

**MEDICAL PRACTICE ACT OF 1985 - DEFINITIONS, STATE BOARD OF
MEDICINE, PHYSICIAN ASSISTANTS AND ABROGATING REGULATIONS**

Act of Oct. 7, 2021, P.L. 418, No. 79

CL. 63

Session of 2021

No. 2021-79

SB 398

AN ACT

Amending the act of December 20, 1985 (P.L.457, No.112),
entitled "An act relating to the right to practice medicine
and surgery and the right to practice medically related acts;
reestablishing the State Board of Medical Education and
Licensure as the State Board of Medicine and providing for
its composition, powers and duties; providing for the
issuance of licenses and certificates and the suspension and
revocation of licenses and certificates; provided penalties;
and making repeals," further providing for definitions, for
State Board of Medicine and for physician assistants; and
abrogating regulations.

The General Assembly of the Commonwealth of Pennsylvania
hereby enacts as follows:

Section 1. The definition of "primary supervising physician"
in section 2 of the act of December 20, 1985 (P.L.457, No.112),
known as the Medical Practice Act of 1985, is amended to read:
Section 2. Definitions.

The following words and phrases when used in this act shall
have the meanings given to them in this section unless the
context clearly indicates otherwise:

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"Primary supervising physician." A medical doctor who is
registered with the board and designated in a written agreement
with a physician assistant under section 13(e) as having primary
responsibility for [directing and personally] supervising the
physician assistant.

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Section 2. Section 3(a) and (b) of the act are amended to
read:

Section 3. State Board of Medicine.

(a) Establishment.--The State Board of Medicine shall
consist of the commissioner or [his] **the commissioner's**
designee, the Secretary of Health or [his] **the Secretary of**
Health's designee, two members appointed by the Governor who
shall be persons representing the public at large and [seven]
nine members appointed by the Governor, [six] **one of whom shall**
be a physician assistant, seven of whom shall be medical
doctors with unrestricted licenses to practice medicine and
surgery in this Commonwealth for five years immediately
preceding their appointment and one who shall be a nurse
midwife, [physician assistant, certified registered nurse
practitioner,] respiratory therapist, licensed athletic trainer
or perfusionist licensed or certified under the laws of this
Commonwealth. All professional and public members of the board
shall be appointed by the Governor, with the advice and consent
of a majority of the members elected to the Senate.

(b) Terms of office.--The term of each professional and
public member of the board shall be four years or until [his
or her] **a** successor has been appointed and qualified, but not

longer than six months beyond the four-year period. In the event that any of said members shall die or resign or otherwise become disqualified during [his or her] **the member's** term, a successor shall be appointed in the same way and with the same qualifications and shall hold office for the unexpired term. No member shall be eligible for appointment to serve more than two consecutive terms. The Governor shall assure that nurse midwives, [physician assistants, certified registered nurse practitioners,] perfusionists and respiratory therapists are appointed to four-year terms on a rotating basis so that, of every four appointments to a four-year term, one is a nurse midwife, [one is a physician assistant, one is a certified registered nurse practitioner] **one is an athletic trainer, one is a perfusionist** and one is a respiratory therapist.

* * *

Section 3. Section 13(c.1) introductory paragraph, (c.2)(1), (d), (d.1), (e) and (g) of the act are amended to read:

Section 13. Physician assistants.

* * *

(c.1) Except as limited by subsection (c.2), and in addition to existing authority, a physician assistant shall have authority to do all of the following, provided that the physician assistant is acting within the supervision [and direction] of the supervising physician:

* * *

(c.2) Nothing in this section shall be construed to:

(1) Supersede the authority of the Department of Health and the Department of [Public Welfare] **Human Services** to regulate the types of health care professionals who are eligible for medical staff membership or clinical privileges.

* * *

(d) Supervision.--[A physician assistant shall not perform a medical service without the supervision and personal direction of an approved physician. The board shall promulgate regulations which define the supervision and personal direction required by the standards of acceptable medical practice embraced by the medical doctor community in this Commonwealth.] **The supervising physician shall be responsible for the medical services that a physician assistant renders. Supervision shall not require the onsite presence or personal direction of the supervising physician.**

(d.1) Patient record review.--

[(1) The approved physician shall countersign 100% of the patient records completed by the physician assistant within a reasonable time, which shall not exceed ten days, during each of the following time periods:

(i) The first 12 months of the physician assistant's practice post graduation and after the physician assistant has fulfilled the criteria for licensure set forth in section 36(c).

(ii) The first 12 months of the physician assistant's practice in a new specialty in which the physician assistant is practicing.

(iii) The first six months of the physician assistant's practice in the same specialty under the supervision of the approved physician, unless the physician assistant has multiple approved physicians and practiced under the supervision of at least one of those approved physicians for six months.

(2) In the case of a physician assistant who is not subject to 100% review of the physician assistant's patient records pursuant to paragraph (1), the approved physician

shall personally review on a regular basis a selected number of the patient records completed by the physician assistant. The approved physician shall select patient records for review on the basis of written criteria established by the approved physician and the physician assistant. The number of patient records reviewed shall be sufficient to assure adequate review of the physician assistant's scope of practice.]

