

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 871 Session of 2019

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

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

AN ACT

1 Amending the act of October 5, 1978 (P.L.1109, No.261), entitled
2 "An act requiring the licensing of practitioners of
3 osteopathic medicine and surgery; regulating their practice;
4 providing for certain funds and penalties for violations and
5 repeals," further providing for definitions, for State Board
6 of Osteopathic Medicine and, FOR PRACTICE OF OSTEOPATHIC <--
7 MEDICINE AND SURGERY WITHOUT LICENSE PROHIBITED AND for
8 licenses, exemptions, nonresident practitioners, graduate
9 students, biennial registration and continuing medical
10 education.

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

13 ~~Section 1. The definition of "physician assistant" in~~ <--
14 ~~section 2 of the act of October 5, 1978 (P.L.1109, No.261),~~
15 ~~known as the Osteopathic Medical Practice Act, is amended to~~
16 ~~read:~~

17 SECTION 1. THE DEFINITIONS OF "PHYSICIAN ASSISTANT" AND <--
18 "PRIMARY SUPERVISING PHYSICIAN" IN SECTION 2 OF THE ACT OF
19 OCTOBER 5, 1978 (P.L.1109, NO.261), KNOWN AS THE OSTEOPATHIC
20 MEDICAL PRACTICE ACT, ADDED JULY 2, 2019 (P.L.415, NO.69), ARE
21 AMENDED TO READ:

1 Section 2. Definitions.

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

5 * * *

6 "Physician assistant." [A person licensed by the board to
7 assist a physician or group of physicians in the provision of
8 medical care and services and under the supervision and
9 direction of the physician or group of physicians.] An
10 individual who is licensed as a physician assistant by the
11 board.

12 "PRIMARY SUPERVISING PHYSICIAN." AN OSTEOPATHIC PHYSICIAN <--
13 [WHO IS REGISTERED WITH THE BOARD AND] DESIGNATED IN A WRITTEN
14 AGREEMENT WITH A PHYSICIAN ASSISTANT UNDER SECTION [10(G)]
15 10(G.4) AS HAVING PRIMARY RESPONSIBILITY FOR [DIRECTING AND
16 PERSONALLY] SUPERVISING THE PHYSICIAN ASSISTANT.

17 * * *

18 ~~Section 2. Section 2.1(a) of the act is amended to read:~~ <--

19 SECTION 2. SECTIONS 2.1(A) AND 3(B) OF THE ACT ARE AMENDED <--
20 TO READ:

21 Section 2.1. State Board of Osteopathic Medicine.

22 (a) The State Board of Osteopathic Medicine shall consist of
23 the Commissioner of Professional and Occupational Affairs or his
24 designee; the Secretary of Health or his designee; two members
25 appointed by the Governor who shall be persons representing the
26 public at large; one member appointed by the Governor who is a
27 physician assistant; one member appointed by the Governor who
28 shall be a respiratory therapist, a perfusionist[, a physician
29 assistant] or a licensed athletic trainer; and [six] SEVEN <--
30 members appointed by the Governor who shall be graduates of a

1 legally incorporated and reputable college of osteopathic
2 medicine and shall have been licensed to practice osteopathic
3 medicine under the laws of this Commonwealth and shall have been
4 engaged in the practice of osteopathy in this Commonwealth for a
5 period of at least five years. All professional and public
6 members of the board shall be appointed by the Governor with the
7 advice and consent of a majority of the members elected to the
8 Senate. The Governor shall assure that respiratory therapists,
9 perfusionists[, physician assistants] and certified athletic
10 trainers are appointed to four-year terms on a rotating basis.

