

1 **Medical Assisting Scope of Practice under Texas Law, Including Performing IV Tasks**

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6  
7 **Texas law**  
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9 1. The words “medical assistant” are not found in the Texas Medical Practice Act or the  
10 regulations/rules of the Texas Medical Board. This is the case in many states.  
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12 2. Texas Medical Practice Act—Section 157.001: General Authority of Physician to Delegate.

13 (a) A physician may delegate to a qualified and properly trained person acting under the  
14 physician’s supervision any medical act that a reasonable and prudent physician would find  
15 within the scope of sound medical judgment to delegate if, in the opinion of the delegating  
16 physician: (1) the act: (A) can be properly and safely performed by the person to whom the  
17 medical act is delegated; (B) is performed in its customary manner; and (C) is not in violation of  
18 any other statute...(b) The delegating physician remains responsible for the medical acts of the  
19 person performing the delegated medical act...

20 Section 157.002:... (b) A physician may delegate to any qualified and properly trained person  
21 acting under the physician’s supervision the act of administering or providing dangerous drugs in  
22 the physician’s office, as ordered by the physician, that are used or required to meet the  
23 immediate needs of the physician’s patients...  
24

25 3. I sent a question to the staff of the Texas Medical Board asking whether physicians were  
26 permitted to delegate to unlicensed professionals such as medical assistants the performing of IV  
27 tasks. I received a written response from Texas Medical Board staff indicating that TX law  
28 permitted physicians to delegate to knowledgeable and competent unlicensed professionals such  
29 as medical assistants the performing of IV tasks under direct/onsite physician supervision.  
30

31 Texas is one of five states that unambiguously permits medical assistants to be delegated, and to  
32 perform, intravenous tasks. It would be advisable to include courses in IV theory and technique  
33 in CAAHEP- and ABHES-accredited medical assisting programs.  
34

35 4. “Delegation of Duties by a Physician to a Nonphysician,” Texas Medical Association,  
36 February 2017—“Thus, a physician may delegate to nonphysicians the tasks of performing  
37 injections, taking blood pressure, checking temperature, or performing other **tasks that do not**  
38 **involve the exercise of independent medical judgment**, as long as the physician is satisfied  
39 that the person is qualified and adequately trained. Those persons need not be RNs when they are  
40 employed in a physician’s private medical office but must be qualified and trained to perform the  
41 medical act.”  
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43 The scope of practice for medical assistants has been expanding in most areas of the United  
44 States—to a greater extent in some areas and to a lesser extent in other areas. Related to scope

45 of practice is the degree of supervision under which medical assistants are permitted to work.  
46 Many states are revising their laws to allow medical assistants to work under general supervision  
47 rather than onsite supervision. (General supervision is usually defined as an overseeing licensed  
48 provider not being on the premises where the medical assistant is working, but being available by  
49 electronic means—such as telephone, text, and email.)

50

51 As has been explained above, Texas law gives physicians broad (but not unlimited) discretion in  
52 assigning tasks to unlicensed allied health professionals such as medical assistants. Because of  
53 the breadth of medical assisting scope of practice in Texas, it is imperative that members of the  
54 Texas Society of Medical Assistants be aware of the TX law and be able to explain and defend  
55 their scope of practice to other members of the health care delivery workforce. Quite  
56 importantly, it is also vitally necessary for members of the Texas SMA to increase their  
57 involvement in the government affairs arena, and to encourage all medical assistants to join the  
58 Texas Society of Medical Assistants and the American Association of Medical Assistants.

59

60 5. “(17) Limited medical radiologic technologist (LMRT)—A person who holds a limited  
61 certificate issued under the Act, and who under the direction of a practitioner, intentionally  
62 administers radiation to specific parts of the bodies of other persons for medical reasons. The  
63 limited categories are the skull, chest, spine, extremities, podiatric, chiropractic and  
64 cardiovascular.” Medical Radiologic Technologist Certification Program, Title 25, Texas  
65 Administrative Code, Chapter 140.

