

# Surgical Assistant Practice

New York, California, Washington, Connecticut, and New Jersey have prohibitions on the practice of surgical assistants (i.e. unlicensed individuals).

Nebraska, South Dakota, North Dakota, New Hampshire, and Tennessee authorities have not responded to inquiries regarding physician delegation of surgical assistant tasks to surgical assistants (i.e. unlicensed individuals).

State	Source	Relevant Excerpt
Alabama	Correspondence Received from Authority (Tuesday, September 29, 2009)	<p><b>Alabama State Board of Medical Examiners Letter (January 27, 1995)</b></p> <p>Your correspondence of January 17, 1995 addressed to the Alabama Board of Medical Examiners concerning utilization of non-physicians as first assistants during major surgical procedures has been referred to the undersigned for response.</p> <p>This is to advise that currently there are no laws or regulations in effect which prescribe the qualifications necessary to perform as a first assistant in surgery during major surgical procedures. In my experience, this is a matter that is being addressed at individual hospitals during the credentialing process.</p> <p>In general, the regulations of the Board of Medical Examiners include among the permissible functions of physician assistants and surgeon assistants the duties of "assisting at surgery". Although the question has not been addressed by the Board, it would my informed interpretation that these regulations would permit physicians assistants and surgeon assistants to perform the functions of a first assistant at surgery provided the individuals were qualified by education and training and properly credentialed at the hospital level.</p> <p>Wendell R. Morgan General Counsel</p>
Alaska	State Medical Board Regulations Ch. 64. Medicine. Article 6. General	<p><b>12 AAC 40.967. Unprofessional Conduct.</b></p> <p>(8) delegating professional practice responsibilities that require a license or permit under AS 08.64 to a person</p>

	Provisions.	<p>who does not possess the appropriate education, training, or licensure to perform the responsibilities;</p> <p>(28) after performing surgery, failing to continue care of a surgical patient of the licensee through a postsurgical recovery and healing period, either by providing the care directly, delegating the care to one or more individuals who have the appropriate education, training, and licensure or certification to provide definitive care, or coordinating with another qualified physician or other medical professional who agrees to assume responsibility for managing the patient's post-surgical care;</p>
<b>Arizona</b>	Arizona Law, Title 32 - Professions and Occupations, Arizona Revised Statutes	<p><b>32-1421. Exemption from licensing requirements</b></p> <p>6. Activities or functions which do not require the exercise of a doctor of medicine's judgment for their performance, are not in violation of the laws of this state, and are usually or customarily delegated to such persons by a doctor of medicine under the doctor's direction or supervision or are performed in accordance with the approval of a committee of physicians in a licensed health care institution.</p>
<b>Arkansas</b>	Sec. 2. Arkansas Code Title 17, Chapter 95, Subchapter 2	<p><b>17-95-208. Rules on physician's authority to delegate.</b></p> <p>(a) The Arkansas State Medical Board shall adopt rules that establish standards to be met and procedures to be followed by a physician with respect to the physician's delegation of the performance of medical practices to a qualified and properly trained employee who is not licensed or otherwise specifically authorized by the Arkansas Code to perform the practice.</p> <p>(b) The rules adopted under subsection (a) of this section shall provide that:</p> <p>(1) The delegating physician remains responsible for the acts of the employee performing the delegated practice;</p> <p>(2) The employee performing the delegated practice shall not be represented to the public as a licensed physician, licensed nurse, licensed physician's assistant, or other licensed healthcare provider; and</p> <p>(3) Medical practices delegated under this section shall be performed under the physician's supervision.</p> <p>(c) Delegation of medical practices under this section may</p>

		<p>include 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 as determined by the board.</p> <p>(d) Rules adopted regarding the delegation of the administration of drugs shall provide for:</p> <ul style="list-style-type: none"> <li>(1) The delegated administration of drugs only within the physical boundaries of the delegating physician's offices;</li> <li>(2) Evaluation of whether delegation is appropriate according to the acuity of the patient involved;</li> <li>(3) Training and competency requirements that shall be met by the person administering the drugs; and</li> <li>(4) Other standards and procedures the board considers relevant.</li> </ul> <p>(e) The board shall not adopt rules that:</p> <ul style="list-style-type: none"> <li>(1) Authorize a physician to transfer to a health professional other than another physician the physician's responsibility for supervising a delegated medical practice;</li> <li>(2) Authorize an individual to whom a medical practice is delegated to delegate the performance of that practice to another individual;</li> <li>(3) Authorize a physician to delegate the administration of anesthesia; or</li> <li>(4) Conflict with a provision of the Arkansas Code that specifically authorizes an individual to perform a particular practice.</li> </ul>
<b>California</b>	<p>Letter from the Medical Board of California, Executive Office (September 8, 1999)</p>	<p>You have requested the opinion of the Medical Board of California as to what tasks an unlicensed person legally may perform when functioning as a surgical first assistant.</p> <p>As you know, California law, both statutory and decisional, provides no definition of our scope of practice for a surgical first assistant. Consequently, an unlicensed person functioning as a surgical first assistant may only perform those tasks that are not prohibited by the Medical Practice Act and applicable decision law.</p> <p>California Business and Professions (B&amp;P) Code Section 2052 makes it unlawful for any person to practice medicine without an appropriate license or other statutory authority. B&amp;P Code Section 2052 defines the practice of medicine to include diagnosing, treating, operating and prescribing for any ailment, blemish, deformity, disease, disfigurement, disorder, injury, or other physical or mental condition of any person. As noted in the correspondence</p>

		<p>of a former Counsel to the Medical Board, clamping, cutting, tying and suturing tissue; and manipulating, reducing and setting fractures constitutes the practice of medicine as defined in B&amp;P Code Section 2052.</p> <p>California courts, not the Medical Board, have held that these particular tasks fall within the scope of practice of medicine. The two cases that best illustrate what tasks fall within the scope of practice of medicine are Magit v. Board of Medical Examiners, 57 Cal. 2d 74 (1961) and Newhouse v. Board of Osteopathic Examiners, 57 Cal. App. 2d 728 (1958). While the factual circumstances of these cases primarily involve administering anesthesia, suturing and penetrating the tissue of a person, other cases involving criminal prosecutions of unlicensed persons, and those aiding them, further define what tasks are the practice of medicine.</p> <p>See: People v. Barnhardt, 222 Cal. App. 2d 567 (1963) (suturing); People v. Rehman, 253 Cal. App. 2d 119 (1967) (clamping); 66 Opinions of the California Attorney General (Ops. Cal. Atty. Gen.) 427 (1983) (infusion of contrast for diagnostic testing); and 59 Ops. Cal. Atty. Gen. (1976) (surgery). These cases, and others that you may find through your own legal research, should assist you in developing legal guidelines by which your client may operate.</p> <p>With respect to any other particular tasks or procedures not mentioned in this letter, I urge you review the applicable law in order to make an appropriate determination as to which may fall within the scope of practice of medicine.</p> <p>Lastly, any delegation of tasks to an unlicensed person, including surgical first assistants, must comply with California law. The statutes and decisional law noted above are examples of such.</p>
<p><b>Colorado</b></p>	<p>Colorado Board of Medical Examiners Rules</p>	<p><b>Rule 800 – Colorado Board of Medical Examiners Rule Regarding the Delegation and Supervision of Medical Services to Unlicensed Health Care Providers Pursuant to Section 12-36-106(3)(I), C.R.S.</b></p> <p>5. These Rules do apply to a licensed, registered or certified health care provider (other than a registered nurse) who acts outside his or her scope of practice. See section III(C) of these Rules. Additionally, these Rules do apply to individuals who are certified by a national or private body but who do not have Colorado state</p>

		<p>licensure, registration or certification.</p> <p>C. If a physician wishes to delegate medical services to a person holding a license, certification or registration and the services are beyond the scope of that person’s license, certification, or registration, the following requirements apply:</p> <ol style="list-style-type: none"> <li>1. The person must have education, training or experience qualifying the person to perform the medical service in question, and this education, training or experience must be in addition to the education, training or experience related to the license, certification or registration. As an illustration, if consistent with these Rules, a physician may delegate a medical service that is beyond the scope of the practice of respiratory therapy to a respiratory therapist. It is insufficient, however, to rely solely on that respiratory therapist’s education, training or experience as a respiratory therapist when evaluating qualifications to perform the delegated medical service. Instead, the physician must assure that the respiratory therapist has sufficient additional education, training or experience to qualify that person to perform the delegated medical service at issue.</li> <li>2. Additionally, the delegation of the medical service must otherwise be in compliance with these Rules.</li> <li>3. This section III(C) does not apply to delegation of medical services to a registered nurse. Instead, such delegation would be governed by the Nurse Practice Act.</li> </ol>
<p><b>Connecticut</b></p>	<p>AST Letter on Connecticut Specifics</p>	<p>Specifically, with regard to the Declaratory Ruling issued by the Department of Health Services in 1987, this ruling was made with specific regard to the practice of Registered Nurses in the State of Connecticut and in our opinion would have no bearing on the right of the physician to delegate to other qualified individuals as defined in the Medical Practice act. Further, Connecticut General Statute Section 20-09 (as it was in 1987) would also most likely cover the services of a Certified First Assistant or Certified Surgical Assistant, who works in generally the same capacity as those professions listed, meaning that the CFA would not be precluded from practice. We know that in the 17 years since this</p>

