

First Regular Session
Seventy-second General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 19-0649.01 Richard Sweetman x4333

HOUSE BILL 19-1095

HOUSE SPONSORSHIP

Cutter and Landgraf,

SENATE SPONSORSHIP

Fields,

House Committees
Health & Insurance

Senate Committees

A BILL FOR AN ACT

101 CONCERNING PHYSICIAN ASSISTANTS, AND, IN CONNECTION
102 THEREWITH, ESTABLISHING REQUIREMENTS FOR THE
103 SUPERVISION OF PHYSICIAN ASSISTANTS, ESTABLISHING
104 LIABILITY FOR PHYSICIAN ASSISTANTS, AND INCREASING THE
105 NUMBER OF PHYSICIAN ASSISTANT MEMBERS ON THE COLORADO
106 MEDICAL BOARD.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill establishes supervisory requirements for physician

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

assistants who:

- ! Have practiced for less than 3 years;
- ! Have practiced for 3 years or more; or
- ! Have practiced for at least 12 months and are making a substantive change in their scope of practice or practice area.

Current law states that a licensed physician may be responsible for the direction and supervision of up to 4 physician assistants at any one time and may be responsible for the direction and supervision of more than 4 physician assistants upon receiving specific approval from the Colorado medical board (board). The bill eliminates this restriction.

The bill adds 2 more physician assistants as members of the board, for a total of 3 physician assistant members. Current law requires the president of the board to establish a licensing panel consisting of 3 members of the board. The bill adds a fourth member to the licensing panel; that is, a person who is a physician assistant member of the board.

The bill states that a physician assistant who has practiced for at least 3 years may be liable for damages resulting from negligence in providing care to a patient; except that a physician assistant is not liable for any such damages that occur as a result of the physician assistant following a direct order from a supervising physician.

Current law requires that when persons licensed to practice medicine form professional service corporations for the practice of medicine, the articles of incorporation of such corporations must state that one or more licensed physician assistants may be a shareholder of the corporation as long as the physician shareholders maintain majority ownership of the corporation. The bill removes this requirement.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** 12-36-107.7 as
3 follows:

4 **12-36-107.7. Physician assistants - definitions - supervisory**
5 **requirements - liability - definitions.** (1) AS USED IN THIS SECTION,
6 UNLESS THE CONTEXT OTHERWISE REQUIRES:

7 (a) "PERFORMANCE EVALUATION" MEANS A DOCUMENT THAT
8 INCLUDES DOMAINS OF COMPETENCY RELEVANT TO THE PRACTICE OF A
9 PHYSICIAN ASSISTANT, USES MORE THAN ONE MODALITY OF ASSESSMENT
10 TO EVALUATE THE DOMAINS, AND INCLUDES CONSIDERATION OF THE

1 PHYSICIAN ASSISTANT'S EDUCATION, TRAINING, EXPERIENCE,
2 COMPETENCY, AND KNOWLEDGE OF THE SPECIALTY IN WHICH THE
3 PHYSICIAN ASSISTANT IS ENGAGED.

4 (b) "PRACTICE AGREEMENT" MEANS A WRITTEN AGREEMENT
5 BETWEEN A PHYSICIAN ASSISTANT AND A SUPERVISING PHYSICIAN THAT
6 DEFINES THE COMMUNICATION AND DECISION-MAKING PROCESS BY WHICH
7 THE PHYSICIAN ASSISTANT AND THE SUPERVISING PHYSICIAN PROVIDE
8 CARE TO PATIENTS.

9 (c) "SUPERVISORY PLAN" MEANS A DOCUMENT THAT ALLOWS A
10 SUPERVISING PHYSICIAN TO FOLLOW THE ONGOING PROFESSIONAL
11 DEVELOPMENT OF A PHYSICIAN ASSISTANT'S CLINICAL PRACTICE,
12 PROMOTES A COLLABORATIVE RELATIONSHIP BETWEEN A PHYSICIAN
13 ASSISTANT AND HIS OR HER SUPERVISING PHYSICIANS, AND ALLOWS A
14 SUPERVISING PHYSICIAN TO ADDRESS ANY DEFICIENCIES THAT HAVE BEEN
15 IDENTIFIED IN THE PHYSICIAN ASSISTANT'S CLINICAL COMPETENCIES
16 DURING THE INITIAL PERFORMANCE PERIOD.

