



DEPARTMENT OF VETERANS AFFAIRS

Notice of Request for Information on the Department of Veterans Affairs Medical Technologist Standard of Practice

AGENCY: Department of Veterans Affairs.

ACTION: Request for information.

SUMMARY: The Department of Veterans Affairs (VA) is requesting information to assist in developing a national standard of practice for VA Medical Technologists. VA seeks comments on various topics to help inform VA's development of this national standard of practice.

DATES: Comments must be received on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE **FEDERAL REGISTER**].

ADDRESSES: Comments must be submitted through <http://www.regulations.gov/>.

Except as provided below, comments received before the close of the comment period will be available at <http://www.regulations.gov/> for public viewing, inspection, copying, including any personally identifiable or confidential business information that is included in a comment. We post the comments received before the close of the comment period on the following website as soon as possible after they have been received:

<http://www.regulations.gov/>. VA will not post on <http://www.regulations.gov/> public comments that make threats to individuals or institutions or suggest that the commenter will take actions to harm the individual. VA encourages individuals not to submit duplicative comments. We will post acceptable comments from multiple unique commenters even if the content is identical or nearly identical to other comments. Any public comment received after the comment period's closing date will not be accepted.

FOR FURTHER INFORMATION CONTACT: Ethan Kalett, Office of Regulations, Appeals and Policy (10BRAP), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, 202-461-0500. This is not a toll-free number.

SUPPLEMENTARY INFORMATION:

Authority

Chapters 73 and 74 of 38 U.S.C. and 38 U.S.C. 303 authorize the Secretary to regulate VA health care professions to make certain that VA's health care system provides safe and effective health care by qualified health care professionals to ensure the well-being of those Veterans who have borne the battle.

On November 12, 2020, VA published an interim final rule confirming that VA health care professionals may practice their health care profession consistent with the scope and requirements of their VA employment, notwithstanding any State license, registration, certification, or other State requirements that unduly interfere with their practice. 38 CFR 17.419; 85 FR 71838. Specifically, this rulemaking confirmed VA's current practice of allowing VA health care professionals to deliver health care services in a State other than the health care professional's State of licensure, registration, certification, or other State requirement, thereby enhancing beneficiaries' access to critical VA health care services. The rulemaking also confirmed VA's authority to establish national standards of practice for its health care professionals which would standardize a health care professional's practice in all VA medical facilities, regardless of conflicting state laws, rules, regulations, or other state requirements.

The rulemaking explained that a national standard of practice describes the tasks and duties that a VA health care professional practicing in the health care profession may perform and may be permitted to undertake. Having a national standard of practice

means that individuals from the same VA health care profession may provide the same type of tasks and duties regardless of the State where they are located or the State license, registration, certification, or other State requirement they hold. We emphasized in the rulemaking and reiterate here that VA will determine, on an individual basis, that a health care professional has the proper education, training, and skills to perform the tasks and duties detailed in the national standard of practice, and that they will only be able to perform such tasks and duties after they have been incorporated into the individual's privileges, scope of practice, or functional statement. The rulemaking explicitly did not create any such national standards and directed that all national standards of practice would be subsequently created via policy.

Preemption of State Requirements

The national standard of practice will preempt any State laws, rules, regulations, or requirements that both are and are not listed in the national standard as conflicting, but that do in fact conflict with the tasks and duties as authorized in VA's national standard of practice. In the event that a State changes their requirements and places new limitations on the tasks and duties it allows in a manner that would be inconsistent with what is authorized under the national standard of practice, the national standard of practice will preempt such limitations and authorize the VA health care professional to continue to practice consistently with the tasks and duties outlined in the national standard of practice.

In cases where a VA health care professional's license, registration, certification, or other State requirement allows a practice that is not included in a national standard of practice, the individual may continue that practice so long as it is permissible by Federal law and VA policy, is not explicitly prohibited by the national standard of practice, and is approved by the VA medical facility.

Need for National Standards of Practice

It is critical that VA, the Nation's largest integrated health care system, develops national standards of practice to ensure, first, that beneficiaries receive the same high-quality care regardless of where they enter the system and, second, that VA health care professionals can efficiently meet the needs of beneficiaries when practicing within the scope of their VA employment. National standards are designed to increase beneficiaries' access to safe and effective health care, thereby improving health outcomes. The importance of this initiative has been underscored by the Coronavirus Disease 2019 (COVID-19) pandemic. The increased need for mobility in VA's workforce, including through VA's Disaster Emergency Medical Personnel System, highlighted the importance of creating uniform national standards of practice to better support VA health care professionals who practice across State lines. Creating national standards of practice also promotes interoperability of medical data between VA and the Department of Defense (DoD), providing a complete picture of a Veteran's health information, and improving VA's delivery of health care to our Nation's Veterans. DoD has historically standardized practice for certain health care professionals, and VA has closely partnered with DoD to learn from their experience.

Process to Develop National Standards of Practice

As authorized by 38 CFR 17.419, VA is developing national standards of practice via policy. There is one overarching directive to describe Veterans Health Administration (VHA) policy on national standards of practice. The directive is accessible on the VHA Publications website at <https://vaww.va.gov/vhapublications/> (internal) and <https://www.va.gov/vhapublications/> (external). As each individual national standard of practice is finalized, it is published as an appendix to the directive and accessible at the same websites.

To develop these national standards, VA is using a robust, interactive process that adheres to the requirements of Executive Order (E.O.) 13132 to preempt conflicting State laws, rules, regulations, or other requirements. The process includes consultation with internal and external stakeholders, including State licensing boards, VA employees, professional associations, Veterans Service Organizations, labor partners, and others. For each VA occupation, a workgroup comprised of VA health care professionals in the identified occupation conducts research to identify internal best practices that may not be authorized under every State license, certification, or registration but would enhance the practice and efficiency of the profession throughout VA. If a best practice is identified that is not currently authorized by every State, the workgroup determines what education, training, and skills are required to perform such tasks and duties. The workgroup then drafts a proposed VA national standard of practice using the data gathered during the research and incorporates internal stakeholder feedback into the standard. The workgroup may consult with internal or external stakeholders at any point throughout the process.

The proposed national standard of practice is then internally reviewed, to include by an interdisciplinary VA workgroup consisting of representatives from Quality Management; VA medical facility Chiefs of Staff; Academic Affiliates; Veterans Integrated Services Network (VISN) Chief Nursing Officers; Ethics; Workforce Management and Consulting; Surgery; Credentialing and Privileging; VISN Chief Medical Officers; and Electronic Health Record Modernization.

Externally, VA hosts listening sessions for members of the public, professional associations, and VA employees to provide comments on the variance between state practice acts for specific occupations and what should be included in the national standard of practice for that occupation. The listening session for Medical Technologists

was held on September 7, 2023. No professional associations presented comments on the Medical Technologist scope of practice.

VA has developed a robust process to engage with partners, members of the public, states, and employees on the proposed national standard of practice. VA provides the proposed national standard of practice to our DoD partners as an opportunity to flag inconsistencies with DoD standards. VA also engages with labor partners informally as part of a pre-decisional collaboration. Consistent with E.O. 13132, VA sends a letter to each State board and certifying organization or registration organization, as appropriate, which includes the proposed national standard and offers the recipient an opportunity to discuss the national standard with VA. After the State boards, certifying organizations, or registration organizations have received notification, the proposed national standard of practice is posted in the **Federal Register** for 60 days to obtain feedback from the public, professional associations, and any other interested parties. At the same time, the proposed national standard is posted to an internal VA site to obtain feedback from VA employees. Responses received through all vehicles—from state boards, professional associations, unions, VA employees, and any other individual or organization who provides comments via the **Federal Register** will be reviewed. VA will make appropriate revisions in light of the comments, including those that present evidence-based practice and alternatives that help VA meet our mission and goals. VA will publish a collective response to all comments at <https://www.va.gov/standardspractice/>.

After the national standard of practice is finalized, approved, and published in VHA policy, VA will implement the tasks and duties authorized by that national standard of practice. Any tasks or duties included in the national standard will be properly incorporated into an individual health care professional's privileges, scope of practice, or functional statement once it has been determined by their VA medical facility that the

individual has the proper education, training, and skills to perform the task or duty. Implementation of the national standard of practice may be phased in across all VA medical facilities, with limited exemptions for health care professionals, as needed.

Format for the Proposed National Standard for Medical Technologists

The format for the proposed national standards of practice when there are national certification bodies, and there are State licenses is as follows. The first paragraph provides general information about the profession and what the health care professionals can do. For this national standard, Medical Technologists are highly skilled medical laboratory professionals responsible for the testing of blood, other body fluids, and tissue specimens, using a variety of manual and automated methods. We reiterate that the proposed standard of practice does not contain an exhaustive list of every task and duty that each VA health care professional can perform. Rather, it is designed to highlight generally what tasks and duties the health care professionals perform and how they will be able to practice within VA notwithstanding their state license, certification, registration, or other state requirements.

The second paragraph references the education and certification needed to practice this profession at VA. Qualification standards for employment of health care professionals by VA are outlined in VA Handbook 5005, Staffing, dated November 8, 2023. VA follows the requirements outlined in the VA qualification standards even if the requirements conflict with or differ from a State requirement. National standards of practice do not affect those requirements. This includes, but is not limited to, when a state requires a license to practice a specific occupation, but VA does not require a state license as part of the qualification standards. For Medical Technologists, VA qualification standards require an active, current, full, and unrestricted certification from

either the American Society for Clinical Pathology (ASCP) or from American Medical Technologists (AMT).

The second paragraph also notes whether the national standard of practice explicitly excludes individuals who practice under “grandfathering” provisions. Qualification standards may include provisions to permit employees who met all requirements prior to revisions to the qualification standards to maintain employment at VA even if they no longer meet the new qualification standards. This practice is referred to as grandfathering. Medical Technologists have grandfathering provisions included within their qualification standards, and VA proposes to have those individuals be authorized to follow the Medical Technologist national standard of practice. Therefore, there would be no notation regarding grandfathered employees in the national standard of practice as they would be required to adhere to the same standard as any other VA Medical Technologist who meets the current qualification standards.

The third paragraph confirms which standard the profession will follow under this VA national standard of practice. VA qualification standards for Medical Technologists require a national certification from either ASCP or AMT. VA proposes to adopt a standard of practice consistent with ASCP. There is no variance between these two national certifications; however, ASCP provides a more detailed scope of practice for the Medical Technologist profession. Therefore, VA Medical Technologists will follow the standard as set by this national certification. The national certification body standard can be found at <https://www.ascp.org/content/docs/default-source/policy-statements/ascp-pdf/pp-personnel-standards.pdf?sfvrsn=2>. For Medical Technologist, VA confirmed that all individuals follow the Medical Technologist standards from ASCP.

The fourth paragraph defines if there are additional registrations, regulations, certifications, licenses, or Federal exemptions for the profession. It explains if VA is

preempting any conflicting state laws, rules, regulations, or requirements. VA found that 11 States also require a State license for Medical Technologists, and seven of these States exempt Federal employees from their State license requirements. Furthermore, the tasks and duties set forth in the State license requirements for all seven States are consistent with what is permitted by the ASCP. Therefore, there is no variance in how Medical Technologists practice in any State. VA thus proposes to adopt a standard of practice consistent with the ASCP standards of practice. VA Medical Technologists will continue to follow this standard.

This national standard of practice does not address training because it will not authorize VA Medical Technologists to perform any tasks or duties not already authorized under their national certification and/or state license.

Following public and VA employee comments and revisions, each national standard of practice that is published into policy will also include the date for recertification of the standard of practice and a point of contact for questions or concerns.

Proposed National Standard of Practice for Medical Technologists

1. Medical Technologists are highly skilled medical laboratory professionals responsible for the testing of blood, other body fluids, and tissue specimens using a variety of manual and automated methods. Medical Technologists maintain laboratory testing instrumentation and equipment and ensure accurate reporting of test results which aid health care providers in the prevention (monitoring), diagnosis, and treatment of disease.

2. Medical Technologists in the Department of Veterans Affairs (VA) possess the education and certification required by VA qualification standards. See VA Handbook 5005, Staffing, Part II, Appendix G24, dated May 12, 2014.

3. VA Medical Technologists practice in accordance with the Medical Technologist national certification standards from the American Society for Clinical Pathology, available at: <https://www.ascp.org/>. VA reviewed license and certification requirements for this occupation in January 2024 and confirmed that all Medical Technologists in VA followed this national certification.

4. Although VA only requires a certification, the following 11 states currently require a State license in order to practice as Medical Technologists in that state: California, Florida, Hawaii, Louisiana, Montana, Nevada, New York, North Dakota, Puerto Rico, Tennessee, and West Virginia.

Of these, the seven following States exempt Federal employees from their state license requirements: Florida, Louisiana, Montana, New York, North Dakota, Tennessee, and West Virginia.

VA reviewed license and certification requirements for this occupation in January 2024 and confirmed there was no variance in how VA Medical Technologists practice in any state.

Request for Information:

1. Are there any required or necessary trainings for Medical Technologists that we should consider?
2. Are there any factors that would inhibit or delay the implementation of the aforementioned tasks and duties for VA Medical Technologists in any States?
3. Is there any variance in the license, certification, or the tasks and duties that we have not listed?
4. Is there anything else you would like to share with us about this national standard of practice for VA Medical Technologists?

Signing Authority:

Denis McDonough, Secretary of Veterans Affairs, approved and signed this document on May 10, 2024, and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs.

Michael P. Shores,

Director,

Office of Regulation Policy & Management,

Office of General Counsel,

Department of Veterans Affairs.

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