11 * * *

12 ~~Section 3. Section 10(g) and (j.1) of the act, amended July <--~~
13 ~~2, 2019 (P.L.415, No.69), are amended and the section is amended~~
14 ~~by adding a subsection to read:~~

15 SECTION 3. PRACTICE OF OSTEOPATHIC MEDICINE AND SURGERY WITHOUT <--
16 LICENSE PROHIBITED.

17 * * *

18 (B) NOTHING IN THIS ACT SHALL BE CONSTRUED TO PROHIBIT
19 SERVICES AND ACTS RENDERED BY A QUALIFIED PHYSICIAN ASSISTANT,
20 TECHNICIAN OR OTHER ALLIED MEDICAL PERSON IF SUCH SERVICES AND
21 ACTS ARE RENDERED UNDER THE SUPERVISION, DIRECTION OR CONTROL OF
22 A LICENSED PHYSICIAN. IT SHALL BE UNLAWFUL FOR ANY PERSON TO
23 PRACTICE AS A PHYSICIAN ASSISTANT UNLESS LICENSED AND APPROVED
24 BY THE BOARD. IT SHALL ALSO BE UNLAWFUL FOR ANY PHYSICIAN
25 ASSISTANT TO RENDER MEDICAL CARE AND SERVICES EXCEPT UNDER THE
26 SUPERVISION [AND DIRECTION] OF THE PRIMARY SUPERVISING PHYSICIAN
27 IN ACCORDANCE WITH SECTION 10(G.4) AND (J.1). A PHYSICIAN
28 ASSISTANT MAY USE THE TITLE PHYSICIAN ASSISTANT OR AN
29 APPROPRIATE ABBREVIATION FOR THAT TITLE, SUCH AS "P.A.-C."

30 SECTION 3. SECTION 10(G), (G.2)(1) INTRODUCTORY PARAGRAPH,

1 (J.1), (L) AND (M) OF THE ACT, AMENDED JULY 2, 2019 (P.L.415,
2 NO.69), ARE AMENDED AND THE SECTION IS AMENDED BY ADDING
3 SUBSECTIONS TO READ:

4 Section 10. Licenses; exemptions; nonresident practitioners;
5 graduate students; biennial registration and
6 continuing medical education.

7 * * *

8 (g) The PRIMARY supervising physician shall file, or cause <--
9 to be filed, with the board [an application to utilize a
10 physician assistant including a written agreement containing a
11 description of] a written agreement that identifies the manner
12 in which the physician assistant will assist the PRIMARY <--
13 supervising physician in his practice[,] and the method and
14 frequency of supervision. [, including, but not limited to, the
15 number and frequency of the patient record reviews required by
16 subsection (j.1) and the criteria for selecting patient records
17 for review when 100% review is not required, and the geographic
18 location of the physician assistant. The written agreement and
19 description may be prepared and submitted by the primary
20 supervising physician, the physician assistant or a delegate of
21 the primary supervising physician and the physician assistant.
22 It shall not be a defense in any administrative or civil action
23 that the physician assistant acted outside the scope of the
24 board-approved description or that the supervising physician
25 utilized the physician assistant outside the scope of the board-
26 approved description because the supervising physician or
27 physician assistant permitted another person to represent to the
28 board that the description had been approved by the supervising
29 physician or physician assistant. Upon submission of the
30 application, board staff shall review the application only for

1 completeness and shall issue a letter to the supervising
2 physician providing the temporary authorization for the
3 physician assistant to begin practice. If the application is not
4 complete, including, but not limited to, required information or
5 signatures not being provided or the fee not being submitted, a
6 temporary authorization for the physician assistant to begin
7 practicing shall not be issued. The temporary authorization,
8 when issued, shall provide a period of 120 days during which the
9 physician assistant may practice under the terms set forth in
10 the written agreement as submitted to the board. Within 120 days
11 the board shall notify the supervising physician of the final
12 approval or disapproval of the application. If approved, a final
13 approval of the written agreement shall be issued to the
14 supervising physician. If there are discrepancies that have not
15 been corrected within the 120-day period, the temporary
16 authorization to practice shall expire. There shall be no more
17 than four physician assistants for whom a physician has
18 responsibility or supervises pursuant to a written agreement at
19 any time. In health care facilities licensed under the act of
20 act of July 19, 1979 (P.L.130, No.48), known as the "Health Care
21 Facilities Act," a physician assistant shall be under the
22 supervision and direction of a physician or physician group
23 pursuant to a written agreement, provided that a physician
24 supervises no more than four physician assistants at any time. A
25 physician may apply for a waiver to employ or supervise more
26 than four physician assistants at any time under this section
27 for good cause, as determined by the board. In cases where a
28 group of physicians will supervise a physician assistant, the
29 names of all supervisory physicians shall be included on the
30 application.] ~~The PRIMARY supervising physician shall determine~~ <--