17 (2) A PHYSICIAN ASSISTANT LICENSED PURSUANT TO THIS ARTICLE
18 36 WHO HAS PRACTICED FOR LESS THAN THREE YEARS IS SUBJECT TO THE
19 FOLLOWING SUPERVISORY REQUIREMENTS:

20 (a) THE PHYSICIAN ASSISTANT'S FIRST ONE HUNDRED SIXTY
21 WORKING HOURS MUST BE SUPERVISED BY A SUPERVISING PHYSICIAN WHO
22 WORKS AT THE SAME LOCATION AS THE PHYSICIAN ASSISTANT. THE
23 PHYSICIAN ASSISTANT'S PRIMARY SUPERVISING PHYSICIAN MUST PROVIDE
24 AT LEAST FORTY HOURS OF SUPERVISION, AND THE REMAINING HOURS MAY
25 BE PROVIDED BY A SECONDARY SUPERVISING PHYSICIAN WHO IS
26 DESIGNATED BY THE PRIMARY SUPERVISING PHYSICIAN.

27 (b) AFTER THE PHYSICIAN ASSISTANT COMPLETES ONE HUNDRED

1 SIXTY WORKING HOURS, A SUPERVISING PHYSICIAN MUST REMAIN
2 AVAILABLE TO THE PHYSICIAN ASSISTANT VIA A TELECOMMUNICATION
3 DEVICE AT ALL TIMES WHEN THE PHYSICIAN ASSISTANT IS WORKING.

4 (c) NOT MORE THAN THIRTY DAYS AFTER THE PHYSICIAN
5 ASSISTANT COMPLETES ONE HUNDRED SIXTY WORKING HOURS, THE
6 PRIMARY SUPERVISING PHYSICIAN SHALL COMPLETE AN INITIAL
7 PERFORMANCE ASSESSMENT AND A SUPERVISORY PLAN FOR THE PHYSICIAN
8 ASSISTANT.

9 (3) (a) THE SUPERVISION OF A PHYSICIAN ASSISTANT LICENSED
10 PURSUANT TO THIS ARTICLE 36 WHO HAS PRACTICED IN THIS STATE FOR
11 THREE YEARS OR MORE IS DETERMINED BY A PRACTICE AGREEMENT THAT
12 MUST BE CREATED BY THE PHYSICIAN ASSISTANT AND HIS OR HER PRIMARY
13 SUPERVISING PHYSICIAN NOT LATER THAN THIRTY DAYS AFTER THE
14 PHYSICIAN ASSISTANT BEGINS PRACTICING UNDER THE SUPERVISION OF
15 THE PRIMARY SUPERVISING PHYSICIAN. A PRACTICE AGREEMENT MUST
16 INCLUDE:

17 (I) A PROCESS BY WHICH A PHYSICIAN ASSISTANT AND A
18 SUPERVISING PHYSICIAN COMMUNICATE AND MAKE DECISIONS
19 CONCERNING PATIENTS' MEDICAL TREATMENT, WHICH PROCESS UTILIZES
20 THE KNOWLEDGE AND SKILLS OF THE PHYSICIAN ASSISTANT AND THE
21 SUPERVISING PHYSICIAN BASED ON THEIR RESPECTIVE EDUCATION,
22 TRAINING, AND EXPERIENCE;

23 (II) A PROTOCOL FOR DESIGNATING AN ALTERNATIVE PHYSICIAN
24 FOR CONSULTATION WHEN THE SUPERVISING PHYSICIAN IS UNAVAILABLE
25 FOR CONSULTATION;

26 (III) THE SIGNATURES OF THE PHYSICIAN ASSISTANT AND
27 SUPERVISING PHYSICIAN; AND

1 (IV) A TERMINATION PROVISION THAT ALLOWS THE PHYSICIAN
2 ASSISTANT OR THE SUPERVISING PHYSICIAN TO TERMINATE THE PRACTICE
3 AGREEMENT AFTER PROVIDING WRITTEN NOTICE OF HIS OR HER INTENT TO
4 DO SO AT LEAST THIRTY DAYS BEFORE THE DATE OF TERMINATION. IF A
5 PRACTICE AGREEMENT IS TERMINATED, THE PHYSICIAN ASSISTANT AND
6 THE PHYSICIAN ASSISTANT'S PRIMARY SUPERVISING PHYSICIAN MUST
7 CREATE A NEW PRACTICE AGREEMENT WITHIN FORTY-FIVE DAYS AFTER
8 THE DATE THE PREVIOUS PRACTICE AGREEMENT WAS TERMINATED.

9 (b) IN ADDITION TO THE COMPONENTS DESCRIBED IN SUBSECTION
10 (3)(a) OF THIS SECTION, A PRACTICE AGREEMENT MAY IMPOSE CONDITIONS
11 CONCERNING SPECIFIC DUTIES, PROCEDURES, OR DRUGS.

12 (c) IF THE TERMS OR CONDITIONS OF A PRACTICE AGREEMENT
13 CHANGE, BOTH THE PHYSICIAN ASSISTANT AND THE SUPERVISING
14 PHYSICIAN MUST SIGN AND DATE THE UPDATED PRACTICE AGREEMENT.

