

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 772

Introduced by Williams, 36.

Read first time January 08, 2020

Committee:

1 A BILL FOR AN ACT relating to physician assistants; to amend sections
2 38-2008, 38-2014, 38-2017, 38-2018, 38-2023, 38-2046, 38-2047,
3 38-2050, 38-2053, 38-2054, 38-2055, and 38-2056, Reissue Revised
4 Statutes of Nebraska; to redefine terms; to restate intent; to
5 change the membership of the Board of Medicine and Surgery and the
6 Physician Assistant Committee; to eliminate requirements for
7 delegation and control by supervising physicians; to require
8 collaboration with health care professionals; to provide, change,
9 and eliminate authorized actions; and to repeal the original
10 sections.

11 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 38-2008, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 38-2008 Approved program means a program for the education of
4 physician assistants which is accredited ~~approved~~ by the Accreditation
5 Review Commission on Education for the Physician Assistant or its
6 predecessor or successor agency and which the board formally approves.

7 Sec. 2. Section 38-2014, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 38-2014 Physician assistant means any person who graduates from an
10 approved program, who has passed a proficiency examination, and whom the
11 department, with the recommendation of the board, approves to perform
12 medical services under a collaborative agreement with the supervision of
13 a physician.

14 Sec. 3. Section 38-2017, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 38-2017 Supervising physician means a licensed physician who
17 supervises a physician assistant under a collaborative agreement.

18 Sec. 4. Section 38-2018, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 38-2018 Supervision means the ready availability of the supervising
21 physician for consultation and collaboration on direction ~~of the~~
22 activities of the physician assistant. ~~Contact with the supervising~~
23 ~~physician by telecommunication shall be sufficient to show ready~~
24 ~~availability.~~

25 Sec. 5. Section 38-2023, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 38-2023 The board shall consist of eight members, including at least
28 two public members. Two of the six professional members of the board
29 shall be officials or members of the instructional staff of an accredited
30 medical school in this state. One of the six professional members of the
31 board shall be a person who has a license to practice osteopathic

1 medicine and surgery in this state. Beginning December 1, 2020, one of
2 the six professional members of the board shall be a physician with
3 experience in practice with physician assistants.

4 Sec. 6. Section 38-2046, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 38-2046 The Legislature finds that:

7 (1) In its concern with the geographic maldistribution of health
8 care services in Nebraska it is essential to develop additional health
9 personnel; and

10 (2) It is essential to encourage the more effective utilization of
11 the skills of physicians by enabling them to delegate health care tasks
12 to qualified physician assistants when such delegation is consistent with
13 the patient's health and welfare.

14 It is the intent of the Legislature to encourage the utilization of
15 ~~such physician assistants by physicians.~~

16 Sec. 7. Section 38-2047, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 38-2047 (1) A physician assistant may perform medical services that
19 (a) are delegated by and provided under the supervision of a licensed
20 physician, (b) are appropriate to the level of competence of the
21 physician assistant, (c)(i) (c) form a component of the supervising
22 physician's scope of practice or (ii) form a component of the scope of
23 practice of a physician working in the same physician group as the
24 physician assistant if delegated by and provided under the supervision of
25 and collaboration with such physician, (d) are medical services for which
26 the physician assistant has been prepared by education, experience, and
27 training and that the physician assistant is competent to perform, and
28 (e) (d) are not otherwise prohibited by law.