1 the number of MAY SUPERVISE SEVEN physician assistants <--
2 supervised at any one time. The PRIMARY supervising physician <--
3 shall be responsible for the medical services that a physician
4 assistant renders. Supervision shall not require the onsite
5 presence or the personal direction of the PRIMARY supervising <--
6 physician.

7 * * *

8 (G.2) (1) EXCEPT AS LIMITED BY PARAGRAPH (2), AND IN <--
9 ADDITION TO EXISTING AUTHORITY, A PHYSICIAN ASSISTANT SHALL HAVE
10 AUTHORITY TO DO ALL OF THE FOLLOWING, PROVIDED THAT THE
11 PHYSICIAN ASSISTANT IS ACTING WITHIN THE SUPERVISION [AND
12 DIRECTION] OF THE PRIMARY SUPERVISING PHYSICIAN:

13 * * *

14 (g.4) A physician assistant shall provide medical services
15 according to a written agreement which provides for all of the
16 following:

17 (1) Identifies and is signed by the primary supervising
18 physician.

19 (1.1) IDENTIFIES AND IS SIGNED BY AN ALTERNATIVE <--
20 SUPERVISING PHYSICIAN IN ORDER TO MAINTAIN THE CONTINUITY OF
21 CARE IF THE PRIMARY SUPERVISING PHYSICIAN CANNOT FULFILL THE
22 RESPONSIBILITIES. IF THE ALTERNATIVE SUPERVISING PHYSICIAN
23 BECOMES THE PRIMARY SUPERVISING PHYSICIAN, THE PHYSICIAN,
24 PHYSICIAN ASSISTANT OR THEIR DESIGNEE HAS 30 DAYS TO MAKE THE
25 BOARD AWARE OF THE CHANGE.

26 (2) Describes the physician assistant's scope of
27 practice.

28 (3) Describes the nature and degree of supervision the
29 PRIMARY supervising physician will provide the physician <--
30 assistant.

1 ~~(4) Designates one physician as having the primary~~ <--
2 ~~responsibility for supervising the physician assistant.~~

3 ~~(5) Is maintained by the supervising physician at the~~
4 ~~practice or health care facility and available to the board~~
5 ~~upon request. The written agreement shall be supplied to the~~
6 ~~board within 30 days of the request. A physician assistant~~
7 ~~shall provide medical services in a manner as described in~~
8 ~~the agreement.~~

9 (4) IS FILED WITH THE BOARD BY THE PRIMARY SUPERVISING <--
10 PHYSICIAN, THE PHYSICIAN ASSISTANT OR A DELEGATE OF THE
11 PRIMARY SUPERVISING PHYSICIAN AND PHYSICIAN ASSISTANT AND A
12 COPY MAINTAINED BY THE PRIMARY SUPERVISING PHYSICIAN AT THE
13 PRACTICE OR HEALTH CARE FACILITY AND THE PHYSICIAN ASSISTANT.
14 IT SHALL NOT BE A DEFENSE IN ANY ADMINISTRATIVE OR CIVIL
15 ACTION THAT THE PHYSICIAN ASSISTANT ACTED OUTSIDE THE SCOPE
16 OF THE PRACTICE OR THAT THE PRIMARY SUPERVISING PHYSICIAN
17 UTILIZED THE PHYSICIAN ASSISTANT OUTSIDE THE SCOPE OF
18 PRACTICE BECAUSE THE PRIMARY SUPERVISING PHYSICIAN OR
19 PHYSICIAN ASSISTANT PERMITTED ANOTHER PERSON TO REPRESENT TO
20 THE BOARD THAT THE DESCRIPTION HAD BEEN APPROVED BY THE
21 PRIMARY SUPERVISING PHYSICIAN OR PHYSICIAN ASSISTANT. A
22 WRITTEN AGREEMENT GOES INTO EFFECT ONCE IT IS FILED WITH THE
23 BOARD.

