



CASE OF THE MONTH



The Duty to Consult Other Physicians: Ensuring Optimal and Comprehensive Patient Care

by Robert Parhizgar MD, MBA, MS

When a specialist treats a referred patient, making clear who will be managing particular aspects of the patient's ongoing care can help avoid finger-pointing down the road.

The Case¹

A 61-year-old lawyer began treatment with Dr. IM, an internist, and had a prostate specific antigen (PSA) blood test drawn. Dr. IM telephoned the patient with an elevated result of 7.12 and referred the patient to a urologist. When the patient returned to Dr. IM six months later, he reported that he had undergone a prostate biopsy at a cancer center. The result of the biopsy was negative, but he told Dr. IM that his prostate size was 120 grams.

Eleven months later, the patient saw Dr. IM for his annual checkup and reported that a second biopsy taken at the cancer center came back negative, except for a few transitional cells. At the next year's checkup, the patient told Dr. IM that he was being followed by his urologist for an elevated PSA of 9.

During the next year's checkup, Dr. IM ordered a PSA, which came back at 6.37. But after another visit to Dr. IM three years later (now six years since the patient's first visit to Dr. IM), the patient's PSA was 13.2 – elevated but within the fluctuation range for benign prostatic hypertrophy. Nevertheless, Dr. IM referred the gentleman to Dr. U, a urologist.

Dr. U performed a cystoscopy and wrote to Dr. IM that the patient's PSA was 17.7 and that a prostate biopsy showed benign prostatic hyperplasia without malignancy. In his letter, Dr. U attributed microscopic hematuria to a transitional cell carcinoma of the bladder, which he resected. Dr. U closed his medical comments to Dr. IM by stating the patient "will require surveillance cystoscopy" for the bladder, but he did not offer who would be following the patient's prostate issues.

The patient returned to Dr. U roughly every four months for cystoscopies. Dr. U did not obtain any PSA levels after the initial consultation, though a draw ordered by Dr. IM the next year showed a value of 8.03. Several months later, Dr. U resected another bladder tumor. When he last saw the patient two years after that (which was three years after the initial consultation with Dr. U), the patient had no symptoms of cancer.

But two months later during a business trip, the patient experienced extreme pain in his lower back, left leg, and foot. When he returned home, he saw Dr. IM, who ordered a CT, MRI, and a bone biopsy. The bone scan showed osteosclerotic metastases typical of prostate cancer.

In a lawsuit, the patient alleged Dr. U failed to perform regular rectal exams and failed to order serial PSA tests following his original prostate biopsy. With serial tests, the plaintiff alleged, an elevated PSA would have

prompted another prostate biopsy, leading to an earlier cancer diagnosis and treatment.

In his suit, the patient also faulted Dr. U and Dr. IM for failing to communicate with each other regarding his health. On that point, each testified in deposition that they had expected the other would follow the patient for PSA levels, based on the patient's prior experiences. The patient and Dr. U resolved the dispute prior to trial.

The Value of Consultation

This case should serve as a call to action for medical professionals to prioritize thoroughness, open communication, and collaboration in the pursuit of accurate diagnoses and optimal, comprehensive patient care. As healthcare professionals, physicians should be committed to implementing practices that prioritize patient safety and well-being. One of these practices is the duty to consult other physicians.

Consulting with other physicians allows for a broader perspective on complex medical cases, ensuring that patients receive the most comprehensive and well-rounded care possible. By seeking input from colleagues with different areas of expertise, physicians can tap into a wealth of knowledge and experiences that can enhance diagnosis, treatment planning, and overall patient outcomes.^{2,3,4}

Collaboration also fosters a culture of continuous learning and professional growth. Through consultation, physicians can stay updated on the latest medical advancements, explore alternative treatment options, and gain valuable insights from their peers. This exchange of knowledge ultimately benefits patients by providing them with the most up-to-date and evidence-based care available.