		<p>Declaratory Ruling was issued, many CFAs have successfully practiced under the direct delegatory supervision of the physician in your state.</p>
<p><b>Delaware</b></p>	<p>Title 24 Regulated Professions and Occupations 1700 Board of Medical Practice</p>	<p><b>21.0 Delegation of Responsibilities to Non-physicians</b></p> <p>21.1 The Board of Medical Practice feels it is appropriate to issue new regulations that recognize the changing relationship between physicians and non-physician associates, and to give guidelines to licensed physicians with regard to delegating physician responsibilities to non-physician associate. The sole purpose in doing so is to protect the public interest by maintaining the highest possible quality of medical care. The Board's decision to issue exemptions from the requirements that follow, is in recognition that it is within the public interest that certain ongoing and pre-existent practices should not be abruptly terminated.</p> <p>21.1.1 Any physician who delegated medical responsibility to a non-physician is responsible for that individual's medical activities and must provide adequate supervision. No function may be delegated to a non-physician who by statute or professional regulation is prohibited from performing that function. Supervision may be direct or indirect depending upon the type of medical responsibility delegated. The delegating physician cannot be involved in patient care in name only.</p> <p>21.1.2 For the purpose of clarification, the terms "guidelines", "standing orders", "protocols", and "algorithms" are synonymous in their application under these regulations. Hereafter, the term "standing orders" will be used. Standing orders must not be used to make a medical diagnosis or to prescribe medication or other "therapeutics". Non-prescription medications, however, may be initiated by standing orders if these standing orders have been approved by the responsible delegating physician. Emergency care as defined in the Medical Practice Act is exempt from these regulations.</p> <p>21.1.3 Direct supervision requires the delegating physician to be physically on the premises and to perform an evaluation or give a consultation. Direct supervision is required if a medical diagnosis is rendered or a treatment plan involving prescription medications is to be instituted.</p> <p>21.1.4 Indirect supervision requires the physician to be either physically present on the premises or readily available by an electronic device. Readily available necessitates the ability to become physically present</p>

	<p>within thirty minutes of notification if the situation warrants such action. Indirect supervision is required whenever a non-physician evaluates a patient, initiates a non-prescription medication or therapeutic, or renews a previously prescribed medication or therapeutic. Direct supervision (as defined above) required whenever a controlled substance is renewed. A non-physician may follow a physician-initiated standing order under the indirect supervision of the physician, providing the standing order does not call for the initiation of a prescription drug or therapeutic.</p> <p>21.1.5 The Board of Medical Practice considers it to be appropriate and good medical procedure for all responsible physicians who choose to have their patients followed by non-physician associates to personally re-evaluate at least every three months any patient receiving controlled substances, or at least every six months any patient receiving other prescription medications or therapeutics.</p> <p>21.1.6 The Board of Medical Practice may issue exemptions from the requirements specified above in cases of activities wherein the dispensing of prescription drugs or other therapeutics has occurred without direct supervision of a licensed physician, if such activity has taken place on a regular ongoing basis prior to the enactment of the regulations. Such exemptions will be considered by petition and must be renewed by the Board of Medical Practice every two years. No exemption will be issued by the Board of Medical Practice until it reaches the determination that the training and experience of the non-physician associate involved is adequate. Procedural safeguards must be in place to ensure the safe dispensing of drugs and other therapeutics. All exemptions must be judged by the Board of Medical Practice not to endanger the public health of the citizens of Delaware.</p> <p>All standing orders proposed by the petitioner must be reviewed by a joint committee composed of three members of the Board of Medical Practice or its designees and three members or designees from the regulatory board responsible for the licensure of the nonphysician associate.</p> <p>21.1.7 A supervising physician who fails to adhere to these regulations would be considered to be permitting the unauthorized practice of medicine (as defined under 24 Del.C. §1703(6) of the Medical Practice Act), and would be subject to disciplinary action by the Board of Medical Practice.</p>
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<p><b>District of Columbia</b></p>	<p>District of Columbia Municipal Regulations for Surgical Assistants</p>	<p><b>8013 Scope of Practice</b></p> <p>8013.1 A surgical assistant shall, in accordance with this chapter and the Act, have the authority to perform the following tasks:</p> <ul style="list-style-type: none"> <li>(a) Provide local infiltration or the topical application of a local anesthetic and hemostatic agents at the operative site;</li> <li>(b) Incise tissues;</li> <li>(c) Ligate and approximate tissues with sutures and clamps;</li> <li>(d) Apply tourniquets, casts, immobilizers, and surgical dressings;</li> <li>(e) Check the placement and operation of equipment;</li> <li>(f) Assist in moving and positioning the patient;</li> <li>(g) Assist the surgeon in draping the patient;</li> <li>(h) Prepare a patient by cleaning, shaving, and sterilizing the incision area;</li> <li>(i) Retract tissue and expose the operating field area during operative procedures;</li> <li>(j) Place suture ligatures and clamp, tie, and clip blood vessels to control bleeding during surgical entry;</li> <li>(k) Use cautery for hemostasis under direct supervision;</li> <li>(l) Assist in closure of skin and subcutaneous tissue;</li> <li>(m) Assist in the cleanup of the surgical suite; and</li> <li>(n) Check and restock the surgical suite.</li> </ul> <p>8013.2 A surgical assistant shall not perform the following tasks;</p> <ul style="list-style-type: none"> <li>(a) Perform any surgical procedure independently;</li> <li>(b) Prescribe any medications or controlled substances; or</li> <li>(c) Write any progress notes or orders on hospitalized patients, except operative notes.</li> </ul>
	<p>District of Columbia Municipal Regulations for Surgical Assistants</p>	<p><b>8014 Supervising Surgeon</b></p> <p>8014.1 To be authorized to supervise a surgical assistant, a physician must be currently licensed as a physician in the District. The license must be unrestricted and active.</p> <p>8014.2 A supervising surgeon shall perform the critical portions of a surgical procedure. Supervision shall be continuous, and shall require that the delegating physician be immediately available in the surgical suite for delegated acts that the surgical assistant performs and to respond to any emergency until the patient is released from the surgical suite and care has been transferred to another physician, or until the surgical assistant has</p>



		<p>completed his or her tasks and has been excused by the supervising surgeon. Telecommunication is insufficient for supervision purposes or as a means for directing delegated acts.</p> <p>8014.3 It is the responsibility of each team of physician(s) and surgical assistant(s) to ensure that:</p> <ul style="list-style-type: none"> <li>(a) The surgical assistant’s scope of practice is clearly defined;</li> <li>(b) Delegation of medical tasks is appropriate to the surgical assistant’s level of competence;</li> <li>(c) The relationship between the members of the team is defined;</li> <li>(d) That the relationship of, and access to, the supervising surgeon is defined; and</li> <li>(e) A process for evaluation of the surgical assistant’s performance is established.</li> </ul>
<b>Florida</b>	<p>Florida Administrative Code Department 64 Department of Health Division 64B8 Board of Medicine Chapter 64B8-44 Standards of Practice</p>	<p><b>Section 64B8-44.008 Performance of Delegated Tasks by Non-Licensed Personnel.</b></p> <p>(1) The licensee shall be responsible for all delegated acts performed by persons under either direct or indirect supervision.</p> <p>(2) Direct supervision means the licensee oversees the activities of those persons and gives final approval to any procedures by non-licensed supportive personnel. Direct supervision means on-site supervision.</p>
<b>Georgia</b>	<p>Georgia Code Title 43. Professions and Businesses Ch. 34. Physicians, Acupuncture, Physician's Assistants, Cancer And Glaucoma Treatment, Respiratory Care, Clinical Perfusionists, and Orthotics and Prosthetics Practice Article 2.</p>	<p><b>§ 43-34-26.1. Delegation of authority to nurse or physician's assistant</b></p> <p>(f) Nothing in this Code section shall be construed to limit or repeal any existing authority of a licensed physician to delegate to a qualified person any acts, duties, or functions which are otherwise permitted by law or established by custom.</p>