24 * * *

25 †(j.1) (1) The [approved] PRIMARY SUPERVISING physician <--
26 shall countersign 100% of the patient records completed by
27 the physician assistant within a reasonable time, which shall
28 not exceed ten days, during each of the following time
29 periods:

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

1 [practice post graduation and after the physician <--
2 assistant has fulfilled the criteria for licensure set
3 forth in subsection (f).] EMPLOYMENT OUTLINED UNDER THE <--
4 WRITTEN AGREEMENT.

5 (ii) The first [12] SIX months of the physician <--
6 assistant's practice in a new specialty in which the
7 physician assistant is practicing.

8 [(iii) The first six months of the physician <--
9 assistant's practice in the same specialty under the
10 supervision of the approved physician, unless the
11 physician assistant has multiple approved physicians and
12 practiced under the supervision of at least one of those
13 approved physicians for six months.

14 (2) In the case of a physician assistant who is not
15 subject to 100% review of the physician assistant's patient
16 records pursuant to paragraph (1), the approved physician
17 shall personally review on a regular basis a selected number
18 of the patient records completed by the physician assistant.
19 The approved physician shall select patient records for
20 review on the basis of written criteria established by the
21 approved physician and the physician assistant. The number of
22 patient records reviewed shall be sufficient to assure
23 adequate review of the physician assistant's scope of
24 practice.]

25 * * * <--

26 (J.2) THE FOLLOWING APPLY: <--

27 (1) THE PRIMARY SUPERVISING PHYSICIAN SHALL BE
28 RESPONSIBLE FOR THE MEDICAL SERVICES THAT A PHYSICIAN
29 ASSISTANT RENDERS.

30 (2) A PHYSICIAN ASSISTANT SUBJECT TO SUBSECTION (J.1)

1 SHALL NOT BE ELIGIBLE TO PERFORM A MEDICAL SERVICE WITHOUT
2 THE SUPERVISION OF AN APPROVED PHYSICIAN.

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

7 * * *

8 (L) NOTHING IN THIS ACT SHALL BE CONSTRUED TO PROHIBIT THE
9 EMPLOYMENT OF PHYSICIAN ASSISTANTS BY A HEALTH CARE FACILITY
10 WHERE SUCH PHYSICIAN ASSISTANTS FUNCTION UNDER THE SUPERVISION
11 AND DIRECTION OF A PRIMARY SUPERVISING PHYSICIAN OR GROUP OF
12 PHYSICIANS.

13 (M) THE PHYSICIAN ASSISTANT BEING LICENSED IN THIS ACT AND
14 FUNCTIONING UNDER THE SUPERVISION OF THE PRIMARY SUPERVISING
15 PHYSICIAN DEFINES HIS/HER STATUS AS AN EMPLOYEE AND SUBJECT TO
16 THE NORMAL EMPLOYER/EMPLOYEE REIMBURSEMENT PROCEDURES.

17 * * *

18 Section 4. The State Board of OSTEOPATHIC Medicine shall <--
19 promulgate rules and regulations necessary to carry out this act
20 within 180 days of the effective date of this section.

21 Section 5. This act shall take effect in 60 days.