

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 870 Session of 2019

INTRODUCED BY KILLION, BAKER, REGAN, COLLETT, FARNESE, YUDICHAK, PITTMAN, YAW, BOSCOLA, COSTA AND MARTIN, SEPTEMBER 27, 2019

SENATOR TOMLINSON, CONSUMER PROTECTION AND PROFESSIONAL LICENSURE, AS AMENDED, OCTOBER 6, 2020

AN ACT

1 Amending the act of December 20, 1985 (P.L.457, No.112),
2 entitled "An act relating to the right to practice medicine
3 and surgery and the right to practice medically related acts;
4 reestablishing the State Board of Medical Education and
5 Licensure as the State Board of Medicine and providing for
6 its composition, powers and duties; providing for the
7 issuance of licenses and certificates and the suspension and
8 revocation of licenses and certificates; provided penalties;
9 and making repeals," further providing for DEFINITIONS, FOR <--
10 State Board of Medicine and for physician assistants.

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

13 ~~Section 1. Section 3(a) and (b) of the act of December 20, <--~~
14 ~~1985 (P.L.457, No.112), known as the Medical Practice Act of~~
15 ~~1985, are amended to read:~~

16 SECTION 1. THE DEFINITION OF "PRIMARY SUPERVISING PHYSICIAN" <--
17 IN SECTION 2 OF THE ACT OF DECEMBER 20, 1985 (P.L.457, NO.112),
18 KNOWN AS THE MEDICAL PRACTICE ACT OF 1985, ADDED JULY 2, 2019
19 (P.L.413, NO.68), IS AMENDED TO READ:

20 SECTION 2. DEFINITIONS.

21 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ACT SHALL

1 HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE  
2 CONTEXT CLEARLY INDICATES OTHERWISE:

3 \* \* \*

4 "PRIMARY SUPERVISING PHYSICIAN." A MEDICAL DOCTOR WHO IS  
5 REGISTERED WITH THE BOARD AND DESIGNATED IN A WRITTEN AGREEMENT  
6 WITH A PHYSICIAN ASSISTANT UNDER SECTION 13(E) AS HAVING PRIMARY  
7 RESPONSIBILITY FOR [DIRECTING AND PERSONALLY] SUPERVISING THE  
8 PHYSICIAN ASSISTANT.

9 \* \* \*

10 SECTION 1.1. SECTION 3 (A) AND (B) OF THE ACT ARE AMENDED TO  
11 READ:

12 Section 3. State Board of Medicine.

13 (a) Establishment.--The State Board of Medicine shall  
14 consist of the commissioner or his designee, the Secretary of  
15 Health or his designee, two members appointed by the Governor  
16 who shall be persons representing the public at large and  
17 [~~seven~~] ~~eight~~ NINE members appointed by the Governor, one of <--  
18 whom shall be a physician assistant, [six] SEVEN of whom shall <--  
19 be medical doctors with unrestricted licenses to practice  
20 medicine and surgery in this Commonwealth for five years  
21 immediately preceding their appointment and one who shall be a  
22 nurse midwife, [~~physician assistant, certified registered nurse~~  
23 ~~practitioner,~~] respiratory therapist, licensed athletic trainer  
24 or perfusionist licensed or certified under the laws of this  
25 Commonwealth. All professional and public members of the board  
26 shall be appointed by the Governor, with the advice and consent  
27 of a majority of the members elected to the Senate.

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

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

15 \* \* \*

16 Section 2. Section ~~13(d)~~ 13(A), (D), (d.1) and (e) of the <--  
17 act, amended July 2, 2019 (P.L.413, No.68), are amended AND THE <--  
18 SECTION IS AMENDED BY ADDING A SUBSECTION to read:

19 Section 13. Physician assistants.

20 (A) AUTHORIZED SERVICES.--A PHYSICIAN ASSISTANT MAY PERFORM <--  
21 A MEDICAL SERVICE DELEGATED BY [AN APPROVED PHYSICIAN AND AS  
22 APPROVED BY THE APPROPRIATE BOARD. AN APPROVED PHYSICIAN IS] A  
23 PHYSICIAN IDENTIFIED IN THE WRITTEN AGREEMENT REQUIRED BY  
24 SUBSECTION (E).

