

WSR 23-09-061

PROPOSED RULES

DEPARTMENT OF HEALTH

[Filed April 18, 2023, 2:35 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 22-04-072.

Title of Rule and Other Identifying Information: Medical assistant (MA) rules in WAC 246-827-0010, 246-827-0110, 246-827-0120, 246-827-0140, 246-827-0200, 246-827-0300, 246-827-0400, and 246-827-0610. Proposing rule amendments to update credentialing requirements, ensure that the rules are current and align with best practices, and adding a new section to address telemedicine supervision requirements.

Hearing Location(s): On May 24, 2023, at 10:00 a.m. The department of health (DOH) will be holding a virtual-only hearing. Register in advance for this webinar https://us02web.zoom.us/webinar/register/WN_MjjJeLMPTkGbbKSzmHAtUQ. After registering, you will receive a confirmation email containing information about joining the webinar.

Date of Intended Adoption: May 31, 2023.

Submit Written Comments to: Becky McElhiney, DOH, P.O. Box 47852, Olympia, WA 98504-7852, email medical.assistants@doh.wa.gov, fax 360-236-2850, <https://fortress.wa.gov/doh/policyreview>, by May 24, 2023.

Assistance for Persons with Disabilities: Contact Becky McElhiney, phone 360-236-4766, fax 360-236-2850, TTY 711, email medical.assistants@doh.wa.gov, by May 17, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Proposed revisions to MA rules remove outdated language, remove English language requirements, and update credentialing requirements. Outdated language includes removing language concerning the obsolete health care assistant credential. Removing English requirements will remove unnecessary barriers for otherwise well-qualified MA staff to enter the workforce. RCW 18.360.010 was updated by HB 1378 (chapter 44, Laws of 2021) to allow MA supervision using audio and video technology during a telemedicine visit. DOH is adding a new section to detail regulation for telemedicine supervision in response to HB 1378. Amendments are proposed to remove irrelevant or confusing rule language, which will make the rules more easily understood. Updating credentialing requirements to remove licensure barriers will allow experienced MAs to enter the Washington workforce.

Reasons Supporting Proposal: The proposed rules update and clarify the requirements for MA licensees. The proposal also offers more pathways to licensure for applicants to the MA credential, facilitating access to care by qualified MAs. The proposed changes also remove references to the obsolete osteopathic physicians' assistant and osteopathic physicians' acupuncture assistant credentials as qualified supervising health care practitioners. These proposed changes also implement changes made to RCW 18.360.010 by HB 1378 (chapter 44, Laws of 2021) allowing MA supervision using audio and video technology in a telemedicine visit.

Statutory Authority for Adoption: RCW 18.360.030, 18.360.040, and 18.360.070.

Rule is not necessitated by federal law, federal or state court decision.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: None.

Name of Proponent: DOH, governmental.

Name of Agency Personnel Responsible for Drafting: Becky McElhiney, 111 Israel Road S.E., Tumwater, WA 98504, 360-236-4766; Implementation and Enforcement: James Chaney, 111 Israel Road S.E., Tumwater, WA 98504, 360-236-2831.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Becky McElhiney, P.O. Box 47852, Olympia, WA 98504-7852, phone 360-236-4766, fax 360-236-2850, TTY 711, email medical.assistants@doh.wa.gov.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect.

Is exempt under RCW 19.85.025(4).

Explanation of exemptions: The proposed amendments do not impact businesses.

Scope of exemption for rule proposal:

Is fully exempt.

April 18, 2023
Kristin Peterson, JD
Chief of Policy
for Umair A. Shah, MD, MPH
Secretary

OTS-4140.3

AMENDATORY SECTION (Amending WSR 17-15-075, filed 7/14/17, effective 8/14/17)

WAC 246-827-0010 Definitions. The following definitions apply throughout this chapter unless the context clearly indicates otherwise:

(1) **"Direct visual supervision"** means the supervising health care practitioner is physically present and within visual range of the medical assistant.

(2) **"Forensic blood draw"** means a blood sample drawn at the direction of a law enforcement officer for the purpose of determining its alcoholic or drug content by a person holding one of the credentials listed in RCW 46.61.506, including a medical assistant-certified, medical assistant-phlebotomist, or forensic phlebotomist.

