

LOUISIANA STATE BOARD OF MEDICAL EXAMINERS

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(504) _____

RE: Advisory Opinion-Physician
Delegation of Medication Administration

At its most recent meeting the Louisiana State Board of Medical Examiners (the "Board") considered your correspondence outlining the efforts of the Louisiana Department of Health and Hospitals ("DHH") to coordinate medication administration in the health care delivery system in Louisiana. You have advised that one of the methods employed in certain DHH (waiver) programs is *physician delegation*. You note that until recently, DHH was under the impression that it was within a physician's scope of practice to delegate the task of medication administration to a non-licensed individual *i.e.*, a friend or personal care attendant who, we are given to understand, administered medication in the absence of a physician. Comments made at a recent meeting by myself have led you to ask for ". . . [T]he official stance of the Board regarding physician delegation of medication administration." The Board has asked that I acknowledge your letter of October 18, 2007, and relay its advice.

Administration of medication may be undertaken only by a person who is licensed to do so such as a nurse, physician assistant, or physician or in the case of an unlicensed person who does so under a physician's direction and immediate personal supervision *i.e.*, where the physician is physically present at *all times* that the unlicensed individual provides medical services and retains full responsibility to patients for the training, delivery and results of all services rendered. To do otherwise would be deemed the unlawful "practice of medicine" as defined by the Louisiana Medical Practice Act (the "Act"), La. Rev. Stat. §37:1262(1)¹. The requirement for on site supervision has been

¹La. Rev. Stat. § 37:1262(1) provides, in pertinent part:

[T]he holding out of one's self to the public as being engaged in the business of, of the actual engagement in, the diagnosing, treating curing, or relieving of any bodily or mental disease, condition, infirmity, deformity, defect, ailment, or injury in any human being...whether by the use of any drug, instrument or force...or any other agency or means; or the examining...of any person or material from any person for such purpose.... (emphasis supplied)

held by the Board consistently over the years in Statements of Position and in Advisory Opinions.

The scope of the "practice of medicine" explicitly includes a physician's "... use of any other agency or means" in the diagnosis or treatment of patients. The Board has consistently held that this clause of the statutory definition embraces, among other items, a physician's delegation of medical services to an unlicensed individual who, acting upon the authority of the physician's license and under his immediate supervision, assists the physician in the delivery of health care services to his or her patients.

Understanding that the Board's position on physician delegation has remained constant over many years we are not, however, insensitive to the immediate adverse impact on the delivery of health care in Louisiana that DHH forecasts by recognition of our position. Accordingly, the Board has determined that it would be appropriate to withhold enforcement action with respect to DHH's waiver programs so that you may find some other way of providing medications to patients in this program and to allow for the continuity of care in the interim. In the meantime, the Board would expect that DHH will insure that individuals administering medication in its waiver programs are competent to do so.

While we understand that the above response is not that for which you had hoped, we trust that it is responsive to your inquiry and that the interim accommodation provided is helpful. If we may be of further assistance, please feel free to contact us.

Finally, we would ask that you contact us with respect to any legislative resolution you may believe necessary to address this matter.

Very truly yours,

**LOUISIANA STATE BOARD OF
MEDICAL EXAMINERS**

By: 
Robert L. Marier, M.D.
Executive Director