

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 397 Session of 2021

INTRODUCED BY PITTMAN, SCAVELLO, COLLETT, YUDICHAK, MENSCH, YAW, BAKER, HUTCHINSON, STEFANO, REGAN, BOSCOLA AND BARTOLOTTA, MARCH 11, 2021

SENATOR TOMLINSON, CONSUMER PROTECTION AND PROFESSIONAL LICENSURE, AS AMENDED, JUNE 8, 2021

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, FOR PRACTICE OF OSTEOPATHIC MEDICINE <--
7 AND SURGERY WITHOUT LICENSE PROHIBITED and for licenses,
8 exemptions, nonresident practitioners, graduate students,
9 biennial registration and continuing medical education; AND <--
10 ABROGATING REGULATIONS.

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, ARE AMENDED TO READ:

21 Section 2. Definitions.

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

4 \* \* \*

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

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

16 \* \* \*

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

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

20 Section 2.1. State Board of Osteopathic Medicine.

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

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

11 \* \* \*

12 SECTION 3. PRACTICE OF OSTEOPATHIC MEDICINE AND SURGERY WITHOUT <--  
13 LICENSE PROHIBITED.

14 \* \* \*

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

26 ~~Section 3. Section 10(g) and (j.1) of the act, amended July <--~~  
27 ~~2, 2019 (P.L.415, No.69), are amended and the section is amended~~  
28 ~~by adding a subsection to read:~~

29 SECTION 3. SECTION 10(G), (G.2), (J) (J.1), (K) AND (L) OF <--  
30 THE ACT ARE AMENDED AND THE SECTION IS AMENDED BY ADDING A

1 SUBSECTION TO READ:

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

5 \* \* \*

6 ~~(g) The supervising physician shall file, or cause to be~~ <--

7 (G) (1) THE PRIMARY SUPERVISING PHYSICIAN SHALL FILE, OR <--

8 CAUSE TO BE filed, with the board [an application to utilize

9 a physician assistant including a written agreement

10 containing a description of] a written agreement that

11 identifies the manner in which the physician assistant will

12 assist the [supervising physician in his practice,] ~~and the~~ <--

13 method and frequency of supervision,] ~~including, but not~~ <--

14 limited to, the number and frequency of the patient record

15 reviews required by subsection (j.1) and the criteria for

16 selecting patient records for review when 100% review is not

17 required, and the geographic location of the physician

18 assistant.] PRIMARY SUPERVISING PHYSICIAN, ACCORDING TO <--

19 SUBSECTION (G.4). The written agreement and description may

20 be prepared and submitted by the primary supervising

21 physician, the physician assistant or a delegate of the

22 primary supervising physician and the physician assistant. It

23 shall not be a defense in any administrative or civil action

24 that the physician assistant acted outside the scope of the

25 [board-approved] BOARD-FILED description or that the <--

26 supervising physician utilized the physician assistant

27 outside the scope of the [board-approved] BOARD-FILED <--

28 description because the supervising physician or physician

29 assistant permitted another person to represent to the board

30 that the description had been approved by the supervising

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

20 (2) THE WRITTEN AGREEMENT BECOMES EFFECTIVE UPON  
21 SUBMISSION BY THE PRIMARY SUPERVISING PHYSICIAN, THE  
22 PHYSICIAN ASSISTANT OR A DELEGATE OF THE PRIMARY SUPERVISING  
23 PHYSICIAN AND THE PHYSICIAN ASSISTANT TO THE BOARD. THE BOARD  
24 MAY DEVELOP AUDIT PROCEDURES TO ENSURE SUPERVISION AND SCOPE  
25 OF PRACTICE PROTECTIONS ARE MAINTAINED IN ACCORDANCE WITH  
26 THIS CHAPTER. THE AUDIT SHALL NOT INCLUDE MORE THAN 10% OF  
27 ALL WRITTEN AGREEMENTS ON AN ANNUAL BASIS. A WRITTEN  
28 AGREEMENT SUBJECT TO AN AUDIT SHALL REMAIN IN EFFECT FOR TWO  
29 WEEKS AFTER THE BOARD NOTIFIES THE PRIMARY SUPERVISING  
30 PHYSICIAN AND THE PHYSICIAN ASSISTANT WITH REMEDIES, IF