	Physicians O.C.G.A. § 43-34-26.1 (2008)	
<b>Hawaii</b>	E-mail Received from Authority (Mon 6/8/2009 12:09 PM)	<p>We are in receipt of your message. The medical licensing law is silent with regard to a physician's ability to delegate tasks to unlicensed personnel (including surgical first assistants).</p> <p>However, if the task falls within the medical scope of practice, the only ones to whom these tasks may be delegated are physician assistants and emergency medical personnel.</p>
<b>Idaho</b>	Idaho Code, Title 54 - Professions, Vocations, and Businesses, Chapter 18 - Physicians and Surgeons, Ch. 18 - Physicians and Surgeons	<p><b>54-1804. Unlicensed practice -- Penalties and remedies relating to unlicensed practice.</b> (1) Under the circumstances described and subject in each case to limitations stated, the following persons, though not holding a license to practice medicine in this state, may engage in activities included in the practice of medicine:</p> <p>(g) A person administering a remedy, diagnostic procedure or advice as specifically directed by a physician;</p>
<b>Illinois</b>	Illinois Compiled Statutes Ch. 225 Professionals and Occupations (225 ILCS 130/) Registered Surgical Assistant and Registered Surgical Technologist Title Protection Act.	<p><b>Sec. 10. Definitions. As used in this Act:</b></p> <p>...</p> <p>"Direct supervision" means supervision by an operating physician, licensed podiatrist, or licensed dentist who is physically present and who personally directs delegated acts and remains available to personally respond to an emergency until the patient is released from the operating room. A registered professional nurse may also provide direct supervision within the scope of his or her license. A registered surgical assistant or registered surgical technologist shall perform duties as assigned.</p> <p>...</p> <p>"Registered surgical assistant" means a person who (i) is not licensed to practice medicine in all of its branches, (ii) is certified by the National Surgical Assistant Association on the Certification of Surgical Assistants, the Liaison Council on Certification for the Surgical Technologist as a certified first assistant, or the American Board of Surgical Assisting, (iii) performs duties under direct supervision, (iv) provides services only in a licensed hospital, ambulatory treatment center, or office of a physician licensed to practice medicine in all its branches, and (v) is registered under this Act.</p>

<p><b>Illinois</b></p>	<p>Illinois Compiled Statutes Ch. 225 Professionals and Occupations (225 ILCS 130/) Registered Surgical Assistant and Registered Surgical Technologist Title Protection Act.</p>	<p><b>Sec. 55. Supervision requirement.</b> A person registered under this Act shall practice as a surgical assistant only under direct supervision.</p>
<p><b>Indiana</b></p>	<p>Indiana Code 25-22.5 Article 22.5. Physicians</p>	<p><b>IC 25-22.5-1-2 Exclusions</b></p> <p>(20) An employee of a physician or group of physicians who performs an act, a duty, or a function that is customarily within the specific area of practice of the employing physician or group of physicians, if the act, duty, or function is performed under the direction and supervision of the employing physician or a physician of the employing group within whose area of practice the act, duty, or function falls. An employee may not make a diagnosis or prescribe a treatment and must report the results of an examination of a patient conducted by the employee to the employing physician or the physician of the employing group under whose supervision the employee is working. An employee may not administer medication without the specific order of the employing physician or a physician of the employing group. Unless an employee is licensed or registered to independently practice in a profession described in subdivisions (9) through (18), nothing in this subsection grants the employee independent practitioner status or the authority to perform patient services in an independent practice in a profession.</p>
<p><b>Iowa</b></p>	<p>Iowa Code Title Iv Public Health Subtitle 3 Health-Related Professions Chapter 148C Physician</p>	<p><b>148C.8 Right to delegate</b></p> <p>Nothing in this chapter affects or limits a physician's existing right to delegate various medical tasks to aides, assistants or others acting under the physician's supervision or direction, including orthopedic physician's assistant technologists. Such aides, assistants, orthopedic physician's assistant technologists, and others who perform only those tasks which can be so delegated shall</p>

	Assistants	not be required to qualify as physician assistants under this chapter.
<b>Iowa</b>	Iowa Code Title Iv Public Health Subtitle 1 Alcoholic Beverages And Controlled Substances Chapter 124 Controlled Substances	<b>124.101 Definitions.</b>  Nothing contained in this chapter shall be construed to prevent a physician, dentist, podiatric physician, or veterinarian from delegating the administration of controlled substances under this chapter to a nurse, intern, or other qualified individual or, as to veterinarians, to an orderly or assistant, under the veterinarian's direction and supervision; all pursuant to rules adopted by the board.
<b>Kansas</b>	Kansas 65-28,127 Chapter 65.-- Public Health Article 28.-- Healing Arts	<b>65-28,127. Licensees who direct, supervise, order, refer, accept responsibility for, enter into practice protocols with or delegate acts which constitute practice of healing arts to others; requirements and limitations; construction of section.</b>  ... (3) direct, supervise, order, refer, enter into a practice protocol with, or delegate to such persons only those acts and functions which the responsible licensee knows or has reason to believe such person is competent and authorized by law to perform; (4) direct, supervise, order, refer, enter into a practice protocol with, or delegate to other persons only those acts and functions which are within the normal and customary specialty, competence and lawful practice of the responsible licensee;
<b>Kansas</b>	Chapter 65: Public Health Article 28: Healing Arts	<b>Statute 65-2872:</b> Persons not engaged in the practice of the healing arts. The practice of the healing arts shall not be construed to include the following persons:  (g) Persons whose professional services are performed under the supervision or by order of or referral from a practitioner who is licensed under this act.
<b>Kentucky</b>	Kentucky Revised Statutes KRS Chapter 311.00 Surgical Assistants	<b>311.864 Definitions for KRS 311.864 to 311.890.</b> As used in KRS 311.864 to 311.890 unless the context requires otherwise:  ... (3) "Delegating physician" means a physician who is licensed by the board as either a doctor of medicine,

		<p>doctor of osteopathy, or doctor of podiatric medicine and who assumes responsibility for the services rendered by a surgical assistant;</p> <p>(4) "Direct supervision" means supervision by a delegating physician who is physically present and who personally directs delegated acts and remains immediately available to personally respond to any emergency until the patient is released from the operating room or care and has been transferred to the care and responsibility of another physician;</p> <p>...</p> <p>(6) "Surgical assisting" means providing aid under direct supervision in exposure, hemostasis, closures, and other intraoperative technical functions that assist a physician in performing a safe operation with optimal results for the patient.</p>
<b>Louisiana</b>	<p>Louisiana Revised Statutes Title 37. Professions And Occupations Chapter 15. Physicians, Surgeons, And Midwives Part I. Medicine, Surgery, Midwifery Medical Practice Act</p>	<p><b>§1285. Causes for nonissuance; suspension; revocation; or the imposition of restrictions; fines; reinstatement; publication of action; stays</b></p> <p>A. The board may refuse to issue, or may suspend or revoke any license or permit, or impose probationary or other restrictions on any license or permit issued under this Part for the following causes:</p> <p>(18) Knowingly performing any act which, in any way, assists an unlicensed person to practice medicine, or having professional connection with or lending one's name to an illegal practitioner;</p>
	<p>E-mail Received from AST</p>	<p>Just got a call back from Jeff Mark (Joe Bonck) that states that there is no written law/opinion in Louisiana concerning physician delegation to an unlicensed person.</p>
<b>Maine</b>	<p>Maine Revised Statutes Title 32: Professions And Occupations Chapter 48: Board of Licensure in Medicine Heading: Pl 1993, C. 600, Pt. A, §197 (Rpr)</p>	<p><b>§3270-A. Assistants</b></p> <p>This chapter may not be construed to prohibit an individual from rendering medical services if these services are rendered under the supervision and control of a physician or surgeon and if that individual has satisfactorily completed a training program approved by the Board of Licensure in Medicine and a competency examination determined by this board. Supervision and control may not be construed as requiring the personal presence of the supervising and controlling physician at the place where these services are rendered, unless a physical presence is necessary to provide patient care of</p>

	<p>Subchapter 2: Licensure Heading: Pl 1993, C. 600, Pt. A, §203 (Rpr)</p>	<p>the same quality as provided by the physician. This chapter may not be construed as prohibiting a physician or surgeon from delegating to the physician's or surgeon's employees certain activities relating to medical care and treatment carried out by custom and usage when the activities are under the control of the physician or surgeon who must be present on the premises at the time the activities are performed. The physician delegating these activities to employees, to program graduates or to participants in an approved training program is legally liable for the activities of those individuals, and any individual in this relationship is considered the physician's agent. This section may not be construed to apply to registered nurses acting pursuant to chapter 31. [1999, c. 159, §1 (AMD).]</p> <p>When the delegated activities are part of the practice of optometry as defined in chapter 34-A, then the individual to whom these activities are delegated must possess a valid license to practice optometry in Maine, or otherwise may perform only as a technician within the established office of a physician, and otherwise acting solely on the order of and under the responsibility of a physician skilled in the treatment of eyes as designated by the proper professional board, and without assuming evaluation or interpretation of examination findings by prescribing corrective procedures to preserve, restore or improve vision.</p>
	<p>State of Maine Board of Licensure in Medicine Advisory Rulings Section I Advisory Rulings</p>	<p><b>Assistants (Unlicensed) Scope of Practice Practice of Medicine</b></p> <p>RULING: The Board of Licensure in Medicine has ruled that physicians are accountable for the actions of unlicensed assistants employed by the physician who do not fall under the Board's jurisdiction when they perform any invasive procedure, including the administration of injections. The terms "under the direct control" and "in the immediate presence," as stated in 32 M.R.S.A. §3270-A, shall mean the physician must be in reasonable proximity to lend medical assistance to a patient should something adverse happen. Also, physicians, pursuant to 32 M.R.S.A. §3270-A are accountable for the activities of unlicensed assistants employed by them. This policy shall be mailed to all licensed physicians practicing in the State of Maine.</p> <p>EFFECTIVE DATE: November 19, 1991 REVISION DATES: June 12, 2001 HISTORY: Request by Dr. H. Albert Holzwarth,</p>

