education or a medical assisting credential, such as the CMA (AAMA).
- However, there are an increasing number of employers who prefer, or who insist upon, their medical assistants having education and a credential.
- There are legal advantages in employing CMAs (AAMA).

333.16215(1), Michigan Public Health Code

A licensee [which includes DOs and MDs] ... may delegate to a licensed or unlicensed individual who is otherwise qualified by education, training, or experience the performance of selected acts, tasks, or functions where [they] fall within the scope of practice of the licensee's profession and will be performed under the licensee's supervision. An act, task, or function shall not be delegated under this section which, under standards of acceptable and prevailing practice, requires the level of education, skill, and judgment required of a licensee under this article.

Overarching legal principles

Medical assistants cannot be delegated any tasks that:

- Constitute the practice of medicine, or require the skill and knowledge of a licensed provider; or
- Are restricted in state law to certain health professionals; or
- Require the medical assistant to exercise independent professional judgment, or to make clinical assessments, evaluations, or interpretations.

Overarching legal principles (continued)

- Medical assistants should not be delegated any tasks for which they are not sufficiently knowledgeable and competent.
- If a medical assistant performs a task in a negligent manner, both the delegating provider and the medical assistant may be held liable.
- If a medical assistant performs a task not permitted by state law, the delegating provider and the medical assistant may be subject to legal sanctions.

General legal axiom

When an overseeing provider is not on the premises and immediately available, it is my legal opinion that the only clinical tasks that a medical assistant is permitted to perform are the most basic and non-potentially-patient-jeopardizing ones—such as measuring vital signs, collecting noninvasive specimens such as urine and sputum, and obtaining and recording information from the patient or patient representative.

Patient education

It is my legal opinion that Michigan law permits providers to delegate to medical assistants patient education as long as:

- The content of such education has been approved by the delegating provider; and
- The medical assistant does not exercise independent professional judgment or make clinical assessments or evaluations as part of the education process.

Triage vs. Screening

- **“Triage”** may be defined as a communication process with a patient during which a health care professional is required to exercise independent professional judgment and/or make clinical assessments or evaluations.
- **“Screening”** may be defined as a communication process with a patient during which a health care professional follows provider-approved protocols or decision trees. The professional does not exercise independent judgment and/or make clinical assessments.

Delegation by nurse practitioners

Board of Nursing – General Rules

R 338.10104 Delegation.

Rule 104. (1) Only a registered nurse may delegate nursing acts, functions, or tasks. An RN ... who delegates ... shall:

... (c) Determine whether the delegatee has the necessary knowledge and skills.

(d) Supervise and evaluate the performance of the delegatee.

Meaningful Use under Medicaid Incentive Program—Update

MACRA initiated the phasing out of the Medicare Electronic Health Record (EHR) Incentive Program. However, the Medicaid EHR Incentive Program was not affected by MACRA, and remains in effect until at least December 31, 2021.

Under the Medicaid Incentive Program, CMS continues to require that a certain percentage of medication, laboratory, and diagnostic imaging orders be entered into the CPOE system by either “credentialed medical assistants” (or licensed health care professionals) to meet the meaningful use requirements and to receive incentive payments.

Advanced roles for CMAs (AAMA) in Patient-Centered Medical Homes—Update

- Panel manager/prevention outreach specialist
- Patient navigator/advocate
- Wellness/health coach
- Community health worker
- Patient care coordinator

- <http://aama-ntl.org/docs/default-source/legal/mj16-pa.pdf?sfvrsn=2>

“Incident to” under Medicare

Medicare Benefit Policy Manual, Chapter 15, Section 60.1(B):

- “Auxiliary personnel means any individuals who are acting under the supervision of a physician ...”
- Medical assistants, as well as RNs and LPNs, are auxiliary personnel.
- It is permissible for the services of medical assistants, RNs, and LPNs to be billed incident to the services of a provider.

Medicare’s “Chronic Care Management” (CCM) Program—Update

- Providers can be reimbursed for “non-face-to-face” care coordination services.
- “For Medicare beneficiaries with two or more chronic conditions expected to last at least twelve (12) months.”
- Payment is made under CPT code 99490 for “at least 20 minutes of clinical staff time directed by a [provider] per calendar month.”

Definition of “clinical staff”

Who are “clinical staff” under CCM?

Instructions for the CPT Codebook—“A clinical staff member is a person who works under the supervision of a physician or other qualified health care professional who is allowed by law, regulation, and facility policy to perform or assist in the performance of a specified professional service, but who does not individually report that professional service (e.g., medical assistants, RNs, LPNs).”

“General supervision” permitted under CCM

Note the following excerpt from the CMS Final Rule for the Chronic Care Management Program:

“Section 410.26. Services and supplies incident to a physician’s professional services:

(b) ***

(5) In general, services and supplies must be furnished under the **direct supervision** of the physician (or other practitioner). Services and supplies furnished incident to transitional care management [TCM] and chronic care management services can be furnished under **general supervision** of the physician (or other practitioner) when these services or supplies are provided by **clinical staff** ...

(6) Services and supplies must be furnished by the physician, practitioner with an incident-to benefit, or **auxiliary personnel.**”

“Clinical staff” and CCM services

CMS—“Under the revised regulation, then, the time spent by clinical staff providing aspects of TCM and CCM services can be counted toward the TCM and CCM time requirement at any time, provided that the clinical staff are under the **general supervision** of a practitioner and all requirements of the revised ‘incident to’ regulations at Section 410.26 are met.”

<http://www.aama-ntl.org/docs/default-source/other/nd16-pa.pdf?sfvrsn=2>

Questions?

For more information

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