66

67 6. Medical assistants are classified as “unlicensed persons” under the Texas nursing law. Note  
68 the following from the TX nursing law: TX Administrative Code, Title 22, Part 11, Chapter 224:  
69 **§224.3.** Purpose...

70 (b) The full utilization of the services of an RN, to include advanced practice registered nurses  
71 (APRN), may require delegation of selected nursing tasks to unlicensed personnel. The scope of  
72 delegation and the level of supervision by the RN may vary depending on the setting, the  
73 complexity of the task, the skills and experience of the unlicensed person, and the client’s  
74 physical and mental status. The following sections govern the RN in delegating nursing tasks to  
75 unlicensed personnel across a variety of settings where nursing care services are delivered.

76 **224.6.** General Criteria for Delegation.... (3) The nursing task must be one that, in the opinion of  
77 the delegating RN, can be properly and safely performed by the unlicensed person involved  
78 without jeopardizing the client's welfare.

79 (4) The nursing task must not require the unlicensed person to exercise professional nursing  
80 judgment; however, the unlicensed person may take any action that a reasonable, prudent non-  
81 health care professional would take in an emergency situation...

82 **224.8.** Delegation of tasks...**Nursing Tasks Prohibited from Delegation.** By way of example,  
83 and not in limitation, the following are nursing tasks that are **not** within the scope of sound  
84 professional nursing judgment to delegate:

85 (5) administration of medications, including intravenous fluids, except by medication aides as  
86 permitted under §224.9 of this title (relating to The Medication Aide Permit Holder).

87 **§224.10.** Supervising Unlicensed Personnel Performing Tasks Delegated by Non-RN

88 Practitioners. (a) The following applies to the registered professional nurse who practices in a

89 collegial relationship with another licensed practitioner, who has delegated tasks to an unlicensed  
90 person over whom the RN has supervisory responsibilities. The RN’s accountability to the BON,  
91 with respect to its taking disciplinary action against the RN’s license, is met if the RN: (1)  
92 verifies the training of the unlicensed person; (2) verifies that the unlicensed person can properly  
93 and adequately perform the delegated task without jeopardizing the client’s welfare; and (3)  
94 adequately supervises the unlicensed person.

95

96 7. General legal principles and specific examples—

- 97 • Medical assistants must not be delegated (and must not perform) any tasks for which they  
98 are not sufficiently **knowledgeable and competent**.
- 99 • Medical assistants may not be delegated and may not perform tasks that require the  
100 exercise of independent clinical judgment or the making of clinical assessments,  
101 evaluations, or interpretations.
- 102 • It is not permissible for medical assistants to perform tasks that are restricted in state law  
103 to other health professionals—often licensed health professionals (e.g., physical therapy,  
104 acupuncture)
- 105 • Medical assistants may perform the verbatim-conveying, and verbatim-receiving and  
106 documenting, of information for the delegating provider.
- 107 • Medical assistants may perform patient education as long as the content is approved by  
108 the delegating provider and does not require the exercise of clinical judgment.

109

110 8. Civil and criminal/quasi-criminal liability—

- 111 • If a medical assistant performs a task in a negligent manner, both the delegating provider  
112 and the medical assistant may be held liable civilly for negligence.
- 113 • If a medical assistant performs a task not permitted by state law (even if the task is  
114 performed in a competent manner), both the delegating provider and the medical assistant may  
115 be subject to criminal or quasi-criminal legal sanctions.
- 116 • If a medical assistant performs a task not performable by medical assistants under state  
117 law, and performs the task in a negligent manner, both the delegating provider and the medical  
118 assistant could be liable both civilly and quasi-criminally.

119

## 120 **Federal law**

121

122 1. The Medicare and Medicaid Electronic Health Record (EHR) Incentive Programs (later titled  
123 “Promoting Interoperability Programs”) have ended. There is no longer a requirement of the  
124 Centers for Medicare & Medicaid Services (CMS) that a certain percentage of electronic  
125 medication, laboratory, and diagnostic imaging orders be entered by “credentialed medical  
126 assistants” or licensed health care professionals.