		<p>Lewis E. Phillips, and A. Marshall Smith of Bangor for an opinion on whether or not a Certified Medical Assistant or other unlicensed assistants may legally administer injections.</p> <p>REVISION June 12, 2001 REQUEST FOR OPINION - ADVANCED PRACTICE MEDICAL ASSISTANTS</p> <p>Dr. Charles Burger has asked the Board’s opinion in a letter dated May 7, 2001, regarding the scope of practice of advanced practice medical assistants. He stated “I strongly believe that performance and demonstrated confidence are the issue, not licensure. These medical assistants are, in fact, not licensed personnel and are operating under the “incident 2” Medicare regulations. We are in the process of testing this practice at the highest level of HCFA.”</p> <p>The Board strongly disagrees with the contentions of Dr. Berger as to the scope of practice which would fall under customary usage, both for medical assistants (regardless of the number of years they may have been doing this in one practice) and to nurses who are not advanced practice nurses. This was communicated to Dr. Burger via a letter from the chairman.</p>
<p><b>Maryland</b></p>	<p>Code of Maryland Regulations</p>	<p><b>Delegation of Acts by a Licensed Physician to an Assistant Not Otherwise Authorized under the Health Occupations Article or the Education Article</b></p> <p><b>10.32.12.01</b></p> <p><b>.01 Scope.</b></p> <p>A. This chapter governs the delegation of acts by a physician to an assistant not otherwise authorized under the Health Occupations Article or the Education Article, Annotated Code of Maryland.</p> <p>B. This chapter may not be construed:</p> <ul style="list-style-type: none"> <li>(1) As establishing the licensure, certification, or registration of assistants;</li> <li>(2) To apply to certified, registered, or licensed professionals, or health occupation students acting pursuant to Health Occupations Article, Annotated Code of Maryland; and</li> <li>(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.</li> </ul> <p><b>10.32.12.02</b></p> <p><b>.02 Definitions.</b></p>

		<p>A. In this chapter, the following terms have the meanings indicated.</p> <p>B. Terms Defined.</p> <p>(1) "Assistant" means an individual to whom only routine technical acts are delegated by a physician and who is:</p> <ul style="list-style-type: none"> <li>(a) Trained as defined in §B(9) of this regulation and not certified, registered, or licensed by the Board or any other State health occupation board; or</li> <li>(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.</li> </ul> <p>(2) "Board" means the Board of Physicians.</p> <p>(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.</p> <p>(4) "Delegating physician" means a physician possessing an active license to practice medicine in this State who directs an assistant to perform technical acts.</p> <p>(5) "Direct supervision" means oversight exercised by a delegating physician who is:</p> <ul style="list-style-type: none"> <li>(a) Personally treating the patient; and</li> <li>(b) In the presence of the assistant and the patient.</li> </ul> <p>(6) "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.</p> <p>(7) "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.</p> <p>(8) "Technical act" means a routine medical or surgical act which does not require medical judgment and is performed with the supervision as specified within this chapter.</p> <p>(9) "Trained" means possessing the knowledge, skills, and abilities, as determined by the physician, to perform delegated acts.</p>
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**10.32.12.03**

**.03 Standards for the Delegating Physician.**

A. A 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 supervising 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 physician without:

- (1) The expressed consent of the other physician; and
- (2) Informing the assistant.

**10.32.12.04**

**.04 Scope of Delegation.**

A. A 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 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 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 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-

		<p>114 and 19-3B-01(b), Annotated Code of Maryland, when providing the following specified levels of supervision, a physician may delegate to an assistant technical acts which include but are not limited to:</p> <ul style="list-style-type: none"> <li>(1) Without on-site supervision: <ul style="list-style-type: none"> <li>(a) Patient preparation for physician examination;</li> <li>(b) Patient history interview;</li> <li>(c) Collecting and processing specimens, such as performing phlebotomy and inoculating culture media;</li> <li>(d) Preparation of specimens for selected tests including: <ul style="list-style-type: none"> <li>(i) Pregnancy tests,</li> <li>(ii) Dipstick and microscopic urinalysis, and</li> <li>(iii) Microbiology (rapid streptococcal testing and throat cultures);</li> </ul> </li> <li>(e) Laboratory tests that the physician is satisfied the assistant is qualified to perform under State and CLIA regulations;</li> <li>(f) Clinical tests such as: <ul style="list-style-type: none"> <li>(i) Application of tuberculin skin tests,</li> <li>(ii) Electrocardiography,</li> <li>(iii) Administering basic pulmonary function tests; and</li> <li>(iv) Visual field tests;</li> </ul> </li> <li>(g) Transmitting prescriptions to a pharmacy;</li> <li>(h) Providing sample packets of medication, selected by a 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; and <ul style="list-style-type: none"> <li>(i) Preparing and administering oral drugs;</li> </ul> </li> </ul> </li> <li>(2) With on-site supervision: <ul style="list-style-type: none"> <li>(a) Preparing and administering injections limited to intradermal, subcutaneous, and intramuscular (deltoid, gluteal, vastus lateralis) to include small amounts of local anesthetics;</li> </ul> </li> </ul>
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		<p>(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.</p> <p>E. A physician may not delegate to an assistant acts which include but are not limited to:</p> <p>(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) Dispensing medications;  (5) Giving medical advice without the consult of a physician; and  (6) Providing physical therapy.</p> <p><b>10.32.12.05</b>  <b>.05 Prohibited Conduct.</b></p> <p>A. An assistant acting beyond the scope of this chapter may be:</p> <p>(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.</p> <p>B. A delegating physician, through either act or omission, facilitation, or otherwise enabling or forcing an assistant 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.</p> <p>C. A delegating physician may not require an assistant to perform a delegated act.</p>
Massachusetts	243 Code of Massachusetts Regulations Board Of Registration In Medicine	<p><b>2.07: General Provisions Governing The Practice Of Medicine</b></p> <p>(4) Delegation of Medical Services. A full licensee may permit a skilled professional or non-professional assistant to perform services in a manner consistent with accepted</p>

		medical standards and appropriate to the assistant's skill.
<b>Michigan</b>	Public Health Code (Excerpt) Act 368 of 1978	<p><b>333.16215 Delegation of acts, tasks, or functions to licensed or unlicensed individual; supervision; rules; immunity; third party reimbursement or worker's compensation benefits.</b></p> <p><b>Sec. 16215.</b></p> <p>(1) Subject to subsections (2) to (6), a licensee who holds a license other than a health profession subfield license 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 the acts, tasks, or functions fall within the scope of practice of the licensee's profession and will be performed under the licensee's supervision. A licensee shall not delegate an act, task, or function under this section if the act, task, or function, under standards of acceptable and prevailing practice, requires the level of education, skill, and judgment required of the licensee under this article.</p> <p>(2) Subject to subsection (1) and except as otherwise provided in this subsection and subsections (3) and (4), a licensee who is an allopathic physician or osteopathic physician and surgeon shall delegate an act, task, or function that involves the performance of a procedure that requires the use of surgical instrumentation only to an individual who is licensed under this article. A licensee who is an allopathic physician or osteopathic physician and surgeon may delegate an act, task, or function described in this subsection to an individual who is not licensed under this article if the unlicensed individual is 1 or more of the following and if the procedure is directly supervised by a licensed allopathic physician or osteopathic physician and surgeon who is physically present during the performance of the procedure:</p> <p>(a) A student enrolled in a school of medicine or osteopathic medicine approved by the Michigan board of medicine or the Michigan board of osteopathic medicine and surgery.</p> <p>(b) A student enrolled in a physician's assistant training program approved by the joint physician's assistant task force created under part 170.</p> <p>(3) Subject to subsection (1), a licensee who is an allopathic physician or osteopathic physician and surgeon may delegate an act, task, or function described in subsection (2) to an individual who is not licensed under</p>