Ethical and Legal Considerations

The duty to consult is not only an ethical obligation but also a legal requirement in many jurisdictions. Physicians are bound by professional codes of conduct that emphasize the importance of seeking input from

other healthcare professionals when necessary. Failure to consult can result in legal consequences, as it may constitute a breach of the standard of care.

Consultation also plays a vital role in patient autonomy and shared decision-making. In complex cases, involving other physicians ensures that patients have access to a range of expert opinions, enabling them to make informed choices about their healthcare. By actively involving patients in the consultation process, healthcare providers can empower them to take an active role in their treatment plans.^{2,5}

Overcoming Challenges

While the duty to consult is crucial, it can present challenges in practice. Time constraints, communication barriers, and conflicting schedules can hinder effective collaboration.

Technology, however, can help address these challenges. Telemedicine platforms, secure messaging systems, and virtual meetings can facilitate timely and efficient consultations, regardless of geographical location. Implementing these technological solutions and establishing clear protocols and guidelines for consultations can support efficient collaboration and facilitate communication amongst healthcare providers.

Conclusion

The duty to consult other physicians is a fundamental aspect of providing high-quality patient care. By embracing collaboration, healthcare providers can harness the collective expertise of their colleagues, leading to better outcomes for their patients. Physicians should be committed to supporting the healthcare system in meeting their duty to consult, enabling them to deliver the best possible care to their patients. ←

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Sources

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RISK MANAGEMENT AND PATIENT SAFETY NEWS



Understanding What Your Medical Assistant Can and Cannot Do

by Deborah Kichler, RN, MSHCA

When stepping foot into a physician's office, a patient's first and last encounters are often with a medical assistant. Medical assistants may greet and check in a patient, take a patient's vitals, administer an ordered vaccine, and schedule the patient's next appointment. For many practices, the medical assistant is a crucial member of the healthcare team and plays a vital role in carrying out a variety of routine tasks that keep your office running smoothly. Yet medical assistants may also represent an underappreciated source of risk for your practice. Physicians must assure the medical assistant is working within their scope to minimize potential liability.

Medical assistants are unlicensed individuals who perform basic administrative, clerical, and non-invasive routine technical supportive services in a medical office or clinical setting under the supervision of a physician or other licensed healthcare providers.¹ An unlicensed person may not diagnose, treat, or perform any task that is invasive or requires assessment.² Certification is not required, unless a physician wants a medical assistant to train other medical assistants.³ In this case, the medical assistant trainer must obtain certification through one of the "Board Approved Medical Assistant Certifying Organizations" listed on the Medical Board of California website.⁴

Medical assistants must be at least 18 years of age, have received training pursuant to the standards established by the Medical Board of California, and they must be supervised.⁵ Prior to performing technical supportive services, a medical assistant shall receive training as, in the judgment of the supervising physician,

podiatrist, or instructor of an approved school, is necessary to assure the medical assistant is competent in performing a service at the appropriate standard of care.⁶

A medical assistant gains experience by training in one of two ways:⁷

1. Training under a licensed physician or podiatrist, who shall ascertain the proficiency of the medical assistant; or under a registered nurse, licensed vocational nurse, physician assistant, or a qualified medical assistant acting under the direction of a licensed physician or podiatrist who shall be responsible for determining the content of the training and proficiency of the medical assistant, except that training to administer medication by inhalation shall be provided by a licensed physician or respiratory care practitioner; OR
2. In a secondary, postsecondary, or adult education program in a public school authorized by the Department of Education, in a community college program provided for in the Education Code, or a post-secondary institution accredited or approved by the Bureau for Private Postsecondary and Vocational Education in the Department of Consumer Affairs.

If the training is being provided in the physician's office by the supervising practitioner, there is no specific document or form required to be used to record the medical assistant's training. However, there should be documentation that outlines the specific training, tasks and/or services, dates and/or hours of training, and the

physician’s signature attesting to the competency of the individual.

