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SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 1991

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ENROLLED

Com. Sub. for
HOUSE BILL No. 2484

(By Mr. Del. P. White & Flanigan)

— ● —

Passed March 6, 1991

In Effect 90 Days From Passage

ENROLLED
COMMITTEE SUBSTITUTE
FOR
H. B. 2484
(By DELEGATES P. WHITE AND FLANIGAN)

[Passed March 6, 1991; 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; requirements for certification; legal responsibility and supervision; reporting of discipline by health care facilities; providing that a physician assistant may not dispense a prescription for a refraction; continuing education; and fees.

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; job description required; revocation or suspension of certification; responsibilities of supervising physician; legal responsibility for physician assistants; reporting by health care facilities; identification; limitations on employ-

ment and duties; fees; unlawful use of title of "physician assistant"; continuing education; unlawful representation of physician assistant as a physician; criminal penalties.

1 (a) As used in this section:

2 (1) "Physician assistant" means an assistant to a
3 physician who is a graduate of an approved program of
4 instruction in primary health care or surgery, has
5 attained a baccalaureate or master's degree, has passed
6 the national certification examination and is qualified to
7 perform direct patient care services under the supervi-
8 sion of a physician;

9 (2) "Supervising physician" means a doctor or doctors
10 of medicine or podiatry permanently licensed in this
11 state who assume legal and supervisory responsibility
12 for the work or training of any physician assistant under
13 his or her supervision;

14 (3) "Approved program" means an educational pro-
15 gram for physician assistants approved and accredited
16 by the committee on allied health education and
17 accreditation on behalf of the American Medical
18 Association; and

19 (4) "Health care facility" means any licensed hospital,
20 nursing home, extended care facility, state health or
21 mental institution, clinic or physician's office.

22 (b) The board shall promulgate rules and regulations
23 governing the extent to which physician assistants may
24 function in this state. Such regulations shall provide
25 that the physician assistant is limited to the perform-
26 ance of those services for which he or she is trained and
27 that he or she performs only under the supervision and
28 control of a physician permanently licensed in this state,
29 but such supervision and control does not require the
30 personal presence of the supervising physician at the
31 place or places where services are rendered if the
32 physician assistant's normal place of employment is on
33 the premises of the supervising physician. The supervi-
34 sing physician may send the physician assistant off the
35 premises to perform duties under his or her direction,

36 but a separate place of work for the physician assistant
37 shall not be established. In promulgating such rules and
38 regulations, the board shall allow the physician assistant
39 to perform those procedures and examinations and in
40 the case of certain authorized physician assistants to
41 prescribe at the direction of his or her supervising
42 physician in accordance with subsection (1) of this
43 section those categories of drugs submitted to it in the
44 job description required by subsection (i) of this section.
45 The board shall compile and publish a biennial report
46 that includes a list of currently certified physician
47 assistants and their employers and location in the state;
48 a list of approved programs; the number of graduates
49 of such approved programs each year; and the number
50 of physician assistants from other states practicing in
51 this state.

52 (c) The board shall certify as a physician assistant any
53 person who files an application and furnishes satisfac-
54 tory evidence to it that he or she has met the following
55 standards:

56 (1) He or she is a graduate of an approved program
57 of instruction in primary health care or surgery;

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

63 (3) He or she is of good moral character, and;

64 (4) He or she has attained a baccalaureate or master's
65 degree.

66 (d) The board may certify as a physician assistant any
67 person who files an application and furnishes satisfac-
68 tory evidence that he or she is of good moral character
69 and meets either of the following standards:

70 (1) He or she is a graduate of an approved program
71 of instruction in primary health care or surgery prior
72 to the first day of July, one thousand nine hundred
73 ninety-four, and has passed the examination for a
74 primary care physician assistant administered by the

75 National Board of Medical Examiners on behalf of the
76 National Commission on Certification of Physician
77 Assistants; or

78 (2) He or she had been certified by the board as a
79 physician assistant then classified as "Type B," prior to
80 the first day of July, one thousand nine hundred eighty-
81 three.

82 Certification of an assistant to a physician practicing
83 the specialty of ophthalmology is permitted under this
84 section: *Provided*, That a physician assistant may not
85 dispense a prescription for a refraction.

86 (e) When any graduate of an approved program
87 submits an application to the board, accompanied by a
88 job description in conformity with subsection (i) of this
89 section, for a physician assistant certificate, the board
90 shall issue to such applicant a temporary certificate
91 allowing such applicant to function as a physician
92 assistant for the period of one year. Said temporary
93 certificate may be renewed for one additional year upon
94 the request of the supervising physician. A physician
95 assistant who has not been certified as such by the
96 National Board of Medical Examiners on behalf of the
97 National Commission on Certification of Physician
98 Assistants will be restricted to work under the direct
99 supervision of the supervising physician.

100 (f) Any physician applying to the board to supervise
101 a physician assistant shall provide a job description that
102 sets forth the range of medical services to be provided
103 by such assistant. Before a physician assistant can be
104 employed or otherwise use his or her skills, the
105 supervising physician must obtain approval of the job
106 description from the board. The board may revoke or
107 suspend any certification of an assistant to a physician
108 for cause, after giving such person an opportunity to be
109 heard in the manner provided by sections eight and
110 nine, article one of this chapter.