	<p>this article and who is 1 of the following:</p> <ul style="list-style-type: none"> <li>(a) Performing acupuncture.</li> <li>(b) Surgically removing only bone, skin, blood vessels, cartilage, dura mater, ligaments, tendons, pericardial tissue, or heart valves only from a deceased individual for transplantation, implantation, infusion, injection, or other medical or scientific purpose.</li> </ul> <p>(4) Subject to subsection (1), a licensee who is an allopathic physician or osteopathic physician and surgeon may delegate an act, task, or function described in subsection (2) to an individual who is not licensed under this article if the procedure is directly supervised by a licensed allopathic physician or osteopathic physician and surgeon who is physically present during the performance of the procedure, the delegation of such procedure is not prohibited or otherwise restricted by the board or that health facility or agency, and the delegation of that act, task, or function is specifically authorized by that health facility or agency to be delegated and performed by either of the following unlicensed individuals:</p> <ul style="list-style-type: none"> <li>(a) A surgical technologist who meets the qualifications established by the health facility or agency with which he or she is employed or under contract with.</li> <li>(b) A surgical first assistant who meets the qualifications established by the health facility or agency with which he or she is employed or under contract with.</li> </ul> <p>(5) A board may promulgate rules to further prohibit or otherwise restrict delegation of specific acts, tasks, or functions to a licensed or unlicensed individual if the board determines that the delegation constitutes or may constitute a danger to the health, safety, or welfare of the patient or public.</p> <p>(6) To promote safe and competent practice, a board may promulgate rules to specify conditions under which, and categories and types of licensed and unlicensed individuals for whom, closer supervision may be required for acts, tasks, and functions delegated under this section.</p> <p>(7) An individual who performs acts, tasks, or functions delegated pursuant to this section does not violate the part that regulates the scope of practice of that health profession.</p> <p>(8) The amendatory act that added this subsection does not require new or additional third party reimbursement or</p>
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		mandated worker's compensation benefits for services rendered by an individual authorized to perform those services under subsection (4).
<b>Minnesota</b>	Minnesota Statutes 2008 Chapter 147 Board of Medical Practice	<b>147.091 GROUNDS FOR DISCIPLINARY ACTION.</b>  (i) Aiding or abetting an unlicensed person in the practice of medicine, except that it is not a violation of this paragraph for a physician to employ, supervise, or delegate functions to a qualified person who may or may not be required to obtain a license or registration to provide health services if that person is practicing within the scope of that person's license or registration or delegated authority.
<b>Mississippi</b>	E-mail Received from Authority (Wednesday, June 10, 2009 12:28 PM)	A physician may delegate in the office. They are of course responsible for the actions of the person to whom things have been delegated.  In hospital, that would have to be done by the hospital Board as a privilege grant. MSBML would not have anything to do with that procedure as they would assume the risk and liability.
<b>Montana</b>	Montana Board of Medical Examiners Declaratory Statement (November 20, 1999)	<b>Statement On Physician Authority To Delegate Tasks And Responsibilities</b> The Montana Board of Medical Examiners has been asked whether a physician's statutory authority to direct and/or delegate responsibility and duty to medical assistants and other unlicensed individuals in the physician's office may be restricted by adoption of a rule or regulation by another State Board. To clarify the Board's position on this issue, the Board offers the following observations and conclusions. As set forth in 37-3-102(6), Montana Code Annotated, the "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. Those who assist physicians in the practice of medicine, including physical therapists, technicians, or other paramedical specialists, are exempted from licensing requirements if they render services under the appropriate amount and type of supervision of a person licensed under the laws of this state to practice of medicine [emphasis added]. 37-3-103(1), Montana Code Annotated.

		<p>The foregoing sections clearly contemplate that the physician will delegate certain tasks and responsibilities to assistants. Thus the Board's conclusion is that physicians in the State of Montana are essentially issued unrestricted licenses to practice medicine and there presently exists no statute or other authority which restricts either the types of tasks which may be delegated, or to whom they may be delegated (with the exception of Title 37, Chapter 20, Montana Code Annotated, pertaining to the performance of a physician assistant certified's services under an approved utilization plan), by a licensed physician.</p> <p>This state supersedes the Board's prior statement issued on May 17, 1996. Montana Board of Medical Examiners November 20, 1999</p>
<b>Nebraska</b>	E-mail from Authority (Wed 6/10/2009 11:23 AM)	<p>Our Legal Counsel has informed me that the attached case has never been over-ruled. This case law in effect restricts a physician from delegating the practice of medicine and surgery to unlicensed individuals, or to individuals with a license in another profession except as specified in their practice act or regulations.</p> <p>State of Nebraska v. Howard Paul (Filed Oct. 20, 1898, No. 10011.)</p>
<b>Nevada</b>	Nevada Revised Statutes Chapter 449 - Medical And Other Related Facilities Licensing, Regulation And Inspection	<p><b>NAC 449.385 Surgical services. ( NRS 449.037 )</b></p> <p>14. A registered nurse or operating room technician may serve as a first assistant if:</p> <p>(a) The medical staff has not otherwise required that the first assistant in a surgery be a physician; and</p> <p>(b) The medical staff has designated the nurse or technician as having sufficient training to assist in the procedure adequately and properly.</p>
<b>New Hampshire</b>		
<b>New Jersey</b>	AST Letter on New Jersey Specifics	<p>The Professions and Occupations Code in Section 45:9-5.1 states that the practice of medicine includes "surgery." In Section 45:9-21 no delegatory authority for physicians to unlicensed persons is listed. In addition, in the Administrative Regulations of the Board of Medical Examiners, Section 13:35-4.1 states that:</p> <p>A major surgical procedure shall be performed by a duly qualified surgeon, duly qualified assisting physician who may be a duly qualified surgical resident in a training program approved by the Educational Council of the American Medical association of the American</p>

		<p>Osteopathic Association, except in matters of dire emergency.</p> <p>Combining the administrative regulation requiring physician assistants for major surgery with no provisions for physician delegation to unlicensed persons might lead to a conclusion that surgical technologists might not be able to first assist in New Jersey, although in cases of minor surgery this might be allowed.</p> <p>Physician Assistant and Registered Nurse First Assistants approached the New Jersey Board of Medicine in 1995 in order to get an opinion rendered that would allow them to first assist. The current State Board of Medical Examiners state that the hospital may determine what is major surgery, but that the hospital’s definition must at least include:</p> <ul style="list-style-type: none"> <li>• A procedure in which an opening is made into any of the three major body cavities (abdomen, chest, or head), exclusive of endoscopic approaches which explore existing channels and involve no transverse of a body wall (for example, bronchoscopy, colonoscopy) or are exclusively diagnostic (for example, laparoscopy, colposcopy). With respect to non-diagnostic endoscopic procedures requiring the transverse of a body wall, a duly qualified first assistant shall be immediately available in the operating suite.</li> <li>• A procedure involved major amputation</li> <li>• A procedure performed where the locality, the condition, the difficulty or the length of time required to operate would constitute a direct hazard to the life of the patient.</li> </ul> <p>In 1995 the New Jersey Board of Medicine looked at the issue of PA, RN, CFA, and CST first assistants. At that time, the Board of Medicine also considered the addition of CFA to the language that would allow first assisting in New Jersey. They decided at that time not to add such language.</p> <p>It remains the position of the Association of Surgical Technologists that qualified holders of the CFA credential should be allowed to practice, but current administrative regulations precludes this in New Jersey at this time.</p>
<p><b>New Mexico</b></p>	<p>New Mexico Statutes Annotated Medical Practice Act</p>	<p><b>61-6-17. Exceptions to act. (Repealed effective July 1, 2016.)</b>  The Medical Practice Act [Chapter 61, Article 6 NMSA 1978] shall not apply to or affect:</p>



	<p>Chapter 61 Professional and Occupational License Article 6 Medicine and Surgery</p>	<p>H. an act, task or function of laboratory technicians or technologists, x-ray technicians, nurse practitioners, medical or surgical assistants or other technicians or qualified persons permitted by law or established by custom as part of the duties delegated to them by:</p> <p>(1) a licensed physician or a hospital, clinic or institution licensed or approved by the public health division of the department of health or an agency of the federal government; or</p> <p>(2) a health care program operated or financed by an agency of the state or federal government;</p> <p>I. a properly trained medical or surgical assistant or technician or professional licensee performing under the physician's employment and direct supervision or a visiting physician or surgeon operating under the physician's direct supervision a medical act that a reasonable and prudent physician would find within the scope of sound medical judgment to delegate if, in the opinion of the delegating physician, the act can be properly and safely performed in its customary manner and if the person does not hold himself out to the public as being authorized to practice medicine in New Mexico. The delegating physician shall remain responsible for the medical acts of the person performing the delegated medical acts;</p>
	<p>New Mexico Statutes Annotated Medical Practice Act Chapter 61 Professional and Occupational License Article 6 Medicine and Surgery</p>	<p><b>61-6-15. License may be refused, revoked or suspended; licensee may be fined, censured or reprimanded; procedure; practice after suspension or revocation; penalty; unprofessional and dishonorable conduct defined; fees and expenses. (Repealed effective July 1, 2016.)</b></p> <p>D. "Unprofessional or dishonorable conduct", as used in this section, means, but is not limited to because of enumeration, conduct of a licensee that includes the following:</p> <p>(27) failure to adequately supervise, as provided by board rule, a medical or surgical assistant or technician or professional licensee who renders health care;</p>
<p><b>New York</b></p>	<p>Letter from the New York State Education Department</p>	<p><b>Subject:</b> Hospitals' Use of Personnel as First Assistants to Surgeons</p> <p>This memorandum is to identify and clarify operating room procedures that may be performed only by qualified</p>