Per Title 16 of the California Code of Regulations, section 1361.1, if the medical assistant will be administering medications by intramuscular, subcutaneous, and intradermal injection, or performing skin tests, or venipuncture for the purpose of drawing blood, they are required to have at minimum the following training:⁸

- 10 hours of training in administering injections and performing skin tests; and/or
- 10 hours of training in venipuncture and skin puncture for the purpose of withdrawing blood;
- At least 10 of each intramuscular, subcutaneous, and intradermal injections and 10 skin tests, and /or at least 10 venipuncture and 10 skin punctures; and
- 10 hours of training in administering medication by inhalation (training must be provided by a licensed physician or a respiratory practitioner).

All training shall include instruction and demonstration of pertinent anatomy and physiology appropriate to the procedure; equipment used; proper technique; hazards and complications; post treatment patient care; emergency procedures and California law and regulations for medical assistants.

All clinical services provided by the medical assistant must be under the supervision of a physician, or podiatrist, nurse practitioner, physician assistant, or certified midwife. When the medical assistant is performing their duties, the supervising practitioner must be physically present in the treatment facility during the performance of those duties.

A quick reference guide regarding scope of practice for medical assistants is below.⁹

Specific Procedures	MA	Additional Information
Perform nasal smears	Yes	Limited to the opening of the nasal cavity
Perform nasal smears and “finger sticks”	Yes	After proper training
Swab throat to preserve specimen in a throat culture	Yes	After proper training
Take patient vitals	Yes	
Administer narcotic injections. (Injection by intradermal, intramuscular, or subcutaneous routes)	Yes	Once the licensed person has verified the correct medication and dosage
Administer flu shots and other vaccines	Yes	After proper training, and supervising practitioner presence in office/facility
Call in new prescriptions, or changes to prescription	No	May refill medications with no changes in dosage levels under direct supervision of physician
Start or disconnect IVs or administer injections or medication into an IV	No	
Administer anesthetic agents (topical or injection)	No	
Apply orthopedic splints	No	May remove casts, splints, and other external devices
Insert urine catheters	No	Considered an invasive procedure
Independently perform telephone triage	No	Cannot legally interpret data or diagnose symptoms
Inject collagen	No	
Inject Botox	No	
Use lasers or intense pulse light devices to remove hair, wrinkles, scars, moles, or other blemishes	No	
Interpret the results of skin tests	No	May measure and describe test reaction and record in patient record

Ensure that the staff you supervise are competent, qualified, and knowledgeable. Understanding their clinical limitations helps build a strong foundation for excellent care and safety and ultimately, is your responsibility. ↩

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⁷Ibid.

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What Physicians Need to Know About the Corporate Transparency Act (CTA)

The Corporate Transparency Act is a new federal law that took effect on January 1, 2024. It will apply to millions of businesses across the USA, including many medical practices. To assist you with compliance, we encourage you to read the information below.

What is the Corporate Transparency Act (CTA)?

The CTA was passed in 2019 to combat the use of shell companies to launder money, particularly money related to terrorism, the drug trade, and human trafficking by requiring small businesses that might otherwise fly “under the radar” to disclose their owners. Its requirements took effect on January 1, 2024.

Do I have to file?

While there are exceptions for larger companies or those otherwise regulated, the CTA will apply to most small medical practices that are incorporated. If you filed paperwork with the State to form your business (whether corporation, professional corporation, or LLC), the law probably applies to you. This includes solo medical practice corporations (i.e. John Smith, MD, Inc.). Note that if you have a medical practice that is incorporated and its owners include solo medical corporations, both the practice and the solo medical corporations need to file!

The law does not apply to 501(c) nonprofits. It might also not apply to large medical groups that have more than 20 full-time employees and gross receipts over \$5 million. If you think this exception might apply to you, you should go through the checklist provided by the government that can be found in the BOI Small Entity Compliance Guide at www.CAPphysicians.com/BOIGuide or consult an attorney.

Is the information I provide made public?

No. Only federal agencies have access to the information without your permission. The general public does not have access.

When do I have to file?

