

# HOUSE BILL REPORT

## ESHB 2041

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### As Passed Legislature

**Title:** An act relating to physician assistant collaborative practice.

**Brief Description:** Concerning physician assistant collaborative practice.

**Sponsors:** House Committee on Health Care & Wellness (originally sponsored by Representatives Riccelli, Schmick, Simmons, Reed, Schmidt, Macri and Lekanoff).

#### **Brief History:**

##### **Committee Activity:**

Health Care & Wellness: 1/9/24, 1/19/24 [DPS].

##### **Floor Activity:**

Passed House: 2/9/24, 91-6.

Passed Senate: 2/27/24.

Passed Legislature.

#### **Brief Summary of Engrossed Substitute Bill**

- Changes requirements relating to the regulation of physician assistants.
- Permits a collaboration relationship between physician assistants and the physicians with whom they work.

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### HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Riccelli, Chair; Bateman, Vice Chair; Schmick, Ranking Minority Member; Hutchins, Assistant Ranking Minority Member; Bronoske, Davis, Harris, Macri, Orwall, Simmons, Stonier, Thai and Tharinger.

**Minority Report:** Without recommendation. Signed by 3 members: Representatives Caldier, Graham and Mosbrucker.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*

**Staff:** Emily Poole (786-7106).

**Background:**

A physician assistant is a person who is licensed by the Washington Medical Commission (Commission) to practice medicine according to a practice agreement with one or more participating physicians, with at least one of the physicians working in a supervisory capacity. Physician assistants may provide services that they are competent to perform based on their education, training, and experience, and that are consistent with their practice agreement.

Practice Agreements.

A physician assistant may practice medicine to the extent permitted by a practice agreement. Prior to entering into the agreement, the physician or their designee must verify the physician assistant's credentials. A physician assistant must file each practice agreement with the Commission, and the practice agreements must also be maintained by the physician assistant's employer or at the physician assistant's place of work.

A practice agreement must also include:

- the duties of the physician assistant, the supervising physician, and alternative physicians—the agreement may only include tasks or functions that the physician assistant and supervising or alternate physician are qualified to perform by education, training, or experience, and that are within the scope of expertise and clinical practice of both the physician assistant and the supervising or alternate physician;
- a process between the physician assistant and the supervising or alternate physician for communication, availability, and decision-making when providing treatment to a patient or in the event of an acute health care crisis not previously covered by the practice agreement;
- if there is only one physician party to the agreement, a protocol for designating an alternate physician when the physician is not available; and
- a termination provision.

Supervision.

The supervising physician and the physician assistant must determine which procedures may be performed and the supervision under which a procedure is performed. Physician assistants may practice in any area of medicine or surgery as long as the practice is not beyond the supervising physician's own scope of expertise and clinical practice and the practice agreement.

The supervising physician and physician assistant each retain professional responsibility for any act performed by the physician assistant that constitutes the practice of medicine or the practice of osteopathic medicine and surgery. A physician assistant or physician may participate in more than one practice agreement if they are reasonably able to fulfill the duties of each agreement, but a physician may not supervise more than 10 physician

assistants without a waiver.

### **Summary of Engrossed Substitute Bill:**

A physician assistant may practice medicine only under the terms of one or more collaboration agreements.

"Collaboration" is defined to mean how physician assistants shall interact with, consult with, or refer to a physician or other appropriate members of the health care team as indicated by the patient's condition, the education, experience, and competencies of the physician assistant, and the standard of care.

#### Collaboration Agreements.

A collaboration agreement is a written agreement that describes the manner in which a physician assistant is supervised by or collaborates with at least one physician, which must be signed by the physician assistant and one or more physicians or the physician assistant's employer.

Prior to entering into the agreement, the participating physician or physicians, employer, or their designee must verify the physician assistant's credentials. The collaboration agreement must be available at the physician assistant's primary location of practice and made available to the Commission upon request. A physician assistant is not required to file collaboration agreements with the Commission.

A collaboration agreement must also include:

- the duties of the physician assistant and the participating physician or physicians—the agreement may only include tasks or functions that the physician assistant is qualified to perform by education, training, or experience, and that are within the scope of expertise and clinical practice of either the participating physician or physicians or the group of physicians within the department or specialty areas in which the physician assistant is practicing;
- a process between the physician assistant and participating physician for communication, availability, and decision-making when providing treatment to a patient or in the event of an acute health care crisis not previously covered by the collaboration agreement;
- if there is only one participating physician identified in the agreement, a protocol for designating another participating physician when the physician is not available;
- an attestation by the physician assistant of the number of postgraduate clinical practice hours completed; and
- a termination provision.

#### Supervision and Collaboration.

Physician assistants may practice in any area of medicine or surgery as long as the practice is not beyond the scope of expertise and clinical practice of the participating physician,

physicians, or the group of physicians within the department or specialty areas in which the physician assistant practices. The participating physician, physicians, or the physician assistant's employer, and the physician assistant must determine which procedures may be performed and the degree of autonomy under which the procedure is performed.

A physician assistant who has completed fewer than 4,000 hours of postgraduate clinical practice must work under the supervision of a participating physician. A physician assistant with 4,000 or more hours of postgraduate clinical practice may work in collaboration with a participating physician, if the physician assistant has completed 2,000 or more supervised hours in the physician assistant's chosen specialty.

A physician assistant who has at least 10 years or 20,000 hours of postgraduate clinical experience in a specialty may continue to provide those specialty services if the physician assistant is employed in a practice setting where those services are outside the specialty of the physician assistant's participating physician or physicians, if the practice is located in a rural or underserved area.

There is no specified limit on how many physician assistants may collaborate with or be supervised by a specific physician. The physician assistant retains responsibility for any act performed by the physician assistant that constitutes the practice of medicine or the practice of osteopathic medicine and surgery.

#### Health Carriers.

Health carriers are authorized to reimburse employers of physician assistants for covered services rendered by physician assistants. Payment for services within the physician assistant's scope of practice must be made when ordered or performed by a physician assistant if the same services would have been covered if ordered or performed by a physician. Physician assistants or their employers, who are billing on behalf of the physician assistant, are authorized to bill for and receive direct payment for the services delivered by physician assistants. A health carrier may not impose a practice, education, or collaboration requirement that is inconsistent with or more restrictive than state laws or regulations governing physician assistants.

#### Miscellaneous.

The Commission and the Board of Osteopathic Medicine and Surgery are authorized to adopt any rules necessary to implement the requirements related to collaboration agreements. Conforming changes are made.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill contains multiple effective dates. Please see the bill.

## **Staff Summary of Public Testimony:**

(In support) Advanced practice providers are an important part of providing greater access to care, especially in rural areas. However, physician assistants are struggling to find jobs. Some critical access hospitals do not have physicians willing to supervise physician assistants. This bill is about expanding access to care and allowing physician assistants to have greater autonomy, but with proper safeguards. Other states take a wide variety of approaches to physician assistant regulation. About 25 states have passed some version of collaborative practice and are moving towards team based care. This bill is similar to the approach taken in neighboring states, where a physician assistant has at least one physician they can go to with questions. Under this bill, collaboration agreements will delineate what physician assistants can or cannot do, and physician assistants will be able to enter collaboration relationships after a certain number of hours. The bill will establish sole liability for physician assistants for their actions. Studies show that this type of collaboration is safe. This bill recognizes the evolution of physician assistant practice and will incentivize physicians to work with physician assistants. This bill will reduce the administrative burden on employers. This bill will allow physicians to staff their teams based on what makes sense for the specialty. The clinical experience requirements in this bill should be aligned with what is required in Oregon. This bill represents a compromise.

(Opposed) Physician assistants do not have the training or education of physicians. There is a public expectation that physician assistants will have oversight by a physician. This bill removes the protection of a physician being accountable for care provided by physician assistants. This bill allows physician assistants to practice without supervision. The bill does not identify who can sign a collaboration agreement, and it removes the restriction on how many agreements can be entered into by a physician.

(Other) This bill will, hopefully, represent a lasting compromise that balances patient safety while maximizing opportunities for physician assistants. During the pandemic, physician assistants practiced with increased autonomy. The changes in this bill seem to be reasonable and will not be difficult for regulators to implement. It is not clear that there is a need to limit the ability of physician assistants to practice outside the specialty of a participating physician after 20,000 hours in non-rural areas. It is appropriate to not restrict the ability of physician assistants to own their own clinic.

**Persons Testifying:** (In support) Representative Marcus Riccelli, prime sponsor; Chelsea Hager, Contract Lobbyist, Washington Academy of Physician Assistants; Paul Surette, Washington Academy of Physician Assistants; Gary Morsch, Docs Who Care; Tom Holt, ZoomCare; and Ryan Agostinelli.

(Opposed) Jane Morrow, Washington State Association for Justice.

(Other) Stephanie Mason, Washington Medical Commission; and Alex Wehinger, Washington State Medical Association.

**Persons Signed In To Testify But Not Testifying:** None.