
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, BARTOLOTTA AND
BROOKS, MARCH 11, 2021

AS REPORTED FROM COMMITTEE ON PROFESSIONAL LICENSURE, HOUSE OF
REPRESENTATIVES, AS AMENDED, SEPTEMBER 20, 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 definitions, for
10 State Board of Medicine and for physician assistants; and
11 abrogating regulations.

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

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

17 Section 2. Definitions.

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

21 * * *

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

6 * * *

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

9 Section 3. State Board of Medicine.

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

26 (b) Terms of office.--The term of each professional and
27 public member of the board shall be four years or until [his or
28 her] a successor has been appointed and qualified, but not
29 longer than six months beyond the four-year period. In the event
30 that any of said members shall die or resign or otherwise become

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

13 * * *

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

16 Section 13. Physician assistants.

17 * * *

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

23 * * *

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

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

29 * * *

30 (d) Supervision.--[A physician assistant shall not perform a

1 medical service without the supervision and personal direction
2 of an approved physician. The board shall promulgate regulations
3 which define the supervision and personal direction required by
4 the standards of acceptable medical practice embraced by the
5 medical doctor community in this Commonwealth.] The supervising
6 physician shall be responsible for the medical services that a
7 physician assistant renders. Supervision shall not require the
8 onsite presence or personal direction of the supervising
9 physician.

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

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

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

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

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

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

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

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

13 (4) The primary supervising physician shall countersign
14 100% of patient records completed by the physician assistant
15 within a reasonable time, which shall not exceed ten days for <--
16 the first 12 months of the physician assistant's practice
17 post graduation and after the physician assistant has
18 fulfilled the criteria for licensure set forth in section
19 36(e)., DURING EACH OF THE FOLLOWING TIME PERIODS: <--

20 (I) THE FIRST 12 MONTHS OF THE PHYSICIAN ASSISTANT'S
21 PRACTICE POST GRADUATION AND AFTER THE PHYSICIAN
22 ASSISTANT HAS FULFILLED THE CRITERIA FOR LICENSURE SET
23 FORTH IN SECTION 36(C).

24 (II) THE FIRST 12 MONTHS OF THE PHYSICIAN
25 ASSISTANT'S PRACTICE IN A NEW SPECIALTY IN WHICH THE
26 PHYSICIAN ASSISTANT IS PRACTICING.

27 (5) THE BOARD MAY NOT REQUIRE, BY ORDER, REGULATION OR
28 ANY OTHER METHOD, COUNTERSIGNATURE REQUIREMENTS OF PATIENT
29 RECORDS COMPLETED BY A PHYSICIAN ASSISTANT THAT EXCEED THE
30 REQUIREMENTS SPECIFIED UNDER THIS SUBSECTION.

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

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

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

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

30 (4) [Designates one of the named physicians as having

1 the primary responsibility for supervising and directing the
2 physician assistant.] Is prepared and submitted by the
3 primary supervising physician, the physician assistant or a
4 delegate of the primary supervising physician and the
5 physician assistant. It shall not be a defense in any
6 administrative or civil action that the physician assistant
7 acted outside the scope of the board-filed description or
8 that the supervising physician utilized the physician
9 assistant outside the scope of the board-filed description
10 because the supervising physician or physician assistant
11 permitted another person to represent to the board that the
12 description had been approved by the supervising physician or
13 physician assistant.

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

1 of the written agreement shall be issued to the supervising
2 physician. If there are discrepancies that have not been
3 corrected within the 120-day period, the temporary
4 authorization to practice shall expire.]

5 (6) Becomes effective upon submission by the primary
6 supervising physician, the physician assistant or a delegate
7 of the primary supervising physician and the physician
8 assistant to the board. The board ~~may develop audit~~ <--
9 ~~procedures to ensure supervision and scope of practice~~
10 ~~protections are maintained in accordance with this act. The~~
11 ~~audit shall not include more than~~ SHALL REVIEW 10% of all <--
12 written agreements ~~on an annual basis~~ SUBMITTED TO THE BOARD <--
13 AFTER THE EFFECTIVE DATE OF THIS PARAGRAPH. A written
14 agreement subject to ~~an audit~~ A REVIEW shall remain in effect <--
15 for two weeks after the board notifies the primary
16 supervising physician and the physician assistant with
17 remedies, if necessary, on the outcome of the ~~audit~~ REVIEW. <--
18 The primary supervising physician, physician assistant or
19 delegate to the primary supervising physician and physician
20 assistant must submit a new written agreement which shall be
21 effective upon submission to the board. A WRITTEN AGREEMENT <--
22 SUBMITTED TO THE BOARD DURING THE DECLARATION OF DISASTER
23 EMERGENCY ISSUED BY THE GOVERNOR ON MARCH 6, 2020, PUBLISHED
24 AT 50 PA.B. 1644 (MARCH 21, 2020), OR ANY RENEWAL OF THE
25 DECLARATION OF DISASTER EMERGENCY, SHALL BE DEEMED APPROVED.
26 THIS PARAGRAPH SHALL APPLY TO WRITTEN AGREEMENTS SUBMITTED TO
27 THE BOARD BEFORE THE EFFECTIVE DATE OF THIS PARAGRAPH.

28 (7) NO LATER THAN 120 DAYS FROM THE EFFECTIVE DATE OF
29 THIS PARAGRAPH, THE BOARD SHALL SUBMIT THE REVIEW PROCESS FOR
30 THE WRITTEN AGREEMENTS UNDER PARAGRAPH (6) TO THE LEGISLATIVE

1 REFERENCE BUREAU FOR PUBLICATION IN THE PENNSYLVANIA

2 BULLETIN.

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

17 * * *

18 (g) Supervision.--A physician assistant may be employed by a
19 health care facility licensed under the Health Care Facilities
20 Act under the supervision [and direction] of an approved
21 physician or group of such physicians, provided one of those
22 physicians is designated as having the primary responsibility
23 for supervising [and directing] the physician assistant. In
24 health care facilities licensed under the Health Care Facilities
25 Act, the attending physician of record for a particular patient
26 shall act as the primary supervising physician for the physician
27 assistant while that patient is under the care of the attending
28 physician. NOTHING IN THIS ACT SHALL BE CONSTRUED TO AUTHORIZE <--
29 AN EMPLOYER OR OTHER ENTITY TO REQUIRE A PHYSICIAN TO SUPERVISE
30 MORE PHYSICIAN ASSISTANTS WHEN THE PHYSICIAN, IN HIS OR HER

1 CLINICAL JUDGMENT, DETERMINES THAT SUPERVISING MORE PHYSICIAN
2 ASSISTANTS WILL COMPROMISE PATIENT CARE OR OTHERWISE AFFECT THE
3 PHYSICIAN'S ABILITY TO PROPERLY SUPERVISE ANOTHER PHYSICIAN
4 ASSISTANT IN ACCORDANCE WITH THE REQUIREMENTS OF THIS ACT OR
5 REGULATIONS PROMULGATED BY THE BOARD.

6 * * *

7 Section 4. The State Board of Medicine shall promulgate
8 FINAL rules and regulations necessary to carry out this act <--
9 within 180 days of the effective date of this section.

10 Section 5. Any and all regulations at 49 Pa. Code §§
11 18.142(5), 18.153(c), 18.158(b)(4) and 18.161(b) and other
12 provisions of 49 Pa. Code Ch. 18 are abrogated to the extent of
13 any inconsistency with this act.

14 Section 6. This act shall take effect ~~in 60 days~~ <--
15 IMMEDIATELY. <--