	(August 24, 1998)	<p>licensed professionals or by other authorized individuals. This clarification is in response to questions raised by the field.</p> <p><b>Background:</b></p> <p>Our interpretation of the Education Law is reflected below. The attached summary, which describes the application of the statutory requirements, is informed by factual information provided by many interested parties. These interested members of professional associations representing medicine and nursing, practicing surgical technologists, surgical technology educators, hospital administrators, registered nurses credentialed as first assistants to surgeons, staff from the Department of Health, and legislative staff.</p> <p>This important input was provided in several ways, beginning with a group discussion attended by over twenty individuals. That general meeting resulted in the gathering of substantial information related to the current state of surgical practice and use of unlicensed persons to perform tasks as first assistants to surgeons. Following that discussion, the Office of Professions convened joint professional practice meetings with staff and State board members representing both medicine and nursing to frame the issues and recommend an occasions with the Department of Health to discuss and consider the recommendations of the joint professional practice committee.</p> <p><b>The Law:</b></p> <p>Section 6512 of the Education Law prohibits the practice of any profession, whose scope is defined and protected within Title 8 of the Education Law, by persons who are not qualified licensed professionals, or otherwise statutorily authorized. That provision states that anytime not authorized to practice, who practices any profession in which a license is a prerequisite shall be guilty of a crime. Unlicensed, or otherwise unauthorized persons, who perform tasks as first assistants to a surgeon during surgery may only perform duties that do not require licensure. The sections that reflect the need for licensure to practice are: the medical practice act (Education Law, Section 6521), the nurse practice act (Education Law, Section 6902), and the practice act of other licensed profession whose education, training, and scopes of practice permit some practice in operating rooms. These include physician assistants, specialist assistants, dentists, and podiatrists, all of whom may perform duties in the</p>
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		<p>operating room as authorized by the defined scopes of practice of their professions.</p> <p>The attached chart reflects the tasks frequently performed by first assistants to surgeons. The first column identifies the modalities; the second describes the tasks an unlicensed person could be trained to perform; the third lists the duties only a qualified and trained licensee could carry out.</p> <p><b>Future Possibilities for Surgical Assistants:</b></p> <p>The Department of Health has informed us that they are currently planning to develop regulations to define a new category of registered specialist assistant, to be designated as surgical assistant. This is based on the authority granted in Section 6540 of the Education Law. This new surgical assistant category would give man currently unlicensed surgical technicians the opportunity to become registered by the State Education Department and, once registered, may legally perform certain additional assisting duties in surgery. The Department of health advises that proposed regulations for this new category of specialist assistant should be sent to the field this fall for public comment. Individuals interested in learning more about these proposed surgical assistant regulations should contact Lisa McMurdo at the Department of Health at (518) 402-1044.</p> <p>The attachment summary of operating room practices involves very serious aspects of patient care. The laws are clear about the requirement that only licensed persons may provide these services, in order to best protect the public. Unlicensed persons now employed in these settings may continue to be employed to assist in the operating room but only for tasks that do not require licensure as set out in law for licensed professionals in these fields.</p>
<p><b>North Carolina</b></p>	<p>North Carolina General Statutes Chapter 90. Medicine and Allied Occupations Article 1. Practice of Medicine</p>	<p>§ 90 18. Practicing without license; penalties.</p> <p>(13) The performance of any medical acts, tasks, and functions by a licensed physician assistant at the direction or under the supervision of a physician in accordance with rules adopted by the Board. This subdivision shall not limit or prevent any physician from delegating to a qualified person any acts, tasks, and functions that are otherwise permitted by law or established by custom. The Board shall authorize physician assistants licensed in this State or another state to perform specific medical acts, tasks, and functions during a disaster.</p>

<b>North Dakota</b>		
<b>Ohio</b>	Ohio Revised Code & Ohio Administrative Code, Chapter 4731-23 Delegation of Medical Tasks	<p><b>4731-23-01 Definitions.</b></p> <p>As used in Chapter 4731-23 of the Administrative Code:</p> <p>(A) “Administer” means the direct application of a drug, whether by injection, inhalation, ingestion, or any other means to a person.</p> <p>(B) “Delegate” means to transfer authority for the performance of a medical task to an unlicensed person.</p> <p>(C) “On-site supervision” means that the physical presence of the physician is required in the same location (E.G., the physician’s office suite) as the unlicensed person to whom the medical task has been delegated while the medical task is being performed. “On-site supervision” does not require the physician’s presence in the same room.</p> <p>(D) “Physician” means an individual authorized by Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery.</p> <p>(E) “Task” includes, but is not limited to, the administration of drugs in accordance with this chapter of the Administrative Code.</p> <p>(F) “Unlicensed person” means an individual who is not licensed or otherwise specifically authorized by the Revised Code to perform the delegated medical task.</p> <p>(G) “Drug” means the same as in section 4729.01(E) of the Revised Code.</p>
	Ohio Revised Code & Ohio Administrative Code, Chapter 4731-23 Delegation of Medical Tasks	<p><b>4731-23-02 Delegation of medical tasks.</b></p> <p>(1) When the physician has transferred responsibility for the on-site supervision of the unlicensed person who is administering the drug to another physician and that physician has knowingly accepted that responsibility on a patient-by-patient basis; or</p> <p>(5) When written policies and procedures have been adopted for the distribution of drugs by an unlicensed person to individuals incarcerated in state correctional institutions as defined in division (A) of section 2796.01 of the Revised Code, other correctional facilities including county and municipal jails, workhouses, minimum security jails, halfway houses, community residential centers, regional jails and multi-county jails, or any other detention facility as defined in division (F) of section</p>

		2921.01 of the Revised Code.
	Ohio Revised Code & Ohio Administrative Code, Chapter 4731-23 Delegation of Medical Tasks	<p><b>4731-23-03 Delegation of medical tasks; Prohibitions.</b></p> <p>(A) A physician shall not delegate the practice of medicine as defined in section 4731.34 of the Revised Code unless specifically authorized to do so in the Revised Code or by an administrative rule adopted pursuant to the Revised Code and which became effective prior to April 10, 2001. Nothing in this chapter of the Administrative Code shall prohibit the performance of emergency medical tasks.</p> <p>(B) A physician shall not delegate a task to an unlicensed person if the task is beyond that person's competence. In a hospital, as defined in section 3727.01 of the Revised Code, or an ambulatory care center affiliated with the hospital (if the center meets the same credentialing, quality assurance, and utilization review standards as the hospital) wherein unlicensed persons are employed or otherwise authorized by the governing authority of the institution to perform specific medical tasks, one factor the physician shall take into account is the policies by which the employer or the governing authority of the institution seeks to ensure that competent persons will be performing the delegated tasks.</p> <p>(C) A physician shall not delegate a medical task that is not within the authority of that physician or is beyond the physician's training, expertise, or normal course of practice.</p> <p>(D) A physician shall not transfer his or her responsibility for supervising an unlicensed person in the performance of a delegated medical task, except to another physician who has knowingly accepted that responsibility.</p> <p>(E) A physician shall not authorize or permit an unlicensed person to whom a medical task is delegated to delegate the performance of that task to another person.</p> <p>(F) Except as provided in divisions (D)(4) to (D)(8) of section 4731.053 of the Revised Code, a physician shall not delegate to an unlicensed person the administration of anesthesia, controlled substances, or drugs administered intravenously.</p> <p>(G) The supervising physician retains responsibility for the manner in which the delegated task is carried out.</p>
<b>Oklahoma</b>	Oklahoma Administrative Rules Title 310 -	<p><b>310:667-25-1. Department of surgery</b></p> <p>(2) In any procedure with unusual hazard to life, as</p>