1 NECESSARY, ON THE OUTCOME OF THE AUDIT. THE PRIMARY  
2 SUPERVISING PHYSICIAN, PHYSICIAN ASSISTANT OR DELEGATE TO THE  
3 PRIMARY SUPERVISING PHYSICIAN AND PHYSICIAN ASSISTANT MUST  
4 SUBMIT A NEW WRITTEN AGREEMENT WHICH SHALL BE EFFECTIVE UPON  
5 SUBMISSION TO THE BOARD.

6 (3) There shall be no more than [four] SIX physician <--  
7 assistants for whom a physician has responsibility or  
8 supervises pursuant to a written agreement at any time. In  
9 health care facilities licensed under the act of act of July  
10 19, 1979 (P.L.130, No.48), known as the "Health Care  
11 Facilities Act," a physician assistant shall be under the  
12 supervision [and direction] of a physician or physician group <--  
13 pursuant to a written agreement, provided that a physician  
14 supervises no more than [four] SEVEN physician assistants at <--  
15 any time. A physician may apply for a waiver to employ or  
16 supervise more [than four] physician assistants at any time <--  
17 under this section for good cause, as determined by the  
18 board. In cases where a group of physicians will supervise a  
19 physician assistant, the names of all supervisory physicians  
20 shall be included on the application.} ~~The supervising <--~~  
21 ~~physician shall determine the number of physician assistants~~  
22 ~~supervised at any one time. The supervising physician shall~~  
23 ~~be responsible for the medical services that a physician~~  
24 ~~assistant renders. Supervision shall not require the onsite~~  
25 ~~presence or the personal direction of the supervising~~  
26 ~~physician.~~

27 \* \* \*

28 (G.2) (1) EXCEPT AS LIMITED BY PARAGRAPH (2), AND IN <--  
29 ADDITION TO EXISTING AUTHORITY, A PHYSICIAN ASSISTANT SHALL  
30 HAVE AUTHORITY TO DO ALL OF THE FOLLOWING, PROVIDED THAT THE

1 PHYSICIAN ASSISTANT IS ACTING WITHIN THE SUPERVISION [AND  
2 DIRECTION] OF THE SUPERVISING PHYSICIAN:

3 (I) ORDER DURABLE MEDICAL EQUIPMENT.

4 (II) ISSUE ORAL ORDERS TO THE EXTENT PERMITTED BY A  
5 HEALTH CARE FACILITY'S BYLAWS, RULES, REGULATIONS OR  
6 ADMINISTRATIVE POLICIES AND GUIDELINES.

7 (III) ORDER PHYSICAL THERAPY AND DIETITIAN  
8 REFERRALS.

9 (IV) ORDER RESPIRATORY AND OCCUPATIONAL THERAPY  
10 REFERRALS.

11 (V) PERFORM DISABILITY ASSESSMENTS FOR THE PROGRAM  
12 PROVIDING TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF).

13 (VI) ISSUE HOMEBOUND SCHOOLING CERTIFICATIONS.

14 (VII) PERFORM AND SIGN THE INITIAL ASSESSMENT OF  
15 METHADONE TREATMENT EVALUATIONS IN ACCORDANCE WITH  
16 FEDERAL AND STATE LAW, PROVIDED THAT ANY ORDER FOR  
17 METHADONE TREATMENT SHALL BE MADE ONLY BY A PHYSICIAN.

18 (2) NOTHING IN THIS SUBSECTION SHALL BE CONSTRUED TO:

19 (I) SUPERSEDE THE AUTHORITY OF THE DEPARTMENT OF  
20 HEALTH AND THE DEPARTMENT OF [PUBLIC WELFARE] HUMAN  
21 SERVICES TO REGULATE THE TYPES OF HEALTH CARE  
22 PROFESSIONALS WHO ARE ELIGIBLE FOR MEDICAL STAFF  
23 MEMBERSHIP OR CLINICAL PRIVILEGES.

