

HOUSE BILL NO. 605
INTRODUCED BY J. KEANE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAWS RELATED TO MEDICAL ASSISTANTS TO REQUIRE ONSITE SUPERVISION OF CERTAIN CLINICAL DUTIES PERFORMED BY MEDICAL ASSISTANTS; PROHIBITING CERTAIN PROCEDURES; ESTABLISHING EDUCATION AND CERTIFICATION REQUIREMENTS; REQUIRING PHYSICIANS TO REQUEST A CRIMINAL RECORDS CHECK OF MEDICAL ASSISTANTS; AND AMENDING SECTIONS 37-3-102, 37-3-104, 37-3-303, AND 37-3-304, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 37-3-102, MCA, is amended to read:

"37-3-102. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) "Approved internship" means an internship training program of at least 1 year in a hospital that is either approved for intern training by the American osteopathic association or conforms to the minimum standards for intern training established by the council on medical education of the American medical association or successors. However, the board may, upon investigation, approve any other internship.

(2) "Approved medical school" means a school that either is accredited by the American osteopathic association or conforms to the minimum education standards established by the council on medical education of the American medical association or successors for medical schools or is equivalent in the sound discretion of the board. The board may, on investigation of the education standards and facilities, approve any medical school, including foreign medical schools.

(3) "Approved residency" means a residency training program in a hospital conforming to the minimum standards for residency training established by the council on medical education of the American medical association or successors or approved for residency training by the American osteopathic association. However, the board may upon investigation approve any other residency.

(4) "Board" means the Montana state board of medical examiners provided for in 2-15-1731.

(5) "Department" means the department of labor and industry provided for in Title 2, chapter 15, part 17.

(6) "Medical assistant" means ~~an unlicensed~~ a certified allied health care worker who has completed a course of study pursuant to 37-3-104, functions under the supervision of a physician or podiatrist in a physician's

or podiatrist's office, and who performs administrative and clinical tasks.

(7) "Onsite supervision" means that the supervising physician or podiatrist is in the facility and quickly available to the person being supervised.

~~(7)~~(8) "Physician" means a person who holds a degree as a doctor of medicine or doctor of osteopathy and who has a valid license to practice medicine or osteopathic medicine in this state.

~~(8)~~(9) (a) "Practice of medicine" means the diagnosis, treatment, or correction of or the attempt to or the holding of oneself out as being able to diagnose, treat, or correct human conditions, ailments, diseases, injuries, or infirmities, whether physical or mental, by any means, methods, devices, or instrumentalities.

(b) If a person who does not possess a license to practice medicine in this state under this chapter and who is not exempt from the licensing requirements of this chapter performs acts constituting the practice of medicine, the person is practicing medicine in violation of this chapter.

(10) "Unit dosage" means medication prepared in the exact amount, in an individual packet, for a specific patient."

Section 2. Section 37-3-104, MCA, is amended to read:

"37-3-104. Medical assistants -- guidelines responsibilities -- prohibitions -- certification. (1) ~~The board shall adopt guidelines by administrative rule for:~~ A licensed physician or podiatrist may assign administrative and clinical tasks to a medical assistant relating to the physician's or podiatrist's practice of medicine.

~~(a) the performance of administrative and clinical tasks by a medical assistant that are allowed to be delegated by a physician or podiatrist, including the administration of medications; and~~

~~(b) the level of physician or podiatrist supervision required for a~~

(2) (a) A medical assistant when performing specified administrative and may perform the following clinical tasks delegated by a physician or podiatrist: However, the board shall adopt a rule requiring onsite supervision of a medical assistant by a physician or podiatrist for invasive procedures, administration of medication, or allergy testing:

(i) aseptic procedures;

(ii) phlebotomic blood withdrawal;

(iii) observation and reporting of a patient's signs or symptoms;

(iv) administering basic first aid;

(v) assisting with patient examination or treatment;

- (vi) operating office medical equipment;
- (vii) collecting routine laboratory specimens;
- (viii) administering medication in a unit dosage; and
- (ix) performing basic laboratory procedures.

(b) A physician or podiatrist shall provide onsite supervision of any of the clinical tasks provided for in this subsection (2).

(3) A medical assistant may not initiate, perform, or monitor:

- (a) conscious sedation; or
- (b) intravenous administration of fluids, medications, or blood products.

(4) A medical assistant may not assign to another party tasks assigned to the medical assistant.

~~(2)~~(5) The physician or podiatrist who is supervising the medical assistant is responsible for:

(a) ensuring that the medical assistant ~~is competent to perform clinical tasks and meets the requirements of the guidelines~~ has successfully completed a course of study and is certified by the American medical technologists as a registered medical assistant or by the American association of medical assistants as a certified medical assistant;

(b) ensuring that the performance of the clinical tasks by the medical assistant is ~~in accordance with the board's guidelines and good medical practice~~ within the course of study for which the medical assistant is certified; and

(c) ensuring ~~minimum educational requirements for the medical assistant~~ that the medical assistant maintains current certification as a registered medical assistant or a certified medical assistant;

(d) prominently displaying the medical assistant's current and valid certification; and

(e) requesting that the Montana department of justice conduct a criminal records background check of the medical assistant.

~~(3)~~(6) The board may shall hold the supervising physician or podiatrist responsible in accordance with 37-1-410 or 37-3-323 for any acts of or omissions by the medical assistant acting in the ordinary course and scope of the assigned duties."

Section 3. Section 37-3-303, MCA, is amended to read:

"37-3-303. Practice authorized by physician's license. A physician's license authorizes the holder to perform one or more of the acts embraced in 37-3-102~~(8)~~(9) in a manner reasonably consistent with the holder's training, skill, and experience."

Section 4. Section 37-3-304, MCA, is amended to read:

"37-3-304. Practice authorized by temporary license. (1) A temporary license authorizes the holder to perform one or more of the acts listed in 37-3-102~~(8)~~(9) in a manner reasonably consistent with the holder's training, skill, and experience, subject to all specifications, conditions, and limitations imposed by the board.

(2) A temporary license may not be issued for a period that exceeds 1 year. However, except as provided in subsection (3), a temporary license may be renewed, at the board's discretion, for additional 1-year periods but may not be renewed more than five times.

(3) A person meeting the requirements of 37-3-305(5) may be granted a limited temporary license for a period of 3 months, which may be extended at the board's discretion upon a showing of good cause for a period not to exceed 3 months."

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