29 ~~(2) A physician assistant shall be considered an agent of his or her~~
30 ~~supervising physician in the performance of practice-related activities~~
31 ~~delegated by the supervising physician, including, but not limited to,~~

1 ~~ordering diagnostic, therapeutic, and other medical services.~~

2 ~~(2) (3) Each physician assistant and his or her supervising~~
3 ~~physician shall be responsible to ensure that (a) the scope of practice~~
4 ~~of the physician assistant is identified, (b) the delegation of medical~~
5 ~~tasks is appropriate to the level of education, training, and experience~~
6 ~~competence of the physician assistant, (c) the relationship of and access~~
7 ~~to the supervising physician is defined, and (d) a process for evaluation~~
8 ~~of the performance of the physician assistant is established.~~

9 ~~(3) (4) A physician assistant may pronounce death and may complete~~
10 ~~and sign death certificates and any other forms if such acts are within~~
11 ~~the scope of practice of the physician assistant, are delegated by his or~~
12 ~~her supervising physician, and are not otherwise prohibited by law.~~

13 ~~(5) In order for a physician assistant to practice in a hospital,~~
14 ~~(a) his or her supervising physician shall be a member of the medical~~
15 ~~staff of the hospital, (b) the physician assistant shall be approved by~~
16 ~~the governing board of the hospital, and (c) the physician assistant~~
17 ~~shall comply with applicable hospital policies, including, but not~~
18 ~~limited to, reasonable requirements that the physician assistant and the~~
19 ~~supervising physician maintain professional liability insurance with such~~
20 ~~coverage and limits as established by the governing board of the~~
21 ~~hospital.~~

22 ~~(6) For physician assistants with less than two years of experience,~~
23 ~~the department, with the recommendation of the board, shall adopt and~~
24 ~~promulgate rules and regulations establishing minimum requirements for~~
25 ~~the personal presence of the supervising physician, stated in hours or~~
26 ~~percentage of practice time, and may provide different minimum~~
27 ~~requirements for the personal presence of the supervising physician based~~
28 ~~on the geographic location of the supervising physician's primary and~~
29 ~~other practice sites and other factors the board deems relevant.~~

30 ~~(7) A physician assistant may render services in a setting~~
31 ~~geographically remote from the supervising physician, except that a~~

1 ~~physician assistant with less than two years of experience shall comply~~
2 ~~with standards of supervision established in rules and regulations~~
3 ~~adopted and promulgated under the Medicine and Surgery Practice Act. The~~
4 ~~board may consider an application for waiver of the standards and may~~
5 ~~waive the standards upon a showing of good cause by the supervising~~
6 ~~physician. The department may adopt and promulgate rules and regulations~~
7 ~~establishing minimum requirements for such waivers.~~

8 Sec. 8. Section 38-2050, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 38-2050 (1) To be a supervising physician, a person shall:

11 (a) Be licensed to practice medicine and surgery under the Uniform
12 Credentialing Act;

13 (b) Have no restriction imposed by the board on his or her ability
14 to supervise and collaborate with a physician assistant; and

15 (c) Maintain a collaborative ~~an~~ agreement with the physician
16 assistant ~~as provided in subsection (2) of this section.~~

17 ~~(2)(a) An agreement between a supervising physician and a physician~~
18 ~~assistant shall (i) provide that the supervising physician will exercise~~
19 ~~supervision over the physician assistant in accordance with the Medicine~~
20 ~~and Surgery Practice Act and the rules and regulations adopted and~~
21 ~~promulgated under the act relating to such agreements, (ii) define the~~
22 ~~scope of practice of the physician assistant, (iii) provide that the~~
23 ~~supervising physician will retain professional and legal responsibility~~
24 ~~for medical services rendered by the physician assistant pursuant to such~~
25 ~~agreement, and (iv) be signed by the supervising physician and the~~
26 ~~physician assistant.~~

27 (2) (b) The supervising physician shall keep the collaborative
28 agreement on file at his or her primary practice site, shall keep a copy
29 of the collaborative agreement on file at each practice site where the
30 physician assistant provides medical services, and shall make the
31 collaborative agreement available to the board and the department upon

1 request.

2 (3) Supervision of a physician assistant by a supervising physician
3 shall be continuous but shall not require the physical presence of the
4 supervising physician at the time and place that the services are
5 rendered. A physician assistant may render services in a setting that is
6 geographically remote from the supervising physician.