Entities that existed before January 1, 2024, were required to file before January 1, 2024. If you form a new entity in 2024, you needed to file within 90 days.

Note that you do NOT have to re-file every year. However, you will need to update your filing if your information changes.

What information do I need to provide?

For the company, you need to report:

The full legal name of the company

Any fictitious business names (i.e. DBAs)

The current address

The jurisdiction of formation (for CAP members this is probably California)

Its tax ID number

For the beneficial owners (see below), you need to report:

Their full legal name

Their date of birth

The current RESIDENCE address. The company's business address is not sufficient.

An identifying number. The easiest is their California driver's license number but a passport number works too.

Who is a "beneficial owner"?

A beneficial owner is any individual who owns or controls at least 25% of the ownership interest in the company OR exercises substantial control over the company, even if they do not have an ownership interest. A company can have multiple beneficial owners. They will include senior officers, such as the President, COO, CEO, and CFO, as well as anyone who owns 25% or more. Every company will have at least one beneficial owner. When in doubt, disclose!

How do I file?

Go to: <https://boiefiling.fincen.gov/> and follow the links.

What if I just don't file?

Willful failure to file carries a civil penalty of \$500 PER DAY and possibly two years in prison.

Anything else?


Exercise extreme caution with emails or text messages offering links to "help" you with your filing or claiming to be from the government. There are scammers out there using people's concerns about compliance to insert malicious software into their computers! Go to the official government website if you need help.

I'm still confused!

The government has prepared several informational pamphlets, which you can access here:

An Introduction to Beneficial Ownership Information from the U.S Department of the Treasury
www.CAPphysicians.com/BOI

Beneficial Ownership Information: Small Entity Compliance Guide
www.CAPphysicians.com/BOIGuide

If you are still uncertain, you should consult an attorney who can advise you on the specifics of your practice. 



By Andie Tena

Exceptional Customer Service Matters in the Medical Practice

Customer service in healthcare is crucial for ensuring patient satisfaction, enhancing the overall patient experience, and improving health outcomes. Instilling principles of people-centered services in all stakeholders of the practice is imperative to effective communication. Key aspects and strategies for providing excellent customer service in healthcare include:

1. **Patient-Centered Care:** Prioritize patient-centered care, focusing on the individual needs, preferences, and values of each patient. This involves actively listening to patients and involving them in decision-making processes related to their care.
2. **Communication:** Clear and effective communication is essential; equally important are speech, tone, and non-verbal cues. Healthcare providers should communicate with patients in a language they understand, avoid jargon, and actively listen to their concerns.
3. **Transparency:** Transparency about healthcare processes, costs, and outcomes fosters trust between patients and providers and makes actions more predictable for patients.
4. **Empathy and Compassion:** Demonstrating empathy and compassion towards patients, and understanding their emotions, fears, and concerns helps build trust and rapport. The ability to empathize with a patient and “put oneself in their shoes” often helps to slow down communication and allow for effective listening.
5. **Timeliness:** Patients expect timely service in healthcare, including prompt appointment scheduling, minimal wait times, and timely responses to inquiries or concerns. Set policies and procedures to address the expected turnaround times for each area and train staff on processes.
6. **Resolution of Issues and Complaints:** Promptly addressing patient concerns and resolving any issues or complaints is crucial for maintaining patient satisfaction and trust; ideally before the patient leaves the clinic. Establishing processes for handling complaints effectively and transparently is critical for patient satisfaction.
7. **Accessibility:** Healthcare services should be easily accessible to patients, both physically and digitally. This includes providing convenient appointment scheduling options, accessible facilities, telemedicine services, and ensuring that patient paperwork, office policies, and appointment scheduling are available through a patient portal or online.

