

JOINT STATEMENT ON VERBAL ORDERS FROM A PHYSICIAN THROUGH A CERTIFIED MEDICAL ASSISTANT OR OTHER UNLICENSED PERSON TO AN RN OR LPN

August 2013

At the June 14, 2013 pain management collaborative task force meeting, guidance was requested regarding Board of Nursing Advisory Opinion #11 which considers telephone orders received by health care agencies from physician's office personnel. The question pertains to verbal orders transferred from a physician through either a licensed or unlicensed person including a Certified Medical Assistant as intermediary to a licensed nurse [RN or LPN].

Board of Nursing Advisory Opinion #11 concludes that *'the RN or LPN is the most appropriate person in the physician's office to communicate orders to licensed nursing personnel in the health care agency where the patient is receiving care.'*

The Medical Practice Act, in addition to defining the practice of medicine at 40-47-20[36], contains Section 40-47-30 which defines excepted activities to the licensure requirement and considers verbal transmission of a physician's order. That section, at 40-47-30[A][5] permits a physician to delegate a task to an unlicensed person in the physician's employ who is on the premises if certain conditions are met contained in Section 40-47-30[A][5][a-e].

SECTION 40-47-30. Licensure requirement; excepted activities; physician licensed in another state.

(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:

(1) prohibit service in cases of emergency or the domestic administration of family remedies;

(2) apply to those who practice the religious tenets of their church without pretending a knowledge of medicine if the laws, rules, and regulations relating to contagious diseases and sanitary matters are not violated;

(3) prohibit licensed pharmacists from selling, using, and dispensing drugs in their places of business;

(4) allow under any circumstances, physicians' assistants or optometrists' assistants to make a refraction for glasses or give a contact lens fitting;

(5) prohibit a licensed physician from delegating tasks to unlicensed personnel in the physician's employ and on the premises if:

(a) the task is delegated directly to unlicensed personnel by the physician and not through another licensed practitioner;

(b) the task is of a routine nature involving neither the special skill of a licensed person nor significant risk to the patient if improperly done;

(c) the task is performed while the physician is present on the premises and in such close proximity as to be immediately available to the unlicensed person if needed;

(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

(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;

40-47-20(36) "Practice of Medicine" means:

(a) advertising, holding out to the public or representing in any manner that one is authorized to practice medicine in this State;

(b) offering or undertaking to prescribe, order, give, or administer any drug or medicine for the use of any other person;

(c) offering or undertaking to prevent or to diagnose, correct or treat in any manner, or by any means, methods, or devices, disease, illness, pain, wound, fracture, infirmity, defect, or abnormal physical or mental condition of a person, including the management or pregnancy and parturition;

(d) offering or undertaking to perform any surgical operation upon a person;

(e) rendering a written or otherwise documented medical opinion concerning the diagnosis or treatment of a patient or the actual rendering of treatment to a patient within this State by a physician located outside the State as a result of transmission of individual patient data by electronic or other means from within a state to such physician or his or her agent;

(f) rendering a determination of medical necessity or a decision affecting the diagnosis and/or treatment of a patient is the practice of medicine subject to all of the powers provided to the Board of Medical Examiners, except as provided in Section 38-59-25;

(g) using the designation Doctor, Doctor of Medicine, Doctor of Osteopathic Medicine, Physician, Surgeon, Physician and Surgeon, Dr., M.D., D.O., or any combination of these in the conduct of any occupation or profession pertaining to the prevention, diagnosis, or treatment of human disease or condition unless such a designation additionally contains the description of another branch of the healing arts for which one holds a valid license in this State that is applicable to the clinical setting;

The Pharmacy practice act provides the following with respect to verbal orders: Section 40-43-86(F)

A prescription drug order must be issued for a legitimate medical purpose by a practitioner acting within the course of legitimate professional practice. The prescription drug order must be received at the pharmacy as it was originally transmitted. Each prescription drug order becomes part of a permanent record and must be readily retrievable. The institutional pharmacist must review the physician's drug order, or a direct copy, prior to dispensing any drug (except for emergency use). Electronically transmitted prescription drug orders shall meet these requirements:

(1) must be sent only to a pharmacy of the patient's choice;

(2) must be received at the pharmacy as it was originally transmitted by facsimile or computer and shall include the name and address of the practitioner, the phone number for verbal confirmation, the time and date of transmission, and the name of the pharmacy intended to receive the transmission, as well as any other information required by federal or state law;

(3) a pharmacist may dispense prescription drug orders transmitted electronically only when transmitted by an authorized practitioner or his designated agent;

(4) the pharmacist shall exercise professional judgment regarding the accuracy or authenticity of the transmitted prescription drug order consistent with existing federal or state laws and regulations;

(5) any alterations of electronic transfer of a prescription drug order or information constitutes an unlawful act which will be prosecuted by the Attorney General of this State;

(6) the prescribing practitioner may authorize his agent to transmit a prescription drug order orally or electronically to the pharmacy provided that the identity of the transmitting agent is included in the order.

Accordingly, the Boards of Medical Examiners and Pharmacy concur with BON Advisory Opinion #11 and further state that medical and pharmacy practitioners must comply with Sections 30 and 86 respectively of the Medical and Pharmacy practice acts in the execution of verbal orders.