25 \* \* \*

26 (d) Supervision.--~~f~~A physician assistant shall [not] perform <--  
27 a medical service [without the supervision and personal <--  
28 direction of an approved physician. The board shall promulgate  
29 regulations which define the supervision and personal direction  
30 required by the standards of acceptable medical practice

1 embraced by the medical doctor community in this Commonwealth] <--

2 SUBJECT TO THE PROVISIONS OF SUBSECTIONS (D.2) AND (E).

3 (d.1) Patient record review.--

4 (1) The [approved] PRIMARY SUPERVISING physician shall <--

5 countersign 100% of the patient records completed by the  
6 physician assistant within a reasonable time, which shall not  
7 exceed ten days, during each of the following time periods:

8 (i) The first 12 months of the physician assistant's

9 [practice post graduation and after the physician <--

10 assistant has fulfilled the criteria for licensure set

11 forth in section 36(c)] EMPLOYMENT OUTLINED UNDER THE <--

12 WRITTEN AGREEMENT.

13 (ii) The first [12] SIX months of the physician <--

14 assistant's practice in a new specialty in which the  
15 physician assistant is practicing.

16 [(iii) The first six months of the physician <--

17 assistant's practice in the same specialty under the

18 supervision of the approved physician, unless the

19 physician assistant has multiple approved physicians and

20 practiced under the supervision of at least one of those

21 approved physicians for six months.

22 (2) In the case of a physician assistant who is not

23 subject to 100% review of the physician assistant's patient

24 records pursuant to paragraph (1), the approved physician

25 shall personally review on a regular basis a selected number

26 of the patient records completed by the physician assistant.

27 The approved physician shall select patient records for

28 review on the basis of written criteria established by the

29 approved physician and the physician assistant. The number of

30 patient records reviewed shall be sufficient to assure

1 adequate review of the physician assistant's scope of  
2 practice.] ~~The supervising physician shall be responsible for <--~~  
3 ~~the medical services that a physician assistant renders.~~  
4 ~~Supervision shall not require the onsite presence or personal~~  
5 ~~direction of the supervising physician.~~

6 (D.2) SUPERVISION.--THE FOLLOWING APPLY: <--

7 (1) THE PRIMARY SUPERVISING PHYSICIAN SHALL BE  
8 RESPONSIBLE FOR THE MEDICAL SERVICES THAT A PHYSICIAN  
9 ASSISTANT RENDERS.

10 (2) A PHYSICIAN ASSISTANT SUBJECT TO SUBSECTION (D.1)  
11 SHALL NOT BE ELIGIBLE TO PERFORM A MEDICAL SERVICE WITHOUT  
12 THE SUPERVISION OF AN APPROVED PHYSICIAN.

13 (3) THE PRIMARY SUPERVISING PHYSICIAN MAY REQUIRE  
14 PERSONAL REVIEW OF A SELECTED NUMBER OF PATIENT RECORDS  
15 COMPLETED BY THE PHYSICIAN ASSISTANT IN ORDER TO MAINTAIN THE  
16 SUPERVISORY ROLE OUTLINED IN THE WRITTEN AGREEMENT.

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

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

24 (1.1) IDENTIFIES AND IS SIGNED BY AN ALTERNATIVE <--  
25 SUPERVISING PHYSICIAN IN ORDER TO MAINTAIN THE CONTINUITY OF  
26 CARE IF THE PRIMARY SUPERVISING PHYSICIAN CANNOT FULFILL THE  
27 RESPONSIBILITIES. IF THE ALTERNATIVE SUPERVISING PHYSICIAN  
28 BECOMES THE PRIMARY SUPERVISING PHYSICIAN, THE PHYSICIAN,  
29 PHYSICIAN ASSISTANT OR THEIR DESIGNEE HAS 30 DAYS TO MAKE THE  
30 BOARD AWARE OF THE CHANGE.

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

15 (3) Describes the nature and degree of supervision [and  
16 direction each named physician will provide the physician  
17 assistant, including, but not limited to, the number and  
18 frequency of the patient record reviews required by  
19 subsection (d.1) and the criteria for selecting patient  
20 records for review when 100% review is not required] the  
21 PRIMARY supervising physician will provide the physician <--  
22 assistant.