	Oklahoma State Department of Health Chapter 667 - Hospital Standards Subchapter 25 - Surgical Services	defined by the medical staff, there shall be present and scrubbed as first assistant a physician designated by the credentials committee as being qualified to assist in major surgery. (3) Second and third assistants at major operations, and first assistants at lesser operations, may be nurses, technicians, or other practitioners if designated by the medical staff as having sufficient training to properly and adequately assist at such procedures.
	Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act Title 59 O.S., Sections 480 – 518	<b>492. Designation of physicians - Employment by hospitals - Practice of medicine defined</b>  E. Nothing in the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act shall prohibit: 1. The service rendered by a physician's unlicensed trained assistant, if such service is rendered under the supervision and control of a licensed physician pursuant to Board rules, provided such rules are not in conflict with the provisions of any other healing arts licensure act or rules promulgated pursuant to such act; or 2. The service of any other person duly licensed or certified by the state to practice the healing arts.
<b>Oregon</b>	E-mail Received from Authority (Fri 6/12/2009 10:34 AM)	I have consulted with the Acting Medical Director who reminded me that the OBM (Oregon Medical Board) has always felt that the physician assigning responsibility for any care of the patient to anyone else has an obligation to insure that the “assistant” has the skill and training to perform the task requested. Beyond that there is no law, rule, statute that I can point to.
<b>Pennsylvania</b>	Pennsylvania Administrative Code Chapter 18. State Board of Medicine	<b>§ 18.401. Definitions.</b> The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise: Emergency medical services personnel—Individuals who deliver emergency medical services and who are regulated by the Department of Health under the Emergency Medical Services Act (35 P. S. § § 6921—6938).  <b>§ 18.402. Delegation.</b> (a) A medical doctor may delegate to a health care practitioner or technician the performance of a medical service if the following conditions are met: (1) The delegation is consistent with the standards of acceptable medical practice embraced by the

		<p>medical doctor community in this Commonwealth. Standards of acceptable medical practice may be discerned from current peer reviewed medical literature and texts, teaching facility practices and instruction, the practice of expert practitioners in the field and the commonly accepted practice of practitioners in the field.</p> <p>(2) The delegation is not prohibited by the statutes or regulations relating to other health care practitioners.</p> <p>(3) The medical doctor has knowledge that the delegatee has education, training, experience and continued competency to safely perform the medical service being delegated.</p> <p>(4) The medical doctor has determined that the delegation to a health care practitioner or technician does not create an undue risk to the particular patient being treated.</p> <p>(5) The nature of the service and the delegation of the service has been explained to the patient and the patient does not object to the performance by the health care practitioner or technician. Unless otherwise required by law, the explanation may be oral and may be given by the physician or the physician's designee.</p> <p>(6) The medical doctor assumes the responsibility for the delegated medical service, including the performance of the service, and is available to the delegatee as appropriate to the difficulty of the procedure, the skill of the delegatee and risk level to the particular patient.</p> <p>(b) A medical doctor may not delegate the performance of a medical service if performance of the medical service or if recognition of the complications or risks associated with the delegated medical service requires knowledge and skill not ordinarily possessed by nonphysicians.</p> <p>(c) A medical doctor may not delegate a medical service which the medical doctor is not trained, qualified and competent to perform.</p> <p>(d) A medical doctor is responsible for the medical services delegated to the health care practitioner or technician.</p> <p>(e) A medical doctor may approve a standing protocol delegating medical acts to another health care practitioner who encounters a medical emergency that requires medical services for stabilization until the medical doctor</p>
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<b>Rhode Island</b>	E-mail Received from Authority (Thu 6/11/2009 8:08 AM)	<p>The Board of Medical Licensure and Discipline is in receipt of your request for information regarding surgical first assistants in Rhode Island. Your request has been forwarded to this office for response.</p> <p>The short answer to your request is that Rhode Island has not taken an official position on this matter. Accordingly, it has neither a statute nor regulation on the subject. From time to time, the Boards of Medicine and Nursing discuss the issue of qualifications for surgical first assistants. To date, surgeons in Rhode Island are permitted to train their own first assistants and there appears to be little in the way of prerequisite background training requirements.</p> <p>The Department of Health is aware that there are variations in requirements among the states. It is foreseeable that formalized requirements may become a reality in Rhode Island.</p>
<b>South Carolina</b>	Code Of Laws of South Carolina 1976 Annotated Chapter 47. Physicians, Surgeons and Osteopaths	<p><b>§ 40-47-30. Authorization to Practice.</b></p> <p>(A) A person may not practice medicine in this State unless the person is twenty-one years of age and has been authorized to do so pursuant to the provisions of this article. Nothing in this article may be construed to:</p> <p>(5) prohibit a licensed physician from delegating tasks to unlicensed personnel in the physician's employ and on the premises if:</p> <ul style="list-style-type: none"> <li>(a) the task is delegated directly to unlicensed personnel by the physician and not through another licensed practitioner;</li> <li>(b) the task is of a routine nature involving neither the special skill of a licensed person nor significant</li> </ul>



		<p>risk to the patient if improperly done;</p> <p>(c) the task is performed while the physician is present on the premises and in such close proximity as to be readily available to the unlicensed person if needed;</p> <p>(d) the task does not involve the verbal transmission of a physician's order or prescription to a licensed person if the licensed person requires the order or prescription to be in writing; and</p> <p>(e) the unlicensed person wears an appropriate badge denoting to a patient the person's status. The unlicensed person shall wear a clearly legible identification badge or other adornment at least one inch by three inches in size bearing the person's first name at a minimum and staff position. The identification badge must be worn in a manner so that it is clearly visible to patients at all times;</p>
	<p>61-12. Standards for Licensing Abortion Clinics. [SC ADC 61-12]</p>	<p><b>Part I Definitions and Requirements for Licensure Section 101</b></p> <p>C. Allied Health Professional. A person other than a physician who possesses specialized training and skill acquired by completing certain courses of study or intensive job-related training and, where applicable, has been duly licensed or registered by appropriate licensing or certification agencies. All allied health professionals must be supervised by a physician.</p>
<b>South Dakota</b>		
<b>Tennessee</b>		
<b>Texas</b>	<p>Texas Medical Board: Board Rules Chapter 184, Surgical Assistants</p>	<p><b>§184.13. Physician Supervision.</b></p> <p>(a) Supervision shall be continuous, and shall require that the delegating physician be physically present and immediately available in the operating room to personally respond to any emergency until the patient is released from the operating room and care has been transferred to another physician. Telecommunication is insufficient for supervision purposes.</p> <p>(b) It is the obligation of each team of physician(s) and surgical assistant(s) to ensure that:</p> <ul style="list-style-type: none"> <li>(1) the surgical assistant's scope of practice is identified;</li> <li>(2) delegation of medical tasks is appropriate to the surgical assistant's level of competence;</li> <li>(3) the relationship between the members of the</li> </ul>

		<p>team is defined;</p> <p>(4) that the relationship of, and access to, the supervising physician is defined;</p> <p>(5) a process for evaluation of the surgical assistant's performance is established; and</p> <p>(6) the physician and surgical assistant comply with the provisions of Chapter 193 of this title (relating to Standing Delegation Orders) when applicable.</p> <p><b>§184.14. Supervising Physician.</b> To be authorized to supervise a surgical assistant, a physician must be currently licensed as a physician in this state by the medical board. The license must be unrestricted and active.</p>
	Texas Medical Board: Board Rules Chapter 193. Standing Delegation Orders	<p><b>§193.1. Purpose.</b></p> <p>(b) Likewise, nothing in this chapter shall be construed as to prohibit a physician from instructing a technician, assistant, or nurse to perform delegated tasks so long as the physician retains supervision and control of the technician, assistant, or employee.</p> <p>Nothing in this chapter should be construed to relieve the supervising physician of the professional or legal responsibility for the care and treatment of those persons with whom the delegating physician has established a physician-patient relationship. Nothing in this chapter shall enlarge or extend the applicable statutory law relating to the practice of medicine, or other rules and regulations previously promulgated by the board.</p>
<b>Utah</b>	Utah Administrative Code. Title R432. Health, Health Systems Improvement, Licensing. Rule R432-100. General Hospital Standards.	<p><b>R432-100-14. Surgical Services.</b></p> <p>(f) Qualified surgical assistants shall be used as needed in operations in accordance with hospital by-laws.</p>
<b>Vermont</b>	Vermont Statutes Title 26: Professions and Occupations Chapter 23:	<p><b>§ 1354. Unprofessional conduct.</b></p> <p>(29) delegation of professional responsibilities to a person whom the licensed professional knows, or has reason to</p>

	Medicine and Surgery	know, is not qualified by training, experience, education or licensing credentials to perform them;
	Vermont Statutes Title 26: Professions and Occupations Chapter 33: Osteopathy	<b>§ 1842. Unprofessional conduct</b>  (9) Delegating professional responsibilities to a person who the licensee knows or has reason to know is not qualified by training, experience or licensure to perform them.
<b>Virginia</b>	Chapter 29 of Title 54.1 of the Code of Virginia Medicine	<b>§ 54.1-2901. Exceptions and exemptions generally.</b> A. The provisions of this chapter shall not prevent or prohibit:  6. Any practitioner licensed or certified by the Board from delegating to personnel supervised by him, such activities or functions as are nondiscretionary and do not require the exercise of professional judgment for their performance and which are usually or customarily delegated to such persons by practitioners of the healing arts, if such activities or functions are authorized by and performed for such practitioners of the healing arts and responsibility for such activities or functions is assumed by such practitioners of the healing arts;
	Chapter 29 of Title 54.1 of the Code of Virginia Medicine	<b>§ 54.1-2952. Supervision of assistants by licensed physician, or podiatrist; services that may be performed by assistants; responsibility of licensee; employment of assistants.</b> A. A physician or a podiatrist licensed under this chapter may apply to the Board to supervise assistants and delegate certain acts which constitute the practice of medicine to the extent and in the manner authorized by the Board. The physician shall provide continuous supervision as required by this section; however, the requirement for physician supervision of assistants shall not be construed as requiring the physical presence of the supervising physician during all times and places of service delivery by assistants. Each team of supervising physician and physician assistant shall identify the relevant physician assistant's scope of practice, including, but not limited to, the delegation of medical tasks as appropriate to the physician assistant's level of competence, the physician assistant's relationship with and access to the supervising physician, and an evaluation process for the physician assistant's performance.  No licensee shall be allowed to supervise more than two assistants at any one time.