(3) **"Health care practitioner"** means a physician licensed under chapter 18.71 RCW; an osteopathic physician and surgeon licensed under chapter 18.57 RCW; or acting within the scope of their respective licensure, a podiatric physician and surgeon licensed under chapter 18.22 RCW, a registered nurse or advanced registered nurse practitioner licensed under chapter 18.79 RCW, a naturopath licensed under chapter 18.36A RCW, a physician assistant licensed under chapter 18.71A RCW, (~~(an osteopathic physician assistant licensed under chapter 18.57A RCW,)~~) or an optometrist licensed under chapter 18.53 RCW.

(4) **"Hemodialysis"** is a procedure for removing metabolic waste products or toxic substances from the human body by dialysis.

(5) **"Immediate supervision"** means the supervising health care practitioner is on the premises and available for immediate response as needed.

(6) **"Legend drug"** means any drug which is required by any applicable federal or state law or regulation to be dispensed on prescription only or is restricted to use by practitioners only.

(7) **"Medical assistant"** without further qualification means a person credentialed under chapter 18.360 RCW as a:

- (a) Medical assistant-certified;
- (b) Medical assistant-registered;
- (c) Medical assistant-hemodialysis technician; and
- (d) Medical assistant-phlebotomist.

(8) **"Medical assistant-hemodialysis technician"** means a patient care dialysis technician trained in compliance with federal requirements for end stage renal dialysis facilities.

(9) **"Secretary"** means the secretary of the department of health or the secretary's designee.

(10) **"Telemedicine supervision"** means the delivery of direct patient care under supervision by a health care practitioner provided through the use of interactive audio and video technology, permitting real-time communication between a medical assistant at the originating site and a health care practitioner off premises. "Telemedicine" does not include the use of audio-only telephone, facsimile, or electronic mail.

[Statutory Authority: RCW 18.360.030, 18.360.040, and 18.360.070. WSR 17-15-075, § 246-827-0010, filed 7/14/17, effective 8/14/17. Statutory Authority: Chapter 18.360 RCW, RCW 43.70.280, and 2012 c 153. WSR 13-12-045, § 246-827-0010, filed 5/31/13, effective 7/1/13.]

AMENDATORY SECTION (Amending WSR 13-12-045, filed 5/31/13, effective 7/1/13)

WAC 246-827-0110 Delegation and supervision. (1) The medical assistant functions in a dependent role when providing direct patient care under the delegation and supervision of a health care practitioner.

(2) "Delegation" means direct authorization granted by a health care practitioner to a medical assistant to perform the functions authorized in RCW 18.360.050 which fall within the scope of practice of the health care practitioner and the training and experience of the medical assistant.

(3) A medical assistant may only accept delegated tasks when:

- (a) The health care practitioner follows the requirements of RCW 18.360.060;
- (b) The task can be performed without requiring the exercise of judgment based on clinical knowledge;
- (c) The results of the task are reasonably predictable;
- (d) The task can be performed without a need for complex observations or critical decisions;
- (e) The task can be performed without repeated clinical assessments; and
- (f) The task, if performed improperly by:

(i) A medical assistant-certified, medical assistant-registered, or a medical assistant-phlebotomist would not present life-threatening consequences or the danger of immediate and serious harm to the patient.

(ii) A medical assistant-hemodialysis technician is not likely to present life-threatening consequences or the danger of immediate and serious harm to the patient.

(4) A medical assistant may not accept delegation of acts that are not within ~~((his or her))~~ their scope of practice.

(5) A medical assistant is responsible and accountable for ~~((his or her))~~ their practice based upon and limited to:

(a) Scope of ~~((his or her))~~ their education or training;

(b) Scope of practice set forth in law and applicable sections of this chapter;

(c) Demonstration of competency to the delegating health care practitioner;

(d) Written documentation of competency as required by this rule and the health care employer's policies and procedures. The documentation will be maintained by the health care employer.

