



WHD-OL-1998-0008

February 19, 1998

NAME*

This is in response to your request for an opinion as to whether a medical assistant position qualifies for the professional exemption under section 13 (a) (1) of the Fair Labor Standards Act (FLSA).

The job description that you submitted indicates that the medical assistant checks charts; obtains needed medical information for the doctor or patient; opens, closes, and cleans stock, examination and procedures rooms; gathers information from new patients, and keeps patient flow consistent for the doctor; obtains urine specimens; performs venipuncture for lab tests, assist with examination of female patients, performs bladder instillations and physician directed procedures, such as catheter insertion, change, and irrigation, wound care, post-op care, uroflows, cystometrogram, and LLP; set-up vasectomy trays, I & Ds, circumcision trays, etc.; set-up TRUS and cysto rooms and assists doctors with procedures; charts patient information; performs injections; runs PSAs and maintains the machine; performs CMGs, bladder scans, and BCGs mixing. We were informed by your office that the training required for this position is one year of specialized training at a junior college, and certification by the State of Florida.

Section 13 (a) (1) of the FLSA provides a complete minimum wage overtime pay exemption for any employee employed in a bona fide executive, administrative, or professional capacity as those terms are defined in the enclosed Regulations, 29 CFR Part 541. An employee will qualify for exemption as a bona fide professional employee if all the pertinent tests relating to duties, responsibilities, and salary are met. (See section 541.3 (a) (1) of the Regulations.

One of the tests for professional status under section 541.3 (a) (1) requires that employee's primary duty consists of work requiring knowledge of an advance type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study, as distinguished from general academic education and from an apprenticeship, and from training in the performance of routine mental, manual, or physical processes.

A "prolonged course of . . . study" has generally been held to include only those employees who have acquired at least a baccalaureate degree or its equivalent which includes a longer intellectual discipline in a particular course of study as opposed to a general academic course otherwise required for a baccalaureate degree. A "longer intellectual discipline in a particular course of study" means the equivalent of four academic years of pre-professional and professional study in an accredited university or college.

The work in question does not require a bachelor's degree and, in fact only requires one year of training at a junior college. Work that can be performed by an employee with education and training which is less than that required for a bachelor's degree would not be work of a bona fide professional level within the meaning of the Regulations. It is, therefore, our opinion that the medical assistant would not qualify as a bona fide professional employee, as discussed in section 541.3, since the primary duty does not consist of the performance of work requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study, as required by the Regulations. Consequently, the employee must be paid in accordance with the minimum wage and overtime pay provisions of the FLSA.

We trust that the above information is responsive to your request. If we can be of further assistance, please let us know.

Sincerely,

John R. Fraser
Acting Administrator

*Note: The actual name(s) was removed to protect privacy in accordance with 5 U.S.C. § 552(b)(7).