7 (4) A supervising physician may supervise no more than four
8 physician assistants at any one time. The board may consider an
9 application for waiver of this limit and may waive the limit upon a
10 showing that the supervising physician meets the minimum requirements for
11 the waiver. The department may adopt and promulgate rules and regulations
12 establishing minimum requirements for such waivers.

13 Sec. 9. Section 38-2053, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 38-2053 Any physician or physician groups utilizing physician
16 assistants shall be liable for any negligent acts or omissions of
17 physician assistants while acting under their supervision ~~and control~~.

18 Sec. 10. Section 38-2054, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 38-2054 Any physician assistant who is licensed and who renders
21 services under the supervision ~~and control~~ of a licensed physician as
22 provided by the Medicine and Surgery Practice Act shall not be construed
23 to be engaged in the unauthorized practice of medicine.

24 Sec. 11. Section 38-2055, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 38-2055 (1) A physician assistant may prescribe drugs and devices
27 ~~as delegated to do so by a supervising physician. Any limitation placed~~
28 ~~by the supervising physician on the prescribing authority of the~~
29 ~~physician assistant shall be recorded on the physician assistant's scope~~
30 ~~of practice agreement established pursuant to rules and regulations~~
31 ~~adopted and promulgated under the Medicine and Surgery Practice Act.~~

1 (2) All such prescriptions and prescription container labels shall
2 bear the name of the physician assistant and, if required for purposes of
3 reimbursement, the name of the supervising physician. A physician
4 assistant who prescribes to whom has been delegated the authority to
5 prescribe controlled substances listed in Schedule II, III, IV, or V of
6 section 28-405 shall obtain a federal Drug Enforcement Administration
7 registration number. A physician assistant may distribute drug samples to
8 patients and may request, receive, or sign for drug samples.

9 (3) A physician assistant may plan and initiate a therapeutic
10 regimen that includes ordering and prescribing nonpharmacological
11 interventions, including, but not limited to, durable medical equipment,
12 nutrition, blood and blood products, and diagnostic support services,
13 including, but not limited to, home health care, hospice, physical
14 therapy, and occupational therapy.

15 Sec. 12. Section 38-2056, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 38-2056 (1) There is hereby created the Physician Assistant
18 Committee which shall review and make recommendations to the board
19 regarding all matters relating to physician assistants that come before
20 the board. Such matters shall include, but not be limited to, (a)
21 applications for licensure, (b) physician assistant education, (c) scope
22 of practice, (d) proceedings arising pursuant to sections 38-178 and
23 38-179, (e) physician assistant licensure ~~and supervising physician~~
24 requirements, and (f) continuing competency. The committee shall be
25 directly responsible to the board.

26 (2) The committee shall be appointed by the State Board of Health.
27 The committee and shall be composed of two physician assistants, one
28 supervising physician, one member of the Board of Medicine and Surgery
29 who shall be a nonvoting member of the committee, and one public member.
30 The chairperson of the committee shall be elected by a majority vote of
31 the committee members.

1 (3) At the expiration of the four-year terms of the members serving
2 on December 1, 2008, appointments shall be for five-year terms. Members
3 shall serve no more than two consecutive full five-year terms.
4 Reappointments shall be made by the State Board of Health.

5 (4) The committee shall meet on a regular basis and committee
6 members shall, in addition to necessary traveling and lodging expenses,
7 receive a per diem for each day actually engaged in the discharge of his
8 or her duties, including compensation for the time spent in traveling to
9 and from the place of conducting business. Traveling and lodging expenses
10 shall be reimbursed on the same basis as provided in sections 81-1174 to
11 81-1177. The compensation shall not exceed fifty dollars per day and
12 shall be determined by the committee with the approval of the department.

13 Sec. 13. Original sections 38-2008, 38-2014, 38-2017, 38-2018,
14 38-2023, 38-2046, 38-2047, 38-2050, 38-2053, 38-2054, 38-2055, and
15 38-2056, Reissue Revised Statutes of Nebraska, are repealed.