(3) **The primary supervising physician shall determine countersignature requirements of patient records completed by the physician assistant in a written agreement, except as provided for in paragraph (4).**

(4) **The primary supervising physician shall countersign 100% of patient records completed by the physician assistant within a reasonable time, which shall not exceed ten days, during each of the following time periods:**

(i) **The first 12 months of the physician assistant's practice post graduation and after the physician assistant has fulfilled the criteria for licensure set forth in section 36(c).**

(ii) **The first 12 months of the physician assistant's practice in a new specialty in which the physician assistant is practicing.**

(5) **The board may not require, by order, regulation or any other method, countersignature requirements of patient records completed by a physician assistant that exceed the requirements specified under this subsection.**

(e) **Written agreement.--**A physician assistant shall [not provide a medical service without a written agreement with one or more physicians] **provide medical services according to a written agreement** which provides for all of the following:

(1) **Identifies and is signed by [each physician the physician assistant will be assisting] the primary supervising physician.**

(2) **Describes the [manner in which the physician assistant will be assisting each named physician. The written agreement and description may be prepared and submitted by the primary supervising physician, the physician assistant or a delegate of the primary supervising physician and the physician assistant. It shall not be a defense in any administrative or civil action that the physician assistant acted outside the scope of the board-approved description or that the supervising physician utilized the physician assistant outside the scope of the board-approved description because the supervising physician or physician assistant permitted another person to represent to the board that the description had been approved by the supervising physician or physician assistant] physician assistant's scope of practice.**

(3) **Describes the nature and degree of supervision [and direction each named physician will provide the physician assistant, including, but not limited to, the number and frequency of the patient record reviews required by subsection (d.1) and the criteria for selecting patient records for review when 100% review is not required] the primary supervising physician will provide the physician assistant.**

(4) **[Designates one of the named physicians as having the primary responsibility for supervising and directing the physician assistant.] Is prepared and submitted by the primary supervising physician, the physician assistant or a delegate of the primary supervising physician and the**

physician assistant. It shall not be a defense in any administrative or civil action that the physician assistant acted outside the scope of the board-filed description or that the supervising physician utilized the physician assistant outside the scope of the board-filed description because the supervising physician or physician assistant permitted another person to represent to the board that the description had been approved by the supervising physician or physician assistant.

[(5) Has been approved by the board as satisfying the foregoing and as consistent with the restrictions contained in or authorized by this section. Upon submission of the application, board staff shall review the application only for completeness and shall issue a letter to the supervising physician providing the temporary authorization for the physician assistant to begin practice. If the application is not complete, including, but not limited to, required information or signatures not being provided or the fee not being submitted, a temporary authorization for the physician assistant to begin practicing shall not be issued. The temporary authorization, when issued, shall provide a period of 120 days during which the physician assistant may practice under the terms set forth in the written agreement as submitted to the board. Within 120 days the board shall notify the supervising physician of the final approval or disapproval of the application. If approved, a final approval of the written agreement shall be issued to the supervising physician. If there are discrepancies that have not been corrected within the 120-day period, the temporary authorization to practice shall expire.]

(6) Becomes effective upon submission by the primary supervising physician, the physician assistant or a delegate of the primary supervising physician and the physician assistant to the board. The board shall review 10% of all written agreements submitted to the board after the effective date of this paragraph. A written agreement subject to a review shall remain in effect for two weeks after the board notifies the primary supervising physician and the physician assistant with remedies, if necessary, on the outcome of the review. The primary supervising physician, physician assistant or delegate to the primary supervising physician and physician assistant must submit a new written agreement which shall be effective upon submission to the board. A written agreement submitted to the board during the declaration of disaster emergency issued by the Governor on March 6, 2020, published at 50 pa.B. 1644 (March 21, 2020), or any renewal of the declaration of disaster emergency, shall be deemed approved. This paragraph shall apply to written agreements submitted to the board before the effective date of this paragraph.

(7) No later than 120 days from the effective date of this paragraph, the board shall submit the review process for the written agreements under paragraph (6) to the Legislative Reference Bureau for publication in the Pennsylvania Bulletin.

A physician assistant shall not assist a physician in a manner not described in the agreement or without the nature and degree of supervision [and direction] described in the agreement. There shall be no more than [four] **six** physician assistants for whom a physician has responsibility or supervises pursuant to a written agreement at any time. In health care facilities licensed under the act of July 19, 1979 (P.L.130, No.48), known

as the Health Care Facilities Act, a physician assistant shall be under the supervision [and direction] of a physician or physician group pursuant to a written agreement, provided that a physician supervises no more than [four] **six** physician assistants at any time. A physician may apply for a waiver to employ or supervise more [than four] physician assistants at any time under this section for good cause, as determined by the board.

* * *

(g) Supervision.--A physician assistant may be employed by a health care facility licensed under the Health Care Facilities Act under the supervision [and direction] of an approved physician or group of such physicians, provided one of those physicians is designated as having the primary responsibility for supervising [and directing] the physician assistant. In health care facilities licensed under the Health Care Facilities Act, the attending physician of record for a particular patient shall act as the primary supervising physician for the physician assistant while that patient is under the care of the attending physician. **Nothing in this act shall be construed to authorize an employer or other entity to require a physician to supervise more physician assistants when the physician, in his or her clinical judgment, determines that supervising more physician assistants will compromise patient care or otherwise affect the physician's ability to properly supervise another physician assistant in accordance with the requirements of this act or regulations promulgated by the board.**

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Section 4. The State Board of Medicine shall promulgate final rules and regulations necessary to carry out this act within 180 days of the effective date of this section.

Section 5. Any and all regulations at 49 Pa. Code §§ 18.142(5), 18.153(c), 18.158(b)(4) and 18.161(b) and other provisions of 49 Pa. Code Ch. 18 are abrogated to the extent of any inconsistency with this act.

Section 6. This act shall take effect immediately.

APPROVED--The 7th day of October, A.D. 2021.

TOM WOLF