		<p>Any professional corporation or partnership of any licensee, any hospital and any commercial enterprise having medical facilities for its employees which are supervised by one or more physicians or podiatrists may employ one or more assistants in accordance with the provisions of this section.</p> <p>Activities shall be delegated in a manner consistent with sound medical practice and the protection of the health and safety of the patient. Such activities shall be set forth in a written practice supervision agreement between the assistant and the supervising health care provider and may include health care services which are educational, diagnostic, therapeutic, preventive, or include treatment, but shall not include the establishment of a final diagnosis or treatment plan for the patient unless set forth in the written practice supervision agreement. Prescribing or dispensing of drugs may be permitted as provided in § 54.1-2952.1. In addition, a licensee is authorized to delegate and supervise initial and ongoing evaluation and treatment of any patient in a hospital, including its emergency department, when performed under the direction, supervision and control of the supervising licensee. When practicing in a hospital, the assistant shall report any acute or significant finding or change in a patient's clinical status to the supervising physician as soon as circumstances require, and shall record such finding in appropriate institutional records. The assistant shall transfer to a supervising physician the direction of care of a patient in an emergency department who has a life-threatening injury or illness. The supervising physician shall review, prior to the patient's discharge, the services rendered to each patient by a physician assistant in a hospital's emergency department. An assistant who is employed to practice in an emergency department shall be under the supervision of a physician present within the facility.</p> <p>Further, unless otherwise prohibited by federal law or by hospital bylaws, rules, or policies, nothing in this section shall prohibit any physician assistant who is not employed by the emergency physician or his professional entity from practicing in a hospital emergency department, within the scope of his practice, while under continuous physician supervision as required by this section, whether or not the supervising physician is physically present in the facility. The supervising physician who authorizes such practice by his assistant shall (i) retain exclusive</p>
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	<p>Regulations Governing The Practice of Medicine, Osteopathy, Podiatry and Chiropractic Virginia Board of Medicine Part II. Standards of Professional Conduct</p>	<p><b>18VAC85-20-29. Practitioner responsibility.</b></p> <p>A. A practitioner shall not:</p> <ol style="list-style-type: none"> <li>1. Knowingly allow subordinates to jeopardize patient safety or provide patient care outside of the subordinate's scope of practice or area of responsibility. Practitioners shall delegate patient care only to subordinates who are properly trained and supervised;</li> <li>2. Engage in an egregious pattern of disruptive behavior or interaction in a health care setting that interferes with patient care or could reasonably be expected to adversely impact the quality of care rendered to a patient;</li> <li>3. Exploit the practitioner/patient relationship for personal gain.</li> </ol> <p>B. Advocating for patient safety or improvement in patient care within a health care entity shall not constitute disruptive behavior provided the practitioner does not engage in behavior prohibited in A 2 of this section.</p>
	<p>Regulations Governing The Practice of Medicine, Osteopathy, Podiatry and</p>	<p><b>18VAC85-20-420. Responsibilities of doctors who mix, dilute or reconstitute drugs in their practices.</b></p> <p>A. Doctors of medicine or osteopathic medicine who delegate the mixing, diluting or reconstituting of sterile drug products for administration retain responsibility for patient care and shall monitor and document any adverse</p>

	Chiropractic Virginia Board of Medicine Part IX. Mixing, Diluting or Reconstituting of Drugs for Administration.	responses to the drugs.  B. Doctors who engage in the mixing, diluting or reconstituting of sterile drug products in their practices shall disclose this information to the board in a manner prescribed by the board and are subject to unannounced inspections by the board or its agents.
<b>Washington</b>	Washington Administrative Code	<b>WAC 246-918-230 No agency filings affecting this section since 2003</b> <b>Practice of medicine — Surgical procedures.</b> The following duties constitute the practice of medicine under chapters 18.71 and 18.71A RCW if performed by persons who are not registered, certified, or licensed by an agency of the state to perform these tasks when utilized by surgeons as assistants and are not otherwise exempted by RCW 18.71.030: <ul style="list-style-type: none"> <li>(1) Assisting surgeons in opening incisions by use of any surgical method including laser, scalpel, scissors, or cautery;</li> <li>(2) Assisting surgeons in closing of incisions by use of suture material, staples, or other means;</li> <li>(3) Controlling bleeding with direct tissue contact by the clamping and tying of blood vessels, cautery, and surgical clips;</li> <li>(4) Suturing or stapling tissue; and</li> <li>(5) Tying of closing sutures in any tissues.</li> </ul>
<b>West Virginia</b>	West Virginia Code Chapter 30 Professions and Occupations Article 3. West Virginia Medical Practice Act	<b>§30-3-14. Professional discipline of physicians and podiatrists; reporting of information to board pertaining to medical professional liability and professional incompetence required; penalties; grounds for license denial and discipline of physicians and podiatrists; investigations; physical and mental examinations; hearings; sanctions; summary sanctions; reporting by the board; reapplication; civil and criminal immunity; voluntary limitation of license; probable cause determinations.</b>  (16) Delegating professional responsibilities to a person when the physician or podiatrist delegating the responsibilities knows or has reason to know that the person is not qualified by training, experience or licensure to perform them;
	Title 11 Legislative Rule West Virginia	<b>§11-1A-12. Causes For Denial, Probation, Limitation, Discipline, Suspension Or Revocation of Licenses of Physicians and Podiatrists.</b>

	Board of Medicine Series 1a Licensing and Disciplinary Procedures: Physicians; Podiatrists.	<p>12.1. The Board may deny an application for a license, place a licensee on probation, suspend a license, limit or restrict a license or revoke any license heretofore or hereafter issued by the Board, upon satisfactory proof that the licensee has:</p> <p>z. Practiced or offered to practice medicine and surgery or podiatry beyond the scope permitted by law or accepted and performed professional responsibilities which the licensee knows or has reason to know he or she is not competent to perform;</p> <p>aa. Delegated professional responsibilities to a person whom the licensee knew or had reason to know is not qualified by training, experience or licensure to perform the responsibilities;</p>
<b>Wisconsin</b>	Wisconsin Statutes & Annotations Chapter 448 Medical Practices Subchapter 2. Medical Examining Board	<p><b>448.03 License or certificate required to practice; use of titles; civil immunity; practice of Christian Science.</b></p> <p>(2) EXCEPTIONS. Nothing in this subchapter shall be construed either to prohibit, or to require, a license or certificate under this subchapter for any of the following:</p> <p>(e) Any person other than a physician assistant who is providing patient services as directed, supervised and inspected by a physician who has the power to direct, decide and oversee the implementation of the patient services rendered.</p>
	Wisconsin Medical Board website FAQ	<p><b>Q: What is the level of physician supervision for delegated medical acts? Does it depend on the level of licensure of the person to whom the medical act is delegated?</b></p> <p>A: For persons who are unlicensed, the performance of a delegated medical act must be “directed, supervised and inspected” by the physician. The unlicensed person presumably does not have the degree of knowledge, training or education as licensed health care professionals, such as a nurse, physician assistants, or advance nurse practice prescribers, therefore, the supervision requirement is heightened. Wis. Stats. 448.03 (2)(e).</p>
<b>Wyoming</b>	Chapter 26 - Physicians and Surgeons	<b>33-26-402. Grounds for suspension; revocation; restriction; imposition of conditions; refusal to renew or other disciplinary action.</b>

	<p>Article 1 - General Provisions Medical Practice Act</p>	<p>(a) The board may refuse to renew, and may revoke, suspend or restrict a license or take other disciplinary action, including the imposition of conditions or restrictions upon a license on one (1) or more of the following grounds:</p> <p>(xv) Failure to appropriately supervise nonphysicians to whom the licensee has delegated medical responsibilities;</p> <p>(xvi) Delegating responsibilities to a person who is not qualified by training, experience or licensure;</p> <p>(xvii) Delegating medical responsibilities to a person who is unable to safely, skillfully and competently provide medical care to patients or that are beyond the scope of the specialty areas in which the licensee and the person are trained and experienced;</p>
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