15 (4) A PHYSICIAN ASSISTANT LICENSED PURSUANT TO THIS ARTICLE
16 36 WHO HAS PRACTICED FOR AT LEAST TWELVE MONTHS AND WHO IS
17 MAKING A SUBSTANTIVE CHANGE IN HIS OR HER SCOPE OF PRACTICE OR
18 PRACTICE AREA IS SUBJECT TO THE FOLLOWING SUPERVISORY
19 REQUIREMENTS:

20 (a) THE PHYSICIAN ASSISTANT'S FIRST EIGHTY WORKING HOURS
21 MUST BE SUPERVISED BY A SUPERVISING PHYSICIAN WHO WORKS AT THE
22 SAME LOCATION AS THE PHYSICIAN ASSISTANT. THE PHYSICIAN
23 ASSISTANT'S PRIMARY SUPERVISING PHYSICIAN MUST PROVIDE AT LEAST
24 TWENTY HOURS OF SUPERVISION, AND THE REMAINING HOURS MAY BE
25 PROVIDED BY A SECONDARY SUPERVISING PHYSICIAN WHO IS DESIGNATED
26 BY THE PRIMARY SUPERVISING PHYSICIAN.

27 (b) AFTER THE PHYSICIAN ASSISTANT COMPLETES EIGHTY

1 WORKING HOURS, A SUPERVISING PHYSICIAN MUST REMAIN AVAILABLE TO
2 THE PHYSICIAN ASSISTANT VIA A TELECOMMUNICATION DEVICE AT ALL
3 TIMES WHEN THE PHYSICIAN ASSISTANT IS WORKING.

4 (c) AFTER THE PHYSICIAN ASSISTANT HAS WORKED FOR SIX
5 MONTHS, AND AGAIN AFTER THE PHYSICIAN ASSISTANT HAS WORKED FOR
6 TWELVE MONTHS, THE PRIMARY SUPERVISING PHYSICIAN SHALL COMPLETE
7 A PERFORMANCE ASSESSMENT AND DISCUSS THE PERFORMANCE
8 ASSESSMENT WITH THE PHYSICIAN ASSISTANT.

9 (5) A PHYSICIAN ASSISTANT LICENSED PURSUANT TO THIS ARTICLE
10 36 WHO HAS PRACTICED FOR AT LEAST THREE YEARS MAY BE LIABLE FOR
11 DAMAGES RESULTING FROM NEGLIGENCE IN PROVIDING CARE TO A
12 PATIENT; EXCEPT THAT A PHYSICIAN ASSISTANT IS NOT LIABLE FOR ANY
13 DAMAGES THAT OCCUR AS A RESULT OF THE PHYSICIAN ASSISTANT
14 FOLLOWING A DIRECT ORDER FROM A SUPERVISING PHYSICIAN.

15 **SECTION 2.** In Colorado Revised Statutes, 12-36-106, **amend**
16 (5)(b)(I) as follows:

17 **12-36-106. Practice of medicine defined - exemptions from**
18 **licensing requirements - unauthorized practice by physician**
19 **assistants and anesthesiologist assistants - penalties - rules - repeal.**

20 (5) (b) (I) If the authority to perform an act is delegated pursuant to
21 ~~paragraph (a) of this subsection (5)~~ SUBSECTION (5)(a) OF THIS SECTION,
22 the ~~act~~ PHYSICIAN ASSISTANT TO WHOM THE ACT IS DELEGATED shall not
23 ~~be performed~~ PERFORM THE ACT except under the personal and
24 responsible direction and supervision of a person licensed under the laws
25 of this state to practice medicine. ~~A licensed physician may be responsible~~
26 ~~for the direction and supervision of up to four physician assistants at any~~
27 ~~one time, and may be responsible for the direction and supervision of~~

1 ~~more than four physician assistants upon receiving specific approval from~~
2 ~~the board.~~ The board, by rule, may define what constitutes appropriate
3 direction and supervision of a physician assistant; EXCEPT THAT THE
4 BOARD SHALL NOT PROMULGATE A RULE THAT IS INCONSISTENT WITH
5 SECTION 12-36-107.7.

6 **SECTION 3.** In Colorado Revised Statutes, 12-36-103, **amend**
7 (1)(a)(I) introductory portion, (1)(a)(I)(B), (1)(a)(II), and (2) as follows:

8 **12-36-103. Colorado medical board - immunity - subject to**
9 **termination - repeal of article.** (1) (a) (I) There is hereby created the
10 Colorado medical board, referred to in this ~~article~~ ARTICLE 36 as the
11 "board". The board shall consist of ~~sixteen~~ EIGHTEEN members appointed
12 by the governor and possessing the qualifications specified in this ~~article~~
13 ARTICLE 36 and as follows:

14 (B) ~~One member~~ THREE MEMBERS licensed under this ~~article~~
15 ARTICLE 36 as ~~a physician assistant~~ PHYSICIAN ASSISTANTS; and

16 (II) The terms of the members of the board ~~shall be~~ ARE four
17 years. For the two physician ~~and one physician assistant~~ appointees added
18 to the board during the calendar year beginning January 1, 2010, the term
19 for one of the physician member appointees ~~shall expire~~ EXPIRES four
20 years after the appointment, the term for the other physician member
21 appointee ~~shall expire~~ EXPIRES three years after the appointment, and the
22 term for the physician assistant appointee ~~shall expire~~ EXPIRES two years
23 after the appointment. FOR THE TWO PHYSICIAN ASSISTANT APPOINTEES
24 ADDED TO THE BOARD DURING THE CALENDAR YEAR BEGINNING JANUARY
25 1, 2019, THE TERM FOR ONE OF THE PHYSICIAN ASSISTANT APPOINTEES
26 EXPIRES TWO YEARS AFTER THE APPOINTMENT, AND THE TERM FOR THE
27 OTHER PHYSICIAN ASSISTANT APPOINTEE EXPIRES FOUR YEARS AFTER THE

1 APPOINTMENT. THEREAFTER, THE TERMS OF THE MEMBERS OF THE BOARD
2 ARE FOUR YEARS.

3 (2) The board ~~shall be comprised~~ MUST INCLUDE at all times of
4 eight members having the degree of doctor of medicine, three members
5 having the degree of doctor of osteopathy, and ~~one physician assistant~~
6 THREE PHYSICIAN ASSISTANTS, all of whom ~~shall~~ have been licensed in
7 good standing and actively engaged in the practice of their professions in
8 this state for at least three years next preceding their appointments, and
9 four members of the public at large.

10 **SECTION 4.** In Colorado Revised Statutes, 12-36-111.3, **amend**
11 (1)(a) as follows:

12 **12-36-111.3. Licensing panel.** (1) (a) The president of the board
13 shall establish a licensing panel consisting of ~~three~~ FOUR members of the
14 board as follows:

15 (I) One ~~panel~~ member ~~shall be~~ WHO IS a licensed physician having
16 the degree of doctor of medicine;

17 (II) One ~~panel~~ member ~~shall be~~ WHO IS a licensed physician
18 having the degree of doctor of osteopathy; ~~and~~

19 (III) One ~~panel~~ member ~~shall be~~ WHO IS a public member of the
20 board; AND

21 (IV) ONE MEMBER WHO IS A PHYSICIAN ASSISTANT MEMBER OF
22 THE BOARD.

23 **SECTION 5.** In Colorado Revised Statutes, 12-36-134, **amend**
24 (1) introductory portion and (1)(d)(I) as follows:

25 **12-36-134. Professional service corporations, limited liability**
26 **companies, and registered limited liability partnerships for the**
27 **practice of medicine - definitions.** (1) Persons licensed to practice

1 medicine by the board may form professional service corporations for
2 such persons' practice of medicine under the "Colorado Business
3 Corporation Act", articles 101 to 117 of title 7, ~~C.R.S.~~, if such
4 corporations are organized and operated in accordance with the
5 provisions of this section. The articles of incorporation of such
6 corporations ~~shall~~ MUST contain provisions complying with the following
7 requirements:

8 (d) (I) Except as specified in ~~subparagraph (H) of this paragraph~~
9 ~~(d)~~ SUBSECTION (1)(d)(II) OF THIS SECTION, all shareholders of the
10 corporation are persons licensed by the board to practice medicine in the
11 state of Colorado, OR ARE LICENSED BY THE BOARD AS PHYSICIAN
12 ASSISTANTS, who at all times own their shares in their own right. ~~except~~
13 ~~that one or more persons licensed by the board as a physician assistant~~
14 ~~may be a shareholder of the corporation as long as the physician~~
15 ~~shareholders maintain majority ownership of the corporation.~~ The
16 shareholders shall be individuals who, except for illness, accident, time
17 spent in the armed services, on vacations, and on leaves of absence not to
18 exceed one year, are actively engaged in the practice of medicine or as a
19 physician assistant in the offices of the corporation.

20 **SECTION 6. Act subject to petition - effective date -**
21 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
22 the expiration of the ninety-day period after final adjournment of the
23 general assembly (August 2, 2019, if adjournment sine die is on May 3,
24 2019); except that, if a referendum petition is filed pursuant to section 1
25 (3) of article V of the state constitution against this act or an item, section,
26 or part of this act within such period, then the act, item, section, or part
27 will not take effect unless approved by the people at the general election

1 to be held in November 2020 and, in such case, will take effect on the
2 date of the official declaration of the vote thereon by the governor.

3 (2) This act applies to the supervision of persons who practice as
4 physician assistants on or after the applicable effective date of this act.