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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1983

ENROLLED

SENATE BILL NO. 75

(By Mr. Ash, et al)

PASSED March 3, 1983

In Effect sixty days from Passage



75-1

ENROLLED
Senate Bill No. 75

(BY MR. ASH, MR. DAVIS AND MR. HARMAN)

[Passed March 3, 1983; in effect ninety days from passage.]

AN ACT to amend and reenact section sixteen, article three, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to physician assistants; definition of Type B physician assistants and approved programs; certification of Type A and B physician assistants; temporary certification.

Be it enacted by the Legislature of West Virginia:

That section sixteen, article three, 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 3. WEST VIRGINIA MEDICAL PRACTICE ACT.

§30-3-16. Physician assistants; definitions; board of medicine rules and regulations; annual report; certification; temporary certification; recertification; reciprocity; job description required; revocation or suspension of certification; responsibilities of supervising physician; legal responsibility for physician assistants; identification; limitations on employment and duties; fees; unlawful use of title of "physician assistant"; unlawful representation of physician assistant as a physician; criminal penalties.

1 (a) As used in this section:

2 (1) "Type A physician assistant" means an assistant to a
3 primary care physician who is a graduate of an approved

4 program of instruction in primary health care, has passed
5 the national certification examination and is qualified to
6 perform direct patient care services under the supervision
7 of the primary care physician;

8 (2) "Type B physician assistant" means an assistant to a
9 physician who is a graduate of an approved program of
10 instruction in a recognized nonprimary care clinical
11 specialty or is a graduate of an approved program of
12 instruction in primary health care and has either received
13 additional post-graduate training in a recognized
14 nonprimary care clinical specialty or has received
15 additional training from a physician adequate to qualify
16 him to perform patient services in that specialty as defined
17 by the supervising physician;

18 (3) "Supervising physician" means a doctor of medicine
19 or podiatry permanently licensed in this state who assumes
20 legal and supervisory responsibility for the work or training
21 of any physician assistant under his supervision;

22 (4) "Approved program" means an educational
23 program for physician assistants approved and accredited
24 by the committee on allied health education and
25 accreditation on behalf of the American Medical
26 Association; and

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

30 (b) The board shall promulgate rules and regulations
31 governing the extent to which physician assistants may
32 function in this state. Such regulations shall provide that
33 the physician assistant is limited to the performance of
34 those services for which he is trained and that he performs
35 only under the supervision and control of a physician
36 permanently licensed in this state, but such supervision and
37 control does not require the personal presence of the
38 supervising physician at the place or places where services
39 are rendered if the physician assistant's normal place of
40 employment is on the premises of the supervising physician.
41 The supervising physician may send the physician assistant
42 off the premises to perform duties under his direction, but a
43 separate place of work for the physician assistant shall not
44 be established. In promulgating such rules and regulations,
45 the board shall allow the physician assistant to perform
46 those procedures and examinations submitted to it in the

47 job description required by subsection (g) of this section.
48 The board shall compile and publish an annual report that
49 includes a list of currently certified physician assistants
50 and their employers and location in the state; a list of
51 approved programs; the number of graduates of such
52 approved programs each year and the number of physician
53 assistants from other states practicing in this state.

54 (c) The board shall certify as a Type A physician
55 assistant any person who files an application and furnishes
56 satisfactory evidence to it that he has met the following
57 standards:

58 (1) He is a graduate of an approved program of
59 instruction in primary health care;

60 (2) He has passed the examination for a primary care
61 physician assistant administered by the National Board of
62 Medical Examiners on behalf of the National Commission
63 on Certification of Physician Assistants; and

64 (3) He is of good moral character.

65 The board may certify as a Type B physician assistant any
66 person who files an application and furnishes satisfactory
67 evidence to it that he has met the following standards:

68 (1) He is of good moral character;

69 (2) He is a graduate of an approved program of
70 instruction in a recognized nonprimary care clinical
71 specialty or is a graduate of an approved program of
72 instruction in primary health care and has either received
73 additional post-graduate training in a recognized
74 nonprimary care clinical specialty or has received
75 additional training from a physician adequate to qualify
76 him to perform patient services in that specialty as defined
77 by the supervising physician; or

78 (3) He has been previously certified by the board as a
79 Type B physician assistant prior to the first day of July, one
80 thousand nine hundred eighty-three.

81 Certification of an assistant to a physician practicing the
82 specialty of ophthalmology is not permitted or required
83 under this section.

84 (d) When any graduate of an approved program submits
85 an application to the board, accompanied by a job
86 description in conformity with subsection (g) of this section,
87 for a Type A physician assistant certificate, the board shall
88 issue to such applicant a temporary certificate allowing
89 such applicant to function as a Type A physician assistant

90 for the period of one year. Said temporary certificate may
91 be renewed for one additional year upon the request of the
92 supervising physician. A Type A physician assistant who
93 has not been certified as such by the National Board of
94 Medical Examiners on behalf of the National Commission
95 on Certification of Physician Assistants will be restricted to
96 work under the direct supervision of the supervising
97 physician.

98 When any person who meets the qualifications for a Type
99 B physician assistant as defined in this section and who
100 submits an application accompanied by a job description
101 for a Type B physician assistant certificate, the board may
102 certify such applicant as a Type B physician assistant for a
103 period of four months. Upon expiration of the four-month
104 temporary certification, the board may certify the
105 applicant as a Type B physician assistant. The Type B
106 physician assistant will be restricted to work under the
107 direct supervision of the supervising physician until he has
108 passed either the examination for surgical assistants or the
109 examination for primary care physician assistants
110 administered by the National Board of Medical Examiners
111 on behalf of the National Commission on Certification of
112 Physician Assistants.

113 (e) Certification of a Type B physician assistant is
114 subject to review and recertification after every three-year
115 period following the first certification. Recertification
116 requires a report from the supervising physician of a Type B
117 physician assistant which must include a performance
118 evaluation, a summary of experience or continuing medical
119 education and any proposed change in job description.

120 (f) The board may certify as a physician assistant in this
121 state without examination any person who has been
122 certified or licensed by examination in another state of the
123 United States which has requirements substantially
124 equivalent to the requirements of this section.

125 (g) Any physician applying to the board to supervise
126 either a Type A or Type B physician assistant shall provide a
127 job description that sets forth the range of medical services
128 to be provided by such assistant. Before a physician
129 assistant can be employed or otherwise use his skills, the
130 supervising physician must obtain approval of the job
131 description from the board. The board may revoke or
132 suspend any certification of an assistant to a physician for

133 cause, after giving such person an opportunity to be heard
134 in the manner provided by sections eight and nine, article
135 one of this chapter.

136 (h) The supervising physician is responsible for
137 observing, directing and evaluating the work, records and
138 practices of each physician assistant performing under his
139 supervision. He shall notify the board in writing of any
140 termination of his supervisory relationship with a
141 physician assistant within ten days of the termination. The
142 legal responsibility for any physician assistant remains
143 with the supervising physician at all times, including
144 occasions when the assistant under his direction and
145 supervision, aids in the care and treatment of a patient in a
146 health care facility. A health care facility is not legally
147 responsible for the actions or omissions of the physician
148 assistant unless the physician assistant is an employee of
149 the facility.

150 (i) When functioning as a physician assistant, the
151 physician assistant shall wear a name tag that identifies
152 him and specifies his type of classification and the name of
153 his supervising physician. A two and one-half by three and
154 one-half inch card of identification shall be furnished by
155 the board upon certification of the physician assistant and
156 shall specify the type of classification.

157 (j) A supervising physician shall not supervise at any
158 one time more than two physician assistants.

159 A physician assistant shall not sign any prescription. He
160 shall not perform any service that his supervising physician
161 is not qualified to perform. He shall not perform any service
162 that is not included in his job description and approved by
163 the board as provided for in this section.

164 The provisions of this section do not authorize any
165 physician assistant to perform any specific function or duty
166 delegated by this code to those persons licensed as
167 chiropractors, dentists, dental hygienists, optometrists or
168 pharmacists or certified as nurse anesthetists.

169 (k) Each job description submitted by a licensed
170 supervising physician shall be accompanied by a fee of fifty
171 dollars. A fee of five dollars shall be charged for the annual
172 renewal of the certificate.

173 (l) It is unlawful for any person who is not certified by
174 the board as a physician assistant to use the title of
175 "physician assistant" or to represent to any other person

176 that he is a physician assistant. Any person who violates the
177 provisions of this subsection is guilty of a misdemeanor,
178 and, upon conviction thereof, shall be fined not more than
179 two thousand dollars.

180 (m) It is unlawful for any physician assistant to
181 represent to any person that he is a physician, surgeon or
182 podiatrist. Any person who violates the provisions of this
183 subsection is guilty of a felony, and, upon conviction
184 thereof, shall be imprisoned in the penitentiary for not less
185 than one nor more than two years, or be fined not more than
186 two thousand dollars, or both fined and imprisoned.

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

James L. Davis
.....
Chairman Senate Committee

James A. Quillen
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Judd C. Wick
.....
Clerk of the Senate

Donald L. Kapp
.....
Clerk of the House of Delegates

Warren E. Hearnes
.....
President of the Senate

W. H. Selby, Jr.
.....
Speaker House of Delegates

The within... *is approved* this the *16*
day of *March* 1983.

..... *John A. Relyea*
Governor

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SECY.