

Delegation of Duties and Billing Practices

Within the licensing law for physicians in all states is a delegation clause or section which essentially states that a physician may delegate to non-physician healthcare professionals who function under the supervision of the physician assigned tasks and responsibilities, provided the individual has the education and training to competently perform the delegated duties. In the opinion of the delegating physician the delegated task (1) can be properly and safely performed by the person to whom the medical act is delegated; (2) is performed in its customary manner (according to protocol); and is not in violation of any other state or federal statutes or hospital policy.¹ These services are payable under the separate benefit category of diagnostic tests found at Section 1861(s)(3) of the Social Security Act (SSA) and are subject to the instructions at Chapter 15, Section 80 of the Medicare Benefit Policy Internet Only Manual (IOM).³

In most events the physician is responsible for the delegated acts through the common law of “respondeat superior”, which states that employers are responsible for the acts of his or her employees. However, there is one limited exception wherein the physician is not liable to this rule and that is when the standing orders or the protocol is not followed. However, if the physician has reason to know the health professional lacks the competency to perform the delegated acts or procedures, then the physician is liable.¹

Delegation of duties to a certified RPA allows the physician to bill for services as physician’s services. Several conditions must be met to satisfy the standard: (1) the RPA must be an employee of the physician group; (2) the services must be medically necessary, within the scope of practice for the RPA and of the type normally performed at the practice site; (3) the adequate level of supervision (using the CMS definitions or hospital policies) must be provided; and (4) the physician must have contact with all new Medicare patients or Medicare patients who have new medical problems.²

While a RPA may greatly enhance the efficiency of the radiology services, the risk of increased liability is present if they are not properly managed and supervised. To reduce this risk the following precautions should be practiced:

1. Check the scope of practice of the RPA and make certain delegated tasks stay within the parameters of the scope or as outlined in the health care facility's credentialing process.
2. Ensure the RPAs educational background has prepared them to perform delegated tasks.
3. Ensure their licensure status and certification are up-to-date.
4. Ensure the RPA attends appropriate continuing education courses.
5. Ensure the RPA is properly supervised in accordance with CMS guidelines or hospital policies.
6. Ensure the RPA is trained with respect to the group's compliance plans for fraud or abuse, HIPAA and other issues.
7. Make sure the group's liability insurance covers the RPA and/or the RPA has sufficient malpractice insurance coverage.
8. The RPA must always introduce themselves by their health professional status and not cause any reason for misinterpretation by the patient. ²

The clinical privileges and authority of any physician extender varies state by state and by billing insurance carriers. Each practice should verify the rules and/or regulations governing its own jurisdiction

References

1. Practice Management, TMA Health Law Articles, Texas Medical Association, 1999-2001, TMA web: www.texmed.org
2. The Use of Physician Extenders in Radiology, by Robert Portman, J.D., IR News, Legally Speaking Column, Spring, 2003.
3. Section 1861(s)(3) of the Social Security Act (SSA), Section 1861 (s)(3), and Chapter 15, Section 80 of the Medicare Benefit Policy Internet Only Manual (IOM).