127

128 2. **Telehealth**—“In some cases, peripheral medical equipment (e.g., digital stethoscopes,  
129 otoscopes, ultrasounds) can be used by [health care personnel] (e.g., a nurse, a **medical assistant**  
130 [emphasis added]) physically with the patient, while the consulting medical provider conducts a  
131 remote evaluation.”

132 Using telehealth to expand access to essential health services during the COVID-19 pandemic.  
133 Centers for Disease Control and Prevention. Updated June 10, 2020.  
134 <https://www.cdc.gov/coronavirus/2019-ncov/hcp/telehealth.html>.

135  
136 **3. Roles in the CCM and TCM Programs**—

137 a. The Chronic Care Management (CCM) and Transitional Care Management (TCM) programs  
138 were created to provide reimbursement for services for Medicare recipients who have health  
139 needs not included within standard Medicare coverage. Medical assistants fall within the CPT  
140 definition of *clinical staff*. Medical assistants also are “**auxiliary personnel**,” according to  
141 chapter 15, section 60.1, “Incident to Physician’s Professional Services,” of the *Medicare Benefit*  
142 *Policy Manual*.

143 Centers for Medicare & Medicaid Services. Medicare Benefit Policy Manual, CMS publication  
144 100-02. Accessed August 25, 2021. [https://www.cms.gov/Regulations-](https://www.cms.gov/Regulations-Guidance/Guidance/Manuals/downloads/bp102c15.PDF)  
145 [Guidance/Guidance/Manuals/downloads/bp102c15.PDF](https://www.cms.gov/Regulations-Guidance/Guidance/Manuals/downloads/bp102c15.PDF)

146 b. Medical assistants may be delegated tasks that are billable **incident to** the provider’s services  
147 under CPT Code 99490 (CCM) or CPT codes 99495 and 99496 (TCM).

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149 **4. Remote Physiologic Monitoring (RPM)**—

150 • A new code descriptor went into effect January 1, 2020, for CPT code 99457: “Remote  
151 physiologic monitoring [RPM] treatment management services, clinical staff/physician/other  
152 qualified health care professional time in a calendar month requiring interactive communication  
153 with the patient/caregiver during the month; initial 20 minutes.”

154 Medicare Program; CY 2020 Revisions to Payment Policies Under the Physician Fee Schedule  
155 and Other Changes to Part B Payment Policies; [...]. Fed Regist. 2019;84(157):40555-40556. To  
156 be codified at 42 CFR §403, 410, 414, et al.

157 • CMS—RPM services reported with CPT code 99457 may be furnished under general  
158 supervision—rather than direct supervision—and may be billed incident to the services of the  
159 licensed provider.

160  
161 **5. NCQA Clarification**

162 “NCQA recognizes the supervising physician as providing the service when they have signed off  
163 on the medical record/documentation. It is our understanding many licensed practical nurses  
164 (LPNs) and medical assistants work with physicians and registered nurses (RNs). With this in  
165 mind, medication reconciliation provided by the medical assistant and signed off by a physician,  
166 [nurse practitioner, physician assistant, or clinical pharmacist with prescribing privileges], or RN  
167 **may be counted** toward NCQA Medication Reconciliation indicators as the signature indicates  
168 additional clinical oversight for this work [emphasis added].”

169 Balasa D. Medication reconciliation post-discharge measure victory. Legal Eye. July 21, 2021.  
170 [https://aamalegaleye.wordpress.com/2021/07/21/medication-reconciliation-post-discharge-](https://aamalegaleye.wordpress.com/2021/07/21/medication-reconciliation-post-discharge-measure-victory/)  
171 [measure-victory/](https://aamalegaleye.wordpress.com/2021/07/21/medication-reconciliation-post-discharge-measure-victory/)