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- 8. Patient Education:** Healthcare providers should educate patients about their conditions, treatment options, and preventive measures. Empowering patients with knowledge enables them to make informed decisions about their health.
- 9. Feedback Mechanisms:** Establishing feedback mechanisms, such as surveys or suggestion boxes, allows patients to provide input about their experiences. Practices may use this feedback to identify areas for improvement.
- 10. Training and Development:** Healthcare staff should undergo training in customer service skills, which can cover communication, diversity, equity and inclusion, cultural competency, and conflict resolution. Continuous professional development helps staff deliver exceptional service consistently and build accountability.
- 11. Collaboration and Teamwork:** Effective teamwork contributes to a positive patient experience. Collaborative care ensures that patients receive coordinated and comprehensive services across different departments or specialties.
- 12. Respect for Diversity:** Respect the diversity of patients, including their cultural backgrounds, beliefs, and values. Understanding cultural differences helps in providing more personalized, inclusive, and effective care for all patients.

By prioritizing these aspects of customer service, practices can create a patient-centered environment that promotes satisfaction, trust, and positive health outcomes, and ensures the longevity of the practice in today's competitive healthcare industry. ➔

Private Equity Acquisitions Not So Private

by Gabriela Villanueva

According to a recent study, private equity acquisitions of physician-owned practices in the U.S. rose from 75 deals in 2012 to 484 in 2021—a sixfold increase in a decade.¹

In 2021, private equity investors spent more than \$200 billion on healthcare acquisitions, and \$1 trillion in the past decade.² These firms have long been active in hospital, nursing home, and home care settings. Over the past decade, however, a significant number of physicians have transitioned from working in small practices that they own to working in larger corporate-owned entities, mostly

concentrated among high-margin specialties like dermatology, urology, gastroenterology, and cardiology. In 13 percent of metropolitan areas, a single private equity firm owns more than half of the physician market for certain specialties.¹

Driven by profits, these corporate-owned practices are increasingly concerning given their rapid growth and potentially harmful impact on access to care—and lawmakers are taking notice.

During the 2024 legislative session, Assemblymember James Wood (D-Sonoma) introduced Assembly Bill 3129 (AB 3129), The

Healthcare System Consolidation bill. This bill would:

- Require a private equity group or a hedge fund, as defined, to provide written notice to, and obtain the written consent of, the Attorney General prior to a change of control or an acquisition between the private equity group or hedge fund and a healthcare facility or provider group. The provider group as defined by the bill means a group of 10 or more licensed health professionals acting within the scope of their practice, or a group of 2 to 9 licensed health professionals acting within the scope of their practice that generated annual revenue of ten million dollars (\$10,000,000) or more. A provider group may include any combination of licensed health professionals. The bill would additionally require a private equity group or hedge fund to provide advance written notice to the Attorney General prior to a change of control or acquisition between a private equity group or hedge fund and a nonphysician provider, or a provider with specified annual revenue.
- Authorize the Attorney General to give the private equity group or hedge fund a written waiver or the notice and consent requirements if specified conditions apply, including, but not limited to, that the party makes a written waiver request, the party's operating costs have exceeded its operating revenue in the relevant market for three or more years and the party cannot meet its debts, and the acquisition or change of control will ensure continued health care access in the relevant markets. The bill would require the Attorney General to grant or deny the waiver within 60 days, as prescribed.
- Authorize the Attorney General to grant, deny, or impose conditions to a change of control or an acquisition between a private equity group or hedge fund and a healthcare facility, provider group, or both, if the change of control or acquisition may have a substantial likelihood of anticompetitive effects or may create a significant effect on the access or availability of health care services to the affected community, applying a public interest standard,

as defined. The bill would authorize any party to the acquisition or change of control to apply to the Attorney General to reconsider the decision and to modify, amend, or revoke the prior decision, and to seek subsequent judicial review of the Attorney General's final determination on that reconsideration application if the Attorney General denies consent or gives conditional consent.

- Prohibit a private equity group or hedge fund involved in any manner with a physician or psychiatric practice doing business in this state, from controlling or directing that practice, as specified. The bill would also prohibit a physician or psychiatric practice from entering into an agreement or arrangement with an entity controlled in part or in whole directly or indirectly by a private equity group or hedge fund in which that private equity group or hedge fund manages any of the affairs of the physician or psychiatric practice in exchange for a fee. The bill would authorize the Attorney General to adopt regulations to implement its requirements, as specified.

