

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 398 Session of 2021

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

REFERRED TO CONSUMER PROTECTION AND PROFESSIONAL LICENSURE, MARCH 11, 2021

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 State Board of
 10 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 3. State Board of Medicine.

17 (a) Establishment.--The State Board of Medicine shall
 18 consist of the commissioner or his designee, the Secretary of
 19 Health or his designee, two members appointed by the Governor
 20 who shall be persons representing the public at large and
 21 [~~seven~~] eight members appointed by the Governor, one of whom

1 shall be a physician assistant, six of whom shall be medical
2 doctors with unrestricted licenses to practice medicine and
3 surgery in this Commonwealth for five years immediately
4 preceding their appointment and one who shall be a nurse
5 midwife, [physician assistant, certified registered nurse
6 practitioner,] respiratory therapist, licensed athletic trainer
7 or perfusionist licensed or certified under the laws of this
8 Commonwealth. All professional and public members of the board
9 shall be appointed by the Governor, with the advice and consent
10 of a majority of the members elected to the Senate.

11 (b) Terms of office.--The term of each professional and
12 public member of the board shall be four years or until his or
13 her successor has been appointed and qualified, but not longer
14 than six months beyond the four-year period. In the event that
15 any of said members shall die or resign or otherwise become
16 disqualified during his or her term, a successor shall be
17 appointed in the same way and with the same qualifications and
18 shall hold office for the unexpired term. No member shall be
19 eligible for appointment to serve more than two consecutive
20 terms. The Governor shall assure that nurse midwives, [physician
21 assistants, certified registered nurse practitioners,]
22 perfusionists and respiratory therapists are appointed to four-
23 year terms on a rotating basis so that, of every four
24 appointments to a four-year term, one is a nurse midwife, [one
25 is a physician assistant, one is a certified registered nurse
26 practitioner] one is an athletic trainer, one is a perfusionist
27 and one is a respiratory therapist.

28 * * *

29 Section 2. Section 13(d), (d.1) and (e) of the act, amended
30 July 2, 2019 (P.L.413, No.68), are amended to read:

1 Section 13. Physician assistants.

2 * * *

3 (d) Supervision.--[A physician assistant shall not perform a
4 medical service without the supervision and personal direction
5 of an approved physician. The board shall promulgate regulations
6 which define the supervision and personal direction required by
7 the standards of acceptable medical practice embraced by the
8 medical doctor community in this Commonwealth.

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

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

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

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

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

27 (2) In the case of a physician assistant who is not
28 subject to 100% review of the physician assistant's patient
29 records pursuant to paragraph (1), the approved physician
30 shall personally review on a regular basis a selected number

1 of the patient records completed by the physician assistant.
2 The approved physician shall select patient records for
3 review on the basis of written criteria established by the
4 approved physician and the physician assistant. The number of
5 patient records reviewed shall be sufficient to assure
6 adequate review of the physician assistant's scope of
7 practice.] The supervising physician shall be responsible for
8 the medical services that a physician assistant renders.
9 Supervision shall not require the onsite presence or personal
10 direction of the supervising physician.

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

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

18 (2) Describes the [manner in which the physician
19 assistant will be assisting each named physician. The written
20 agreement and description may be prepared and submitted by
21 the primary supervising physician, the physician assistant or
22 a delegate of the primary supervising physician and the
23 physician assistant. It shall not be a defense in any
24 administrative or civil action that the physician assistant
25 acted outside the scope of the board-approved description or
26 that the supervising physician utilized the physician
27 assistant outside the scope of the board-approved description
28 because the supervising physician or physician assistant
29 permitted another person to represent to the board that the
30 description had been approved by the supervising physician or

1 physician assistant] physician assistant's scope of practice.

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

9 (4) Designates one [of the named physicians] physician
10 as having the primary responsibility for supervising [and
11 directing] the physician assistant.

12 [(5) Has been approved by the board as satisfying the
13 foregoing and as consistent with the restrictions contained
14 in or authorized by this section. Upon submission of the
15 application, board staff shall review the application only
16 for completeness and shall issue a letter to the supervising
17 physician providing the temporary authorization for the
18 physician assistant to begin practice. If the application is
19 not complete, including, but not limited to, required
20 information or signatures not being provided or the fee not
21 being submitted, a temporary authorization for the physician
22 assistant to begin practicing shall not be issued. The
23 temporary authorization, when issued, shall provide a period
24 of 120 days during which the physician assistant may practice
25 under the terms set forth in the written agreement as
26 submitted to the board. Within 120 days the board shall
27 notify the supervising physician of the final approval or
28 disapproval of the application. If approved, a final approval
29 of the written agreement shall be issued to the supervising
30 physician. If there are discrepancies that have not been

1 corrected within the 120-day period, the temporary
2 authorization to practice shall expire.]

3 (5.1) 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 a request.

7 A physician assistant shall [not assist a physician in a manner
8 not described in the agreement or without the nature and degree
9 of supervision and direction described in the agreement. There
10 shall be no more than four physician assistants for whom a
11 physician has responsibility or supervises pursuant to a written
12 agreement at any time. In health care facilities licensed under
13 the act of July 19, 1979 (P.L.130, No.48), known as the Health
14 Care Facilities Act, a physician assistant shall be under the
15 supervision and direction of a physician or physician group
16 pursuant to a written agreement, provided that a physician
17 supervises no more than four physician assistants at any time. A
18 physician may apply for a waiver to employ or supervise more
19 than four physician assistants at any time under this section
20 for good cause, as determined by the board.] provide medical

21 services in a manner as described in the agreement. A
22 supervising physician shall determine the number of physician
23 assistants supervised at any one time.

24 * * *

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

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