

Louisiana State Board of Medical Examiners

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January 4, 2010

RE: Advisory Opinion-
Performance of Lithotripsy

At its most recent meeting the Louisiana State Board of Medical Examiners (the "Board") considered your inquiry. As we understand, the arrangement between the physician urologist who performs lithotripsy at your facility twice monthly and a lithotripsy technician who assists him, provides that the "technician will be supervised and assisted by the physician." You have asked whether the physician "must stay in the room at all times." The Board has asked that I acknowledge your note of November 19, 2009, and relay its advice.

As Louisiana law does not provide a class of licensure for "lithotripsy technicians" and the employee you describe is unlicensed in any category of allied health care that may allow the performance of such functions under the scope of his or her own license, the activities you describe necessarily constitute the practice of medicine¹ as defined by the Louisiana Medical Practice Act, La. Rev. Stat. §37:1262(1). As a result, such activities may only be undertaken or

¹LA. REV. STAT. ANN. §§37:1261-1292. In pertinent part, as defined by the Act, the "practice of medicine" means

{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....

La. Rev. Stat. §37:1262(1) (emphasis supplied).

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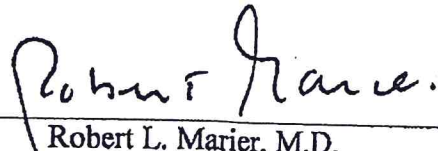
performed in this state by a Louisiana licensed physician² or an unlicensed individual who functions solely under a licensed physician's direction and immediate personal supervision—*i.e.*, where the physician is physically present in the office or suite where the procedure is being performed at *all times* that the unlicensed assistant is on duty (irrespective of the employee's level of training or experience) and retains full responsibility to patients for the training, delivery and results of all services rendered. An individual filling such a position could not—and may not be permitted to under any circumstances—act independently of a licensed physician or to exercise independent medical judgment in starting, selecting or implementing modalities of treatment. If an unlicensed person acts beyond this scope he or she (and perhaps the physician as well) would be in violation of the Louisiana Medical Practice Act.

We hope that our response to your inquiry is sufficient for your needs. If not, or if we may be of further assistance, please feel free to contact us.

Very truly yours,

LOUISIANA STATE BOARD OF
MEDICAL EXAMINERS

By: _____



Robert L. Marier, M.D.
Executive Director

²La. Rev. Stat. §37:1271 provides that "[n]o person shall practice medicine...as defined herein until he possesses a duly recorded license" issued by the Board.