

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILLNo. **397** 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 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 definitions of "physician assistant" and
14 "primary supervising physician" in section 2 of the act of
15 October 5, 1978 (P.L.1109, No.261), known as the Osteopathic
16 Medical Practice Act, are amended to read:

17 Section 2. Definitions.

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

1 * * *

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

8 "Primary supervising physician." An osteopathic physician
9 who is registered with the board and designated in a written
10 agreement with a physician assistant under section 10(g) as
11 having primary responsibility for [directing and personally]
12 supervising the physician assistant.

13 * * *

14 Section 2. Sections 2.1(a) and 3(b) of the act are amended
15 to read:

16 Section 2.1. State Board of Osteopathic Medicine.

17 (a) The State Board of Osteopathic Medicine shall consist of
18 the Commissioner of Professional and Occupational Affairs or
19 [his] a designee; the Secretary of Health or [his] a designee;
20 two members appointed by the Governor who shall be persons
21 representing the public at large; one member appointed by the
22 Governor who is a physician assistant; one member appointed by
23 the Governor who shall be a respiratory therapist, a
24 perfusionist[, a physician assistant] or a licensed athletic
25 trainer; and [six] seven members appointed by the Governor who
26 shall be graduates of a legally incorporated and reputable
27 college of osteopathic medicine and shall have been licensed to
28 practice osteopathic medicine under the laws of this
29 Commonwealth and shall have been engaged in the practice of
30 osteopathy in this Commonwealth for a period of at least five

1 years. All professional and public members of the board shall be
2 appointed by the Governor with the advice and consent of a
3 majority of the members elected to the Senate. The Governor
4 shall assure that respiratory therapists, perfusionists[,
5 physician assistants] and certified athletic trainers are
6 appointed to four-year terms on a rotating basis.

7 * * *

8 Section 3. Practice of osteopathic medicine and surgery without
9 license prohibited.

10 * * *

11 (b) Nothing in this act shall be construed to prohibit
12 services and acts rendered by a qualified physician assistant,
13 technician or other allied medical person if such services and
14 acts are rendered under the supervision, direction or control of
15 a licensed physician. It shall be unlawful for any person to
16 practice as a physician assistant unless licensed and approved
17 by the board. It shall also be unlawful for any physician
18 assistant to render medical care and services except under the
19 supervision [and direction] of the supervising physician. A
20 physician assistant may use the title physician assistant or an
21 appropriate abbreviation for that title, such as "P.A.-C."

22 Section 3. Section 10(g), (G.1), (g.2), (j), (j.1), (k) and <--
23 (l) of the act are amended and the section is amended by adding
24 a subsection to read:

25 Section 10. Licenses; exemptions; nonresident practitioners;
26 graduate students; biennial registration and
27 continuing medical education.

28 * * *

29 (g) (1) The primary supervising physician shall file, or
30 cause to be filed, with the board [an application to utilize

1 a physician assistant including a written agreement
2 containing a description of] a written agreement that
3 identifies the manner in which the physician assistant will
4 assist the [supervising physician in his practice, the method
5 and frequency of supervision, including, but not limited to,
6 the number and frequency of the patient record reviews
7 required by subsection (j.1) and the criteria for selecting
8 patient records for review when 100% review is not required,
9 and the geographic location of the physician assistant.]
10 primary supervising physician, according to subsection (g.4).

11 The written agreement and description may be prepared and
12 submitted by the primary supervising physician, the physician
13 assistant or a delegate of the primary supervising physician
14 and the physician assistant. It shall not be a defense in any
15 administrative or civil action that the physician assistant
16 acted outside the scope of the [board-approved] board-filed
17 description or that the supervising physician utilized the
18 physician assistant outside the scope of the [board-approved]
19 board-filed description because the supervising physician or
20 physician assistant permitted another person to represent to
21 the board that the description had been approved by the
22 supervising physician or physician assistant. [Upon
23 submission of the application, board staff shall review the
24 application only for completeness and shall issue a letter to
25 the supervising physician providing the temporary
26 authorization for the physician assistant to begin practice.
27 If the application is not complete, including, but not
28 limited to, required information or signatures not being
29 provided or the fee not being submitted, a temporary
30 authorization for the physician assistant to begin practicing

1 shall not be issued. The temporary authorization, when
2 issued, shall provide a period of 120 days during which the
3 physician assistant may practice under the terms set forth in
4 the written agreement as submitted to the board. Within 120
5 days the board shall notify the supervising physician of the
6 final approval or disapproval of the application. If
7 approved, a final approval of the written agreement shall be
8 issued to the supervising physician. If there are
9 discrepancies that have not been corrected within the 120-day
10 period, the temporary authorization to practice shall
11 expire.]

12 (2) The written agreement becomes effective upon
13 submission by the primary supervising physician, the
14 physician assistant or a delegate of the primary supervising
15 physician and the physician assistant to the board. The board
16 may develop audit procedures to ensure supervision and scope <--
17 of practice protections are maintained in accordance with
18 this chapter. The audit shall not include more than SHALL <--
19 REVIEW 10% of all written agreements on an annual basis <--
20 SUBMITTED TO THE BOARD AFTER THE EFFECTIVE DATE OF THIS <--
21 PARAGRAPH. A written agreement subject to an audit A REVIEW <--
22 shall remain in effect for two weeks after the board notifies
23 the primary supervising physician and the physician assistant
24 with remedies, if necessary, on the outcome of the audit <--
25 REVIEW. The primary supervising physician, physician <--
26 assistant or delegate to the primary supervising physician
27 and physician assistant must submit a new written agreement
28 which shall be effective upon submission to the board. A <--
29 WRITTEN AGREEMENT SUBMITTED TO THE BOARD DURING THE
30 DECLARATION OF DISASTER EMERGENCY ISSUED BY THE GOVERNOR ON

1 MARCH 6, 2020, PUBLISHED AT 50 PA.B. 1644 (MARCH 21, 2020),
2 OR ANY RENEWAL OF THE DECLARATION OF DISASTER EMERGENCY,
3 SHALL BE DEEMED APPROVED. THIS PARAGRAPH SHALL APPLY TO
4 WRITTEN AGREEMENTS SUBMITTED TO THE BOARD BEFORE THE
5 EFFECTIVE DATE OF THIS PARAGRAPH.

6 (3) NO LATER THAN 120 DAYS FROM THE EFFECTIVE DATE OF
7 THIS PARAGRAPH, THE BOARD SHALL SUBMIT THE REVIEW PROCESS FOR
8 THE WRITTEN AGREEMENTS UNDER PARAGRAPH (2) TO THE LEGISLATIVE
9 REFERENCE BUREAU FOR PUBLICATION IN THE PENNSYLVANIA
10 BULLETIN.

11 ~~(3)~~ (4) There shall be no more than [four] ~~six~~ physician <--
12 assistants for whom a physician has responsibility or
13 supervises pursuant to a written agreement at any time. In
14 health care facilities licensed under the act of act of July
15 19, 1979 (P.L.130, No.48), known as the "Health Care
16 Facilities Act," a physician assistant shall be under the
17 supervision [and direction] of a physician or physician group
18 pursuant to a written agreement, provided that a physician
19 supervises no more than [four] ~~seven~~ SIX physician assistants <--
20 at any time. A physician may apply for a waiver to employ or
21 supervise more [than four] physician assistants at any time
22 under this section for good cause, as determined by the
23 board. In cases where a group of physicians will supervise a
24 physician assistant, the names of all supervisory physicians
25 shall be included on the application.

26 * * * <--

27 (G.1) IN HEALTH CARE FACILITIES LICENSED UNDER THE "HEALTH <--
28 CARE FACILITIES ACT," THE ATTENDING PHYSICIAN OF RECORD FOR A
29 PARTICULAR PATIENT SHALL ACT AS THE PRIMARY SUPERVISING
30 PHYSICIAN FOR THE PHYSICIAN ASSISTANT WHILE THAT PATIENT IS

1 UNDER THE CARE OF THE ATTENDING PHYSICIAN. NOTHING IN THIS ACT
2 SHALL BE CONSTRUED TO AUTHORIZE AN EMPLOYER OR OTHER ENTITY TO
3 REQUIRE A PHYSICIAN TO SUPERVISE MORE PHYSICIAN ASSISTANTS WHEN
4 THE PHYSICIAN, IN HIS OR HER CLINICAL JUDGMENT, DETERMINES THAT
5 SUPERVISING MORE PHYSICIAN ASSISTANTS WILL COMPROMISE PATIENT
6 CARE OR OTHERWISE AFFECT THE PHYSICIAN'S ABILITY TO PROPERLY
7 SUPERVISE ANOTHER PHYSICIAN ASSISTANT IN ACCORDANCE WITH THE
8 REQUIREMENTS OF THIS ACT OR REGULATIONS PROMULGATED BY THE
9 BOARD.

10 (g.2) (1) Except as limited by paragraph (2), and in
11 addition to existing authority, a physician assistant shall
12 have authority to do all of the following, provided that the
13 physician assistant is acting within the supervision [and
14 direction] of the supervising physician:

15 (i) Order durable medical equipment.

16 (ii) Issue oral orders to the extent permitted by a
17 health care facility's bylaws, rules, regulations or
18 administrative policies and guidelines.

19 (iii) Order physical therapy and dietitian
20 referrals.

21 (iv) Order respiratory and occupational therapy
22 referrals.

23 (v) Perform disability assessments for the program
24 providing Temporary Assistance to Needy Families (TANF).

25 (vi) Issue homebound schooling certifications.

26 (vii) Perform and sign the initial assessment of
27 methadone treatment evaluations in accordance with
28 Federal and State law, provided that any order for
29 methadone treatment shall be made only by a physician.

30 (2) Nothing in this subsection shall be construed to:

1 (i) Supersede the authority of the Department of
2 Health and the Department of [Public Welfare] Human
3 Services to regulate the types of health care
4 professionals who are eligible for medical staff
5 membership or clinical privileges.

6 (ii) Restrict the authority of a health care
7 facility to determine the scope of practice and
8 supervision or other oversight requirements for health
9 care professionals practicing within the facility.

10 * * *

11 (g.4) A physician assistant shall provide medical services
12 according to a written agreement which provides for all of the
13 following:

14 (1) Identifies and is signed by the primary supervising
15 physician.

16 (2) Describes the physician assistant's scope of
17 practice.

18 (3) Describes the nature and degree of supervision the
19 primary supervising physician will provide the physician
20 assistant.

21 * * *

22 (j) Nothing in this act shall be construed to permit a
23 licensed physician assistant to practice [osteopathic medicine] <--
24 AS AN OSTEOPATHIC PHYSICIAN ASSISTANT without the supervision
25 [and direction] of a licensed physician approved by the
26 appropriate board, but such supervision [and direction] shall
27 not be construed to [necessarily] require the personal presence
28 of the supervising physician at the place where the services are
29 rendered.

30 (j.1) [(1) The approved physician shall countersign 100% of

1 the patient records completed by the physician assistant
2 within a reasonable time, which shall not exceed ten days,
3 during each of the following time periods:

4 (i) The first 12 months of the physician assistant's
5 practice post graduation and after the physician
6 assistant has fulfilled the criteria for licensure set
7 forth in subsection (f).

8 (ii) The first 12 months of the physician
9 assistant's practice in a new specialty in which the
10 physician assistant is practicing.

11 (iii) The first six months of the physician
12 assistant's practice in the same specialty under the
13 supervision of the approved physician, unless the
14 physician assistant has multiple approved physicians and
15 practiced under the supervision of at least one of those
16 approved physicians for six months.

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

28 (3) The primary supervising physician shall determine
29 countersignature requirements of patient records completed by
30 the physician assistant in a written agreement, except as

1 provided for in paragraph (4).

2 (4) The approved physician shall countersign 100% of the
3 patient records completed by the physician assistant within a
4 reasonable time, which shall not exceed 10 days, for the <--
5 first 12 months of the physician assistant's practice post
6 graduation and after the physician assistant has fulfilled
7 the criteria for licensure specified in subsection (f).

8 DURING EACH OF THE FOLLOWING TIME PERIODS: <--

9 (I) THE FIRST 12 MONTHS OF THE PHYSICIAN ASSISTANT'S
10 PRACTICE POST GRADUATION AND AFTER THE PHYSICIAN
11 ASSISTANT HAS FULFILLED THE CRITERIA FOR LICENSURE SET
12 FORTH IN SUBSECTION (F).

13 (II) THE FIRST 12 MONTHS OF THE PHYSICIAN
14 ASSISTANT'S PRACTICE IN A NEW SPECIALTY IN WHICH THE
15 PHYSICIAN ASSISTANT IS PRACTICING.

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

20 (k) This act shall not be construed to prohibit the
21 performance by the physician assistant of any service within
22 [his] the physician assistant's skills, which is delegated by
23 the supervising physician, and which forms a usual component of
24 that physician's scope of practice.

25 (l) Nothing in this act shall be construed to prohibit the
26 employment of physician assistants by a health care facility
27 where such physician assistants function under the supervision
28 [and direction] of a physician or group of physicians.

29 * * *

30 Section 4. The State Board of Osteopathic Medicine shall

1 promulgate FINAL rules and regulations necessary to carry out <--
2 this act within 180 days of the effective date of this section.

3 Section 5. Any and all regulations at 49 Pa. Code §§ 25.142,
4 25.162, 25.178 and 25.181 are abrogated to the extent of any
5 inconsistency with this act.

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

7 IMMEDIATELY. <--