~~((6) A medical assistant who has transitioned from a health care assistant credential as of July 1, 2013, may not accept delegated tasks unless he or she has received the necessary education or training to safely and competently perform the task.))~~

[Statutory Authority: Chapter 18.360 RCW, RCW 43.70.280, and 2012 c 153. WSR 13-12-045, § 246-827-0110, filed 5/31/13, effective 7/1/13.]

AMENDATORY SECTION (Amending WSR 13-12-045, filed 5/31/13, effective 7/1/13)

WAC 246-827-0120 General standards. (1) ~~((The medical assistant shall have the ability to read, write, and converse in the English language.~~

~~(2))~~ The medical assistant shall have knowledge and understanding of the laws and rules regulating medical assistants, including chapter 18.130 RCW, Uniform Disciplinary Act.

~~((3))~~ (2) The medical assistant shall function within ~~((his or her))~~ their scope of practice.

~~((4))~~ (3) The medical assistant shall obtain instruction from the delegating health care practitioner and demonstrate competency before performing new or unfamiliar duties which are in ~~((his or her))~~ their scope of practice.

~~((5))~~ (4) The medical assistant shall demonstrate a basic understanding of the patient's rights and responsibilities.

~~((6))~~ (5) The medical assistant must respect the client's right to privacy by protecting confidential information and may not use confidential health care information for other than legitimate patient care purposes or as otherwise provided in chapter 70.02 RCW, the Uniform Health Care Information Act.

~~((7))~~ (6) The medical assistant shall comply with all federal and state laws and regulations regarding patient rights and privacy.

[Statutory Authority: Chapter 18.360 RCW, RCW 43.70.280, and 2012 c 153. WSR 13-12-045, § 246-827-0120, filed 5/31/13, effective 7/1/13.]

NEW SECTION

WAC 246-827-0140 Telemedicine supervision—Activities allowed or prohibited. (1) A medical assistant may be supervised by a health care practitioner through telemedicine supervision during a telemedicine visit. Tasks assigned to the medical assistant by a health care practitioner providing telemedicine supervision must fall within the medical assistant's legal scope of practice. The health care practitioner must ensure the task is delegated appropriately under RCW 18.360.060 and is consistent with the standard of care applicable for those tasks when provided in-person. Some tasks are subject to limitations as required in this chapter.

(2) A medical assistant providing direct patient care under telemedicine supervision is subject to this section only if no other health care practitioner is physically present and immediately available in the place where the medical assistant and patient are located.

(3) A medical assistant may perform the following tasks under telemedicine supervision without a health care practitioner present and immediately available during a telemedicine visit:

- (a) Preparing and maintaining examination and treatment areas;
- (b) Taking vital signs;
- (c) Obtaining and recording patient history;
- (d) Observing and reporting patients' signs or symptoms;
- (e) Preparing patients for examination;
- (f) Instructing patients in proper technique to collect urine or fecal specimens; and
- (g) Obtaining specimens for microbiological testing.

(4) A person employed by a health care practitioner or facility is not practicing as a medical assistant as defined in this chapter if the person only performs the following tasks as part of a telemedicine visit:

- (a) Maintaining medication and immunization records;
- (b) Obtaining and recording patient history;
- (c) Reception;
- (d) Scheduling;
- (e) Screening limited to intake and gathering of information; or
- (f) Similar administrative tasks.

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AMENDATORY SECTION (Amending WSR 18-04-080, filed 2/2/18, effective 3/5/18)

WAC 246-827-0200 Medical assistant-certified—Training and examination. An applicant for a medical assistant-certified credential must meet the following requirements:

(1) Successful completion of one of the following medical assistant training programs:

(a) Postsecondary school or college program accredited by the Accrediting Bureau of Health Education Schools (ABHES) or the Commission of Accreditation of Allied Health Education Programs (CAAHEP);

(b) Postsecondary school or college accredited by a regional or national accrediting organization recognized by the U.S. Department of Education, which includes a minimum of (~~seven hundred twenty~~) 720

clock hours of training in medical assisting skills, including a clinical externship of no less than ~~((one hundred sixty))~~ 160 hours;