The bill is double-referred and will receive hearings by the Health and Judiciary Policy Committees. Its trajectory through the legislative process is a prime opportunity to address growing concerns and explore opportunities for a better balance.

For more information on AB 3129, visit:

https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202320240AB3129



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Choosing the Right Insurance for Yourself and Your Practice



SYMPHONY RISK

Among the many worries keeping you up at night, protecting your business and personal assets from financial risks shouldn't be one of them. To help you choose the right mix of insurance coverages to meet your individual and practice needs, you can get a free copy of the *Physician's Guide to Choosing the Right Insurance*.

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From life and disability insurance to business owner's policies, this guide offers valuable information all in one place, and equips you with the knowledge to make critical decisions about your financial well-being.

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- Physician's Guide to Choosing the Right Insurance

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To learn more, email healthcareservices@symphonyrisk.com or call **800-819-0061**.

Physician Association of California Newsletter

In November of 2023, the Cooperative of American Physicians (CAP) announced its alignment with the Physician Association of California (PAC), a new organization representing small group practice and independent physicians.

PAC's mission is to add the collective and unique voice of California's independent physicians to relevant policy discussions.

We previously shared that as a benefit of CAP's relationship with this new association, **all CAP members receive an automatic complimentary membership in PAC.**

To keep you updated on PAC's latest activities, we invite you to read their newsletter at:

www.CAPphysicians.com/PACNEWS

PAC Newsletter

From the CEO, Matt Robinson

It's been an exciting and impactful couple of months for PAC. Last month we officially launched in Sacramento, marking a significant milestone in our mission to advocate for independent physicians and small group practices across California. The launch garnered notable media coverage, with features in the *Sacramento Business Journal* and *Politico*, highlighting our dedication to shaping healthcare policy and supporting our members.

We are working every day to ensure your perspectives are heard at every level of decision-making in Sacramento. With a growing membership of dedicated physicians, we are poised to make a meaningful impact on healthcare policy and legislation that directly affects our practices and patients.

We extend our sincere gratitude to all members who have supported us on this journey. Your involvement and engagement are crucial as we continue to advocate for policies that prioritize patient care, physician autonomy, and the sustainability of independent practices.

Continue reading at: www.CAPphysicians.com/PACNEWS

If you would like to receive additional information directly from PAC, please visit:

<https://pac-md.org/membership/#member-section>

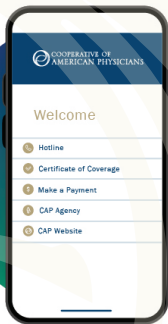


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The information in this publication should not be considered legal or medical advice applicable to a specific situation.
Legal guidance for individual matters should be obtained from a retained attorney.

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Is Your Practice Protected From Today's Unprecedented Risks?

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<p>Workers' Compensation Insurance <i>Customized Coverage and a Free Evaluation</i></p>	<p>Workers' compensation insurance is required by law and protects you against lawsuits, fines, and penalties stemming from workplace incidents. Get a free evaluation of your current plan to see if you could be saving.</p>
<p>CyberRisk Liability Coverage <i>Solid Protection From Dangerous Cyberattacks</i></p>	<p>To help protect you from the extraordinary cost and stress associated with cyberattacks, you can access policies that provide up to \$1 million in coverage.</p>
<p>Employment Practices Liability Insurance (EPLI) <i>Protection From Employment-Related Claims</i></p>	<p>EPLI is essential coverage to help cover the defense costs of lawsuits brought by employees, former employees, job applicants, or other third parties alleging discrimination, wrongful termination, or harassment, among other claims.</p>
<p>Out-Of-State Telemedicine Coverage <i>Critical Coverage for Out-Of-State Patients</i></p>	<p>While your medical malpractice coverage includes telemedicine coverage for patients in California, you should make sure you have adequate coverage for your out-of-state patients.</p>

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