23 [(4) Designates one {of the named physicians} ~~physician~~ <--  
24 as having the primary responsibility for supervising {and <--  
25 directing} the physician assistant. <--

26 { (5) Has been approved by the board as satisfying the <--  
27 foregoing and as consistent with the restrictions contained  
28 in or authorized by this section. Upon submission of the  
29 application, board staff shall review the application only  
30 for completeness and shall issue a letter to the supervising

1 physician providing the temporary authorization for the  
2 physician assistant to begin practice. If the application is  
3 not complete, including, but not limited to, required  
4 information or signatures not being provided or the fee not  
5 being submitted, a temporary authorization for the physician  
6 assistant to begin practicing shall not be issued. The  
7 temporary authorization, when issued, shall provide a period  
8 of 120 days during which the physician assistant may practice  
9 under the terms set forth in the written agreement as  
10 submitted to the board. Within 120 days the board shall  
11 notify the supervising physician of the final approval or  
12 disapproval of the application. If approved, a final approval  
13 of the written agreement shall be issued to the supervising  
14 physician. If there are discrepancies that have not been  
15 corrected within the 120-day period, the temporary  
16 authorization to practice shall expire.]

17 ~~(5.1) Is maintained by the supervising physician at the <--  
18 practice or health care facility and available to the board  
19 upon request. The written agreement shall be supplied to the  
20 board within 30 days of a request.~~

21 (5.1) IS FILED WITH THE BOARD BY THE PRIMARY SUPERVISING <--  
22 PHYSICIAN, THE PHYSICIAN ASSISTANT OR A DELEGATE OF THE  
23 PRIMARY SUPERVISING PHYSICIAN AND PHYSICIAN ASSISTANT AND A  
24 COPY MAINTAINED BY THE PRIMARY SUPERVISING PHYSICIAN AT THE  
25 PRACTICE OR HEALTH CARE FACILITY AND THE PHYSICIAN ASSISTANT.  
26 IT SHALL NOT BE A DEFENSE IN ANY ADMINISTRATIVE OR CIVIL  
27 ACTION THAT THE PHYSICIAN ASSISTANT ACTED OUTSIDE THE SCOPE  
28 OF THE PRACTICE OR THAT THE PRIMARY SUPERVISING PHYSICIAN  
29 UTILIZED THE PHYSICIAN ASSISTANT OUTSIDE THE SCOPE OF  
30 PRACTICE BECAUSE THE PRIMARY SUPERVISING PHYSICIAN OR

1 PHYSICIAN ASSISTANT PERMITTED ANOTHER PERSON TO REPRESENT TO  
2 THE BOARD THAT THE DESCRIPTION HAD BEEN APPROVED BY THE  
3 PRIMARY SUPERVISING PHYSICIAN OR PHYSICIAN ASSISTANT. A  
4 WRITTEN AGREEMENT GOES INTO EFFECT ONCE IT IS FILED WITH THE  
5 BOARD.

6 A physician assistant shall [not assist a physician in a manner  
7 not described in the agreement or without the nature and degree  
8 of supervision and direction described in the agreement. There  
9 shall be no more than four physician assistants for whom a  
10 physician has responsibility or supervises pursuant to a written  
11 agreement at any time. In health care facilities licensed under  
12 the act of July 19, 1979 (P.L.130, No.48), known as the Health  
13 Care Facilities Act, a physician assistant shall be under the  
14 supervision and direction of a physician or physician group  
15 pursuant to a written agreement, provided that a physician  
16 supervises no more than four physician assistants at any time. A  
17 physician may apply for a waiver to employ or supervise more  
18 than four physician assistants at any time under this section  
19 for good cause, as determined by the board.] provide medical  
20 services in a manner as described in the WRITTEN agreement. A <--  
21 supervising physician shall determine the number of physician <--  
22 assistants supervised at any one time. PRIMARY SUPERVISING <--  
23 PHYSICIAN MAY SUPERVISE UP TO SEVEN PHYSICIAN ASSISTANTS AT ANY  
24 ONE TIME.

25 \* \* \*

26 Section 3. The State Board of Medicine shall promulgate  
27 rules and regulations necessary to carry out this act within 180  
28 days of the effective date of this section.

29 Section 4. This act shall take effect in 60 days.