24 (II) RESTRICT THE AUTHORITY OF A HEALTH CARE  
25 FACILITY TO DETERMINE THE SCOPE OF PRACTICE AND  
26 SUPERVISION OR OTHER OVERSIGHT REQUIREMENTS FOR HEALTH  
27 CARE PROFESSIONALS PRACTICING WITHIN THE FACILITY.

28 \* \* \*

29 (g.4) A physician assistant shall provide medical services  
30 according to a written agreement which provides for all of the

1 following:

2 (1) Identifies and is signed by the primary supervising  
3 physician.

4 (2) Describes the physician assistant's scope of  
5 practice.

6 (3) Describes the nature and degree of supervision the  
7 PRIMARY supervising physician will provide the physician <--  
8 assistant.

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

11 ~~(5) Is maintained by the supervising physician at the~~  
12 ~~practice or health care facility and available to the board~~  
13 ~~upon request. The written agreement shall be supplied to the~~  
14 ~~board within 30 days of the request. A physician assistant~~  
15 ~~shall provide medical services in a manner as described in~~  
16 ~~the agreement.~~

17 \* \* \*

18 (J) NOTHING IN THIS ACT SHALL BE CONSTRUED TO PERMIT A <--  
19 LICENSED PHYSICIAN ASSISTANT TO PRACTICE OSTEOPATHIC MEDICINE  
20 WITHOUT THE SUPERVISION [AND DIRECTION] OF A LICENSED PHYSICIAN  
21 APPROVED BY THE APPROPRIATE BOARD, BUT SUCH SUPERVISION [AND  
22 DIRECTION] SHALL NOT BE CONSTRUED TO [NECESSARILY] REQUIRE THE  
23 PERSONAL PRESENCE OF THE SUPERVISING PHYSICIAN AT THE PLACE  
24 WHERE THE SERVICES ARE RENDERED.

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

29 (i) The first 12 months of the physician assistant's  
30 practice post graduation and after the physician



1 assistant has fulfilled the criteria for licensure set  
2 forth in subsection (f).

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

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

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

23 (3) THE PRIMARY SUPERVISING PHYSICIAN SHALL DETERMINE <--  
24 COUNTERSIGNATURE REQUIREMENTS OF PATIENT RECORDS COMPLETED BY  
25 THE PHYSICIAN ASSISTANT IN A WRITTEN AGREEMENT, EXCEPT AS  
26 PROVIDED FOR IN PARAGRAPH (4).

27 (4) THE APPROVED PHYSICIAN SHALL COUNTERSIGN 100% OF THE  
28 PATIENT RECORDS COMPLETED BY THE PHYSICIAN ASSISTANT WITHIN A  
29 REASONABLE TIME, WHICH SHALL NOT EXCEED 10 DAYS, FOR THE  
30 FIRST 12 MONTHS OF THE PHYSICIAN ASSISTANT'S PRACTICE POST

1 GRADUATION AND AFTER THE PHYSICIAN ASSISTANT HAS FULFILLED  
2 THE CRITERIA FOR LICENSURE SPECIFIED IN SUBSECTION (F).

3 (K) THIS ACT SHALL NOT BE CONSTRUED TO PROHIBIT THE  
4 PERFORMANCE BY THE PHYSICIAN ASSISTANT OF ANY SERVICE WITHIN  
5 [HIS] THE PHYSICIAN ASSISTANT'S SKILLS, WHICH IS DELEGATED BY  
6 THE SUPERVISING PHYSICIAN, AND WHICH FORMS A USUAL COMPONENT OF  
7 THAT PHYSICIAN'S SCOPE OF PRACTICE.

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 PHYSICIAN OR GROUP OF PHYSICIANS.

12 \* \* \*

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

16 SECTION 5. ANY AND ALL REGULATIONS AT 49 PA. CODE §§ 25.142, <--  
17 25.162, 25.178 AND 25.181 ARE ABROGATED TO THE EXTENT OF ANY  
18 INCONSISTENCY WITH THIS ACT.

19 Section 5 6. This act shall take effect in 60 days. <--