(c) A registered apprenticeship program administered by a department of the state of Washington unless the secretary determines that the apprenticeship program training or experience is not substantially equivalent to the standards of this state. The apprenticeship program shall ensure a participant who successfully completes the program is eligible to take one or more examinations identified in subsection (2) of this section; ~~((or))~~

(d) The secretary may approve an applicant who submits documentation that ~~((he or she))~~ they completed postsecondary education with a minimum of ~~((seven hundred twenty))~~ 720 clock hours of training in medical assisting skills. The documentation must include proof of training in all of the duties identified in RCW 18.360.050(1) and a clinical externship of no less than ~~((one hundred sixty))~~ 160 hours; or

(e) The secretary may approve an applicant who submits documentation that they completed a career and technical education program approved by the office of the superintendent of public instruction with a minimum of 720 clock hours of training in medical assisting skills. The documentation must include proof of training in all of the duties identified in RCW 18.360.050(1) and a clinical externship of no less than 160 hours.

(2) Pass a medical assistant certification examination, approved by the secretary, within the preceding five years of submitting an initial application or currently hold a national medical assistant certification with a national examining organization approved by the secretary. A medical assistant certification examination approved by the secretary means an examination that:

(a) Is offered by a medical assistant program that is accredited by the National Commission for Certifying Agencies (NCCA); and

(b) Covers the clinical and administrative duties under RCW 18.360.050(1).

[Statutory Authority: RCW 18.360.030, 18.360.070, and 18.360.040. WSR 18-04-080, § 246-827-0200, filed 2/2/18, effective 3/5/18. Statutory Authority: Chapter 18.360 RCW, RCW 43.70.280, and 2012 c 153. WSR 13-12-045, § 246-827-0200, filed 5/31/13, effective 7/1/13.]

AMENDATORY SECTION (Amending WSR 21-02-002, filed 12/23/20, effective 1/23/21)

WAC 246-827-0300 Medical assistant-registered—Application.

~~((Registration requirements — Applicants))~~ An applicant registering for a medical assistant-registered credential shall submit the following:

(1) A completed application on forms provided by the department;

(2) (a) Proof of completion of high school education or its equivalent; or

(b) Proof of enrollment in a health career training or career and technical education program. The training program must comply with all applicable federal and state regulations related to minors in the workforce.

(3) An endorsement signed by a health care practitioner;

- (4) Any fee required in WAC 246-827-990; and
 (5) Fingerprint cards for national fingerprint based background check pursuant to RCW 18.130.064(2), if requested by the department.

[Statutory Authority: RCW 18.19.050, 18.29.130, 18.29.210, 18.34.120, 18.46.060, 18.55.095, 18.84.040, 18.88B.060, 18.89.050, 18.130.050, 18.138.070, 18.155.040, 18.200.050, 18.205.060, 18.215.040, 18.230.040, 18.240.050, 18.250.020, 18.290.020, 18.360.030, 18.360.070, 70.41.030, 70.230.020, 71.12.670, and 18.108.085. WSR 21-02-002, § 246-827-0300, filed 12/23/20, effective 1/23/21. Statutory Authority: Chapter 18.360 RCW, RCW 43.70.280, and 2012 c 153. WSR 13-12-045, § 246-827-0300, filed 5/31/13, effective 7/1/13.]

AMENDATORY SECTION (Amending WSR 13-12-045, filed 5/31/13, effective 7/1/13)

WAC 246-827-0400 Medical assistant-phlebotomist—Certification and training. (~~Certification requirements—Applicants~~) An applicant applying for a medical assistant-phlebotomist credential must meet the following requirements:

(1) Successful completion of a phlebotomy program through a post-secondary school or college accredited by a regional or national accrediting organization recognized by the U.S. Department of Education; or

(2) Currently hold a national phlebotomy certification from one of the following national examining organizations:

(a) American Certification Agency certification for phlebotomist;
 (b) American Medical Certification Association certification for phlebotomist;

(c) American Medical Technologists certification for phlebotomist;

(d) American Society of Clinical Pathology certification for phlebotomist;

(e) National Center for Competency Testing certification for phlebotomist;

(f) National Healthcareer Association certification for phlebotomist; or

(3) Successful completion of a phlebotomy training program. The phlebotomy training program must be approved by a health care practitioner who is responsible for determining the content of the training and for ascertaining the proficiency of the trainee. The phlebotomy training program must include the following:

(a) Training to include evaluation and assessment of knowledge and skills to determine entry level competency in the following areas:

(i) Responsibilities to be delegated which include ethical implications and patient confidentiality;

(ii) Patient identification process;

(iii) Procedure requesting process, including forms used, accessing process, and collection patterns;

(iv) Materials to be used;

(v) Anatomic considerations for performing such functions as venipuncture, capillary finger collection, and heel sticks;

(vi) Procedural standards and techniques for blood collection;

(vii) Common terminology and practices such as medical classifications, standard diagnoses, test synonyms, background information on procedures, and interferences;

(viii) Physical layout of the work place, including patient care areas; and

(ix) Safety requirements including infection prevention and control, dealing with a client who has an infectious disease, and the handling and disposal of biohazardous materials.

(b) Direct visual supervision by a health care practitioner or a delegated and certified medical assistant-phlebotomist to the trainee to ensure competency in the following:

(i) Practice technique in a simulated situation;

(ii) Observe and perform procedures on patients until the trainee demonstrates proficiency to be certified at the minimum entry level of competency. The trainee must have adequate physical ability, including sufficient manual dexterity to perform the requisite health care services. The number of specific procedures may vary with the skill of the trainee.

(c) Documentation of all phlebotomy training, duties, and responsibilities of the trainee must be completed, signed by the supervising health care practitioner and the trainee, and placed in the trainee's personnel file.

~~(d) ((A trainee must complete the training program and submit an application within ninety days of starting the phlebotomy training program to continue to perform procedures on patients.~~

~~(e))~~ Training programs that meet the requirements described in this subsection are approved by the secretary.

[Statutory Authority: Chapter 18.360 RCW, RCW 43.70.280, and 2012 c 153. WSR 13-12-045, § 246-827-0400, filed 5/31/13, effective 7/1/13.]

AMENDATORY SECTION (Amending WSR 13-12-045, filed 5/31/13, effective 7/1/13)

WAC 246-827-0610 Expired credential—Return to active status.

(1) A person holding an expired medical assistant credential may not practice until the credential is returned to active status.

(2) If the medical assistant credential has expired for less than three years, ~~((he or she))~~ they shall meet the requirements of ~~((chapter 246-12 WAC, Part 2))~~ WAC 246-12-020 through 246-12-051.

(3) If the medical assistant credential has been expired for three years or more, and ~~((he or she is))~~ they currently ~~((practicing))~~ practice as a medical assistant in another state or U.S. jurisdiction, ~~((he or she))~~ they shall:

(a) Meet the requirements of ((chapter 246-12 WAC, Part 2,)) WAC 246-12-020 through 246-12-051; and

(b) Provide verification of a current unrestricted active medical assistant credential in another state or U.S. jurisdiction which is substantially equivalent to the qualifications for ((his or her)) the credential in the state of Washington.

(4) If a medical assistant-certified, a medical assistant-hemodialysis technician, or a medical assistant-phlebotomist credential has been expired for three years or more and the person does not meet the requirements of subsection (3) of this section, ~~((he or she))~~ they

shall comply with (~~chapter 246-12 WAC, Part 2,~~) WAC 246-12-020 through 246-12-051 and demonstrate competence in one of the following ways:

(a) A medical assistant-certified must successfully pass an examination as identified in WAC 246-827-0200 within six months prior to reapplying for the credential or currently hold a national medical assistant certification with a national examining organization approved by the secretary.

(b) A medical assistant-phlebotomist must complete the training requirements of WAC 246-827-0400 within six months prior to reapplying for the credential.

(c) A medical assistant-hemodialysis technician must complete the training requirements of WAC 246-827-0500 within six months prior to reapplying for the credential.

(5) If the medical assistant-registered credential has expired, (~~he or she~~) they must also submit a new application as provided for in WAC 246-827-0300.

[Statutory Authority: Chapter 18.360 RCW, RCW 43.70.280, and 2012 c 153. WSR 13-12-045, § 246-827-0610, filed 5/31/13, effective 7/1/13.]