111 (g) The supervising physician is responsible for
112 observing, directing and evaluating the work, records
113 and practices of each physician assistant performing
114 under his or her supervision. He or she shall notify the

115 board in writing of any termination of his or her
116 supervisory relationship with a physician assistant
117 within ten days of the termination. The legal responsi-
118 bility for any physician assistant remains with the
119 supervising physician at all times, including occasions
120 when the assistant under his or her direction and
121 supervision, aids in the care and treatment of a patient
122 in a health care facility. In his or her absence, a
123 supervising physician must designate an alternate
124 supervising physician, however, the legal responsibility
125 remains with the supervising physician at all times. A
126 health care facility is not legally responsible for the
127 actions or omissions of the physician assistant unless the
128 physician assistant is an employee of the facility.

129 (h) The acts or omissions of a physician assistant
130 employed by health care facilities providing inpatient
131 services shall be the legal responsibility of said facilities.
132 Physician assistants employed by such facilities in staff
133 positions shall be supervised by a permanently licensed
134 physician.

135 (i) A health care facility shall report in writing to the
136 board within sixty days after the completion of the
137 facility's formal disciplinary procedure, and also after
138 the commencement, and again after the conclusion, of
139 any resulting legal action, the name of any physician
140 assistant practicing in the facility whose privileges at
141 the facility have been revoked, restricted, reduced or
142 terminated for any cause including resignation, together
143 with all pertinent information relating to such action.
144 The health care facility shall also report any other
145 formal disciplinary action taken against any physician
146 assistant by the facility relating to professional ethics,
147 medical incompetence, medical malpractice, moral
148 turpitude or drug or alcohol abuse. Temporary suspen-
149 sion for failure to maintain records on a timely basis or
150 failure to attend staff or section meetings need not be
151 reported.

152 (j) When functioning as a physician assistant, the
153 physician assistant shall wear a name tag that identifies
154 him or her as a physician assistant. A two and one-half
155 by three and one-half inch card of identification shall

156 be furnished by the board upon certification of the
157 physician assistant.

158 (k) A physician assistant providing primary care
159 outpatient services in a medically underserved area or
160 other area of need, both as defined by the board, may
161 write or sign prescriptions or transmit prescriptions by
162 word of mouth, telephone or other means of commun-
163 ication at the direction of his or her supervising
164 physician. The board shall promulgate rules and
165 regulations governing the eligibility and extent to which
166 such a physician assistant may prescribe at the direction
167 of the supervising physician. The regulations shall
168 provide for a state formulary classifying pharmacologic
169 categories of drugs which may be prescribed by such a
170 physician assistant. In classifying such pharmacologic
171 categories, those categories of drugs which shall be
172 excluded shall include, but not be limited to, Schedules
173 I and II of the Uniformed Controlled Substances Act,
174 anticoagulants, antineoplastics, antipsychotics, radio-
175 pharmaceuticals, general anesthetics, and radiographic
176 contrast materials. Drugs listed under Schedule III
177 shall be limited to a forty-eight hour supply without
178 refill. The regulations shall provide that all pharmaco-
179 logical categories of drugs to be prescribed by a
180 physician assistant shall be listed in each job description
181 submitted to the board as required in subsection (i) of
182 this section. The regulations shall provide the maximum
183 dosage a physician assistant may prescribe. The
184 regulation shall also provide that to be eligible for such
185 prescription privileges, a physician assistant shall have
186 performed patient care services for a minimum of two
187 years immediately preceding the submission to the
188 board of the job description containing prescription
189 privileges and shall have successfully completed an
190 accredited course of instruction in clinical pharmacol-
191 ogy approved by the board. The regulations shall also
192 provide that to maintain prescription privileges, a
193 physician assistant shall continue to maintain national
194 certification as a physician assistant, and in meeting
195 such national certification requirements shall complete
196 a minimum of ten hours of continuing education in
197 rational drug therapy in each certification period.

198 Nothing in this subsection shall be construed to permit
199 a physician assistant to independently prescribe or
200 dispense drugs.

201 (l) A supervising physician shall not supervise at any
202 one time more than two physician assistants, except that
203 a physician may supervise up to four hospital-employed
204 physician assistants: *Provided*, That an alternative
205 supervisor has been designated for each.

206 A physician assistant shall not sign any prescription,
207 except in the case of an authorized physician assistant
208 at the direction of his or her supervising physician in
209 accordance with the provisions of subsection (k) of this
210 section. A physician assistant shall not perform any
211 service that his or her supervising physician is not
212 qualified to perform. A physician assistant shall not
213 perform any service that is not included in his or her
214 job description and approved by the board as provided
215 for in this section.

*de
12/20/2016
R.H.*

216 The provisions of this section do not authorize any
217 physician assistant to perform any specific function or
218 duty delegated by this code to those persons licensed as
219 chiropractors, dentists, dental hygienists, optometrists
220 or pharmacists or certified as nurse anesthetists.

221 (m) Each job description submitted by a licensed
222 supervising physician shall be accompanied by a fee of
223 one hundred dollars. A fee of fifty dollars shall be
224 charged for the biennial renewal of the certificate. A fee
225 of twenty-five dollars shall be charged for any change
226 of supervising physician.

227 (n) Beginning with the biennial renewal forms
228 completed by physician assistants and submitted to the
229 board in one thousand nine hundred ninety-three, as a
230 condition of renewal of physician assistant certification,
231 