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OFFICE OF
SECRETARY OF STATE
STATE OF WEST VIRGINIA

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1976



ENROLLED

SENATE BILL NO. 168

(By Mr. Hoffman & Mr. James)



PASSED March 11 1976

In Effect ninety days from Passage

FILED IN THE OFFICE
JAMES R. McCARTNEY
SECRETARY OF STATE

THIS DATE 3/25/76

THIS DATE
STATE

168

ENROLLED

Senate Bill No. 168

(By MR. HATFIELD AND MR. JONES)

[Passed March 11, 1976; in effect ninety days from passage.]

AN ACT to amend and reenact article three-a, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to physician assistants; providing for definitions; rules and regulations of the board; certification and classification of physician assistants; temporary certification; recertification; responsibilities of supervising physician; identification requirements; limitations on physician assistants; unlawful use of title of physician assistant; unlawful representation as physician; and providing criminal offenses and penalties.

Be it enacted by the Legislature of West Virginia:

That article three-a, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, to read as follows:

ARTICLE 3A. ASSISTANTS TO PHYSICIANS.

§30-3A-1. Definitions.

- 1 As used in this article the following terms shall have
- 2 the following meanings:
- 3 (a) "Board" means the medical licensing board of
- 4 West Virginia.
- 5 (b) "Type 'A' physician assistant" means an assistant
- 6 to a primary care physician who is a graduate of an ap-
- 7 proved program of instruction in primary health care,
- 8 who has passed the national certification examination and
- 9 is qualified to perform direct patient care services under
- 10 the supervision of the primary care physician.

11 (c) "Type 'B' physician assistant" means an assistant
12 to the physician who is a graduate of an approved pro-
13 gram for instruction in a recognized clinical speciality or
14 has received training from a physician adequate to qual-
15 ify him to perform patient services in that specialty as
16 defined by the supervising physician.

17 (d) "Supervising physician" means a doctor of medi-
18 cine, or podiatry permanently licensed in West Virginia
19 who assumes legal and supervisory responsibility for the
20 work or training of any physician assistant in his employ-
21 ment.

22 (e) "Approved program" means an educational pro-
23 gram for physician assistants approved and accredited by
24 the American medical association, or American podiatry
25 association.

26 (f) "Health care facility" means any licensed hospital,
27 nursing home, extended care facility, state health or
28 mental institutions, clinic or physician's office.

**§30-3A-2. Medical licensing board; rules and regulations;
limitations.**

1 (a) The board shall promulgate rules and regulations
2 governing the extent to which physician assistants may
3 function within this state.

4 Such regulations shall provide:

5 (1) That the physician assistant shall be limited to the
6 performance of those services for which he is trained;
7 and

8 (2) That each physician assistant shall perform only
9 under the supervision and control of a physician per-
10 manently licensed in this state, but such supervision and
11 control shall not require the personal presence of the
12 supervising physician at the place or places, where ser-
13 vices are rendered: *Provided*, That the physician assis-
14 tant's normal place of employment shall be on the prem-
15 ises of his supervising physician. The supervising
16 physician may send the physician assistant off the
17 premises of the supervising physician to perform
18 duties at his direction, but no separate place of work
19 for the physician assistant shall be established, other

20 than premises which are established by, and for the
21 practice of the supervising physician.

22 (b) In promulgating such rules and regulations, the
23 board shall allow the physician assistant to perform those
24 procedures and examinations submitted to the board in
25 the job description pursuant to section five of this ar-
26 ticle.

27 (c) In addition thereto, the board shall compile and
28 publish an annual report that includes a list of currently
29 certified physician assistants, their employers and loca-
30 tion in the state; a list of approved programs; the number
31 of graduates per year of such approved programs and the
32 number of physician assistants from other states practic-
33 ing in West Virginia.

§30-3A-3. Certification.

1 (a) The board shall certify as a Type A physician
2 assistant any person who files an application and furnishes
3 evidence to the board that he has met the following
4 standards for qualification for the type of physician
5 assistant certificate for which he has applied:

6 (1) Shall be a graduate of an approved program of
7 instruction in primary health care, and

8 (2) Shall successfully have passed the examination for
9 a primary care physician assistant and be certified by the
10 national board of medical examiners, and

11 (3) Shall be of good moral character.

12 (b) The board may certify as a Type B physician
13 assistant any person who files an application and fur-
14 nishes evidence to the board that he has met the following
15 standards for qualification for the type of physician
16 assistant certificate for which he has applied:

17 (1) Shall be a graduate of an approved program in a
18 recognized clinical specialty, or

19 (2) Shall have received specialized training and ex-
20 perience from a physician adequate for him to perform
21 patient services in that specialty, and

22 (3) Shall be of good moral character.

23 (c) Certification of an assistant to a physician prac-

24 ticing the specialty of ophthalmology shall neither be
25 required nor permitted under this article.

§30-3A-3a. Temporary certification.

1 When any graduate of an approved program submits an
2 application to the board, accompanied by a job description
3 in conformity with section five of this article, for a Type
4 A physician assistant certificate, the board shall issue to
5 such applicant a temporary certificate allowing such ap-
6 plicant to function as a Type A physician assistant for
7 the period of one year. Said temporary certificate may be
8 renewed for one additional year upon the request of the
9 supervising physician. A Type A physician assistant
10 who has not been certified as such by the national
11 board of medical examiners will be restricted to
12 work under the direct supervision of the supervising
13 physician.

14 When any person who meets the qualifications for a
15 Type B physician assistant as defined in this section and
16 who submits an application accompanied by a job descrip-
17 tion for a Type B physician assistant certificate, the board
18 *ok* may certify such applicant as a Type B physician assistant
19 for a period of four months. Upon expiration of the four-
20 month temporary certification, the board may certify the
21 applicant as a Type B physician assistant. During the
22 period of temporary certification, the Type B physician
23 assistant shall be restricted to work under the direct
24 supervision of the supervising physician.

25 As of the effective date of this article, any person
26 holding a valid certificate from the board allowing such
27 person to practice as a physician assistant within this
28 state shall be eligible for certification for a period of one
29 year as a Type A or Type B physician assistant depending
30 upon such person's education, training or experience, as
31 determined by the board.

§30-3A-3b. Recertification.

1 Certification of a Type B physician assistant shall be
2 subject to review and recertification annually for the
3 first five years following the first certification. Such
4 recertification shall require the supervising physician

5 of a Type B physician assistant to report to the board
6 on the status of the Type B physician assistant.
7 This report shall include a performance evaluation,
8 a summary of experience or continuing medical edu-
9 cation, and any proposed changes in job description.

§30-3A-4. Reciprocity.

1 The board may certify as a physician assistant in this
2 state, without examination, any person who has been so
3 certified or licensed by examination in another state of the
4 United States which has requirements substantially equiv-
5 alent to the requirements contained in this article.

§30-3A-5. Job description.

1 Any supervising physician making application to the
2 medical licensing board to employ either a Type A or Type
3 B physician assistant shall provide a job description which
4 shall set forth the range of medical services to be provided
5 by such assistant. Before employing a physician assistant
6 the supervising physician must obtain approval of the job
7 description from the board. The board shall have the
8 power to revoke or suspend any certification of an assis-
9 tant to a physician or podiatrist, for cause, after having
10 given the person an opportunity to be heard in the man-
11 ner provided by sections eight and nine, article one,
12 chapter thirty of this code.

§30-3A-6. Supervising physician—responsibilities.

1 The supervising physician is responsible for observing,
2 directing and evaluating the work, records and practices
3 performed by the physician assistant pursuant to this
4 article. The supervising physician shall notify the medical
5 licensing board, in writing, of any termination of the
6 employment of his physician assistant within ten days of
7 said termination. The legal responsibility for any physi-
8 cian assistant shall remain that of the employing physician
9 or physicians at all times including occasions when the
10 assistant, under the direction and supervision of the
11 employing physician or physicians, aids in the care and
12 treatment of patients in health care facilities. Such
13 health care facilities shall not be legally responsible for

14 the actions or omissions of the physician assistant,
15 unless such physician assistant is an employee of the
16 facility.

§30-3A-7. Identification of physician assistant.

1 (a) When functioning as a physician assistant, the
2 physician assistant shall wear a name tag which identifies
3 the physician assistant as a physician assistant and which
4 also specifies the type of classification of such assistant
5 and the name of his supervising physician.

6 (b) A two and one-half by three and one-half inch card
7 of identification shall be furnished by the board upon
8 certification of the physician assistant and shall specify
9 the type of classification.

§30-3A-8. Limitations on employment of physician assistants.

1 (a) A supervising physician shall not employ at any
2 one time more than two physician assistants.

3 (b) Physician assistants shall not sign prescriptions.
4 He shall not perform any service which his employing
5 supervising physician is not qualified to perform. Fur-
6 ther, he shall not perform any service which is not
7 included in his job description and approved as provided
8 in section five of this article.

9 (c) Nothing in this article shall be construed to
10 authorize physician assistants to perform those specific
11 functions and duties delegated by law to those persons
12 licensed as chiropractors, dentists, dental hygienists,
13 optometrists, pharmacists, or certified as nurse anesthe-
14 tists.

§30-3A-9. Fees.

1 Each job description submitted by a licensed super-
2 vising physician or supervising physicians shall be ac-
3 companied by a fee of fifty dollars. A fee of five dollars
4 shall be charged for the annual renewal of the certificate.

**§30-3A-10. Unlawful use of title of "Physician Assistant";
penalty.**

1 It shall be unlawful for any person who is not certified
2 by the board as a physician assistant to use the title of

3 "physician assistant" or to represent to any other person
4 that he is a physician assistant. Any person who shall
5 violate the provisions of this section shall be guilty of a
6 misdemeanor, and, upon conviction thereof, shall be fined
7 in an amount not to exceed two thousand dollars.

**§30-3A-11. Unlawful representation of physician assistant
as a physician; penalty.**

1 It shall be unlawful for any physician assistant, as
2 defined in sections one-(b) and one-(c) of this article, to
3 represent to any person that he is a physician or surgeon.
4 Any person who shall violate the provisions of this section
5 shall be guilty of a felony, and, upon conviction thereof,
6 shall be confined in the penitentiary for not less than one
7 nor more than two years, or be fined in an amount not to
8 exceed two thousand dollars.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

James L. Davis
Chairman Senate Committee

Clarence C. Strickland
Chairman House Committee

Originated in the Senate.

In effect ninety days from pasage. ^{ok} _{3/19/76}

J. C. Halloway
Clerk of the Senate

C. A. Blankenship
Clerk of the House of Delegates

W. T. Butler
President of the Senate

Lewis N. McManus
Speaker House of Delegates

The within *approved* this the *24th*
day of *March*, 1976

Arthur A. Shouse, Jr.
Governor



PRESENTED TO THE
GOVERNOR

Date 3/18/76

Time 2:25 p.m.