

Legal Alert - OPMC Investigates Allegations of Medical Assistants Administering COVID-19 Vaccines

The NYS office of Professional Medical Conduct (OPMC), which governs the actions of physicians and physician assistants, has begun to investigate physicians who use medical assistants to administer injections of the COVID-19 vaccine. Some physicians are allegedly billing for such injections as if the medical assistants were licensed personnel such as an LPN or RN.

It is professional misconduct pursuant to NYS Education Law § 6530 sections 11 and 25 to permit an unlicensed person to do that which can only be performed by licensed individuals. Medical assistants are not licensed and thus should not be permitted to inject any type of medication, including a vaccine. Billing for the services of a medical assistant that should have been performed by a licensed professional is fraudulent behavior and could have severe professional consequences, including the suspension or revocation of a provider's medical license. Additionally, such conduct could result in criminal prosecution for insurance fraud and/or Medicare/Medicaid fraud.

The Board for Medicine has stated that medical assistants have very limited functions, and those functions do not include the injection of vaccines or giving any type of medication by any route. Should you have questions about the permitted activities of medical assistants, please feel free to contact Donnie Richman or Brian Felton at Fager, Amsler, Keller & Schoppmann, (518) 786-2880.