

CBRPA Response to:

ARRT FAQs: Legal, Ethical and Reimbursement Issues for Radiologist Extenders

The preface to the ARRT document states that the information contained in the document should be used for “general information purposes only and should not be construed as legal advice or legal opinions on any specific facts or circumstances.”¹ The information characterized in the document offers peripheral clarification on the issues; however, it has escalated the circulating confusion and misinformation.

The following questions were taken from the ARRT document; however, the answers provided come from experience, federal and state regulations and have been reviewed by legal counsel.

Legal/Licensure Issues

Q: *I have been told that the radiologist that I work for has the legal authority to delegate duties to his employees so I don't need to worry about limits on my scope of practice as long as I am following his instructions.¹*

A: Physicians do have the authority to delegate tasks and responsibilities to other health professionals if the health professional has the educational background and competency to perform the task. Physicians and non-physician professionals fully understand that a non-physician health professional can not practice medicine, nor would any physician consider delegating tasks that would construe the “practice of medicine.”

Q: *But aren't the duties and level of supervision legally set by the employing physician?¹*

The supervising physician may delegate the procedure as long as the procedure delegated is within the scope of practice of the delegatee, in compliance with state laws, and/or meets the health care facility credentialing criteria. The levels of supervision are dependent upon the type of facility and insurance carrier.

The ARRT cites the Tennessee law which states “a radiologist assistant may not interpret images, make diagnoses or prescribe medications or therapies.” Again, the physician and the radiologist extenders fully understand the law. However, a radiologist extender can provide a internal technical imaging report to the radiologists, much like the sonographers currently do.

Q: *I've read assurances that radiologist extenders can practice under a radiologist's license unless there are state laws that preclude it.¹*

This statement is correct. RRAs should know and RPAs do know that the formal interpretation and diagnosis is always made by the radiologist. When the RPA goes before the credentialing committee of the health care facility for approval to perform services in the facility, the limitations are outlined by the radiologists and the medical board of the health facility.

The ARRT document appears to perpetuate the notion that the radiologist extender, notably, the RPA, is attempting to practice medicine. This is not true.

Ethical Issues

Q: *Florida has legislation under consideration to address advanced practice by radiologic technologists. It has come to light that RPAs in Florida were already doing advanced practice. The existing law regulating the practice of radiologic technologists does not permit such practice so it may be determined by Florida licensing authorities that a licensed radiographer working as an RPA in Florida is exceeding his/her scope of practice and is in violation of state law. Since all RPAs are also R.T.s are the individuals violating the ARRT's Standards of Ethics?¹*

If the RPAs in Florida are doing advanced practice and are, perhaps, in violation of state law, then the RRAs working in California are also in violation of the California state law. When a state lacks specific laws regarding licensing of health care workers, and a number of states do not license R.T.s, then certification, the scope of practice, the health facility's policies, via the credentialing committee, and the delegation section of the medical practice act is used to determine the role of an individual within a facility.

To prove that an RPA is in violation of a state law, a legal complaint would first have to be filed against the radiologist to determine if the physician has the right and authority to delegate tasks and responsibilities. However, if an RPA or an RRA clearly did something that was totally outside of the scope of practice or role delineation without the directive or proper supervision of a radiologist, then they would be legally liable and ethics charges could be, and should be, brought against them.

Q: *Does that mean if a state does not have a law specifically regulating radiologic technology that it is OK to work as a radiologist extender?¹*

A: A radiologist or any physician would have increased liability and a disadvantage towards an individual without adequate education and training to perform the assigned tasks. The physician would be liable for any mistakes or lack of care the physician extender did or did not do. A certification agency, such as ARRT or CBRPA, must investigate any violation of state law committed by a registrant and if the charges are valid, then the individual's certificate should be revoked by both agencies.

Q: *If an individual certified by ARRT in radiography works as a radiologist extender and the extender's performance does not violate the state's medical practice act or any other state law, have the ARRT's Standards of Ethics been violated?¹*

The ARRT document contains a true response to this question ... "Although the advanced practice is outside the role defined for the ARRT's radiography certification, such practice does not violate the current ARRT *Standard of Ethics* provided that the individual has received additional training, education and/or certification that supports this role and provided that they are not otherwise violating state law."¹

Medicare Reimbursement

Q: *What are the general guidelines for reimbursement under the Medicare Payment Rules for Diagnostic Tests?¹*

Payment for services under the Center for Medicare and Medicaid Services (CMS) is paid under the physician fee schedule. Supervision

levels for each type of diagnostic procedure is listed and may vary depending upon the type of practice setting. Practice settings are identified as a skilled nursing facility (SNF) or hospital, independent diagnostic testing facility (IDTF) and a private physician office.² RPAs and RRAs do not have CMS PIN numbers to bill independently or directly, so their services are included as part of the radiologist's services, if the RPA or RRA is an employee of the radiology group. If the RPA and RRA works directly for the hospital or SNF, then the billing for services is bundled into payment system for the hospital. One must understand who employs the RA or RPA, the type of facility where the radiologist extender is working, the supervision levels required for specific procedures and the interpretation of the regulations in order to prevent problems from developing.

Q: *Is modification of CMS rules necessary to authorize payment for procedures performed by radiologist extenders?*¹

A: A change in the level of radiologist supervision of diagnostic tests as currently set forth in the CMS regulations is needed for the RPA or RRA to perform certain procedures.

Presently, the Role Delineation of RRAs lists supervision levels for various tasks and procedures. Inclusion of these supervision levels limits the efficiency of the RRAs for all patients, not just Medicare patients.

Q: *Doesn't the role of a radiologist extender as defined by the certification agency authorize the individual to perform the procedures?*¹

A: The scope of practice or the role delineation defined by a certification agency outlines the parameters of the professional level and is used by the hospital credentialing committee to determine the role of the RPA or RRA within the facility. If the scope of practice or the role delineation prohibits the performance of a task or procedure, then the credentialing committee will have the decision to authorize the radiologist extender to perform such procedure. The scope of practice or the role delineation does not have any bearing on CMS reimbursement policies. CMS has its own policy and regulations that all RPA's and RRA's must adhere to.

Q: *I've been told that "supervision levels designated by Medicare do not apply in the hospital setting, and that radiologist extenders may perform procedures in a hospital within their demonstrated competency as long as a radiologist is available for consultation."*¹

A: In a hospital or SNF setting, the RPA or RRA is not recognized by CMS as an allied health provider like a PA, NP, or midwife. The radiologist must be involved with each case that specifies a surgical code such as a myelogram in order to bill for the supervision portion of the procedure.

Q: *I've also been told that radiologists may bill for services personally performed by a radiologist extender under the Medicare "incident to" standards.*¹

Responsibilities relating to patient care may be billed as "incident to" services. Diagnostic procedures must follow the supervision regulations pertaining to the type of facility . Only a procedure performed in an IDTF can be billed " incident to".

Q: *So what is the bottom line on whether procedures performed by radiologist extenders can be billed under Medicare?*¹

The physician supervisory rules for hospitals, IDTFs and private physician group practices must be followed. Imaging procedures performed using the rules are billable under the radiologist fee schedule.

¹ American Registry of Radiologic Technologists, www.arrt.org. May, 2006

² "Should you be an IDTF?" Imaging Economics, April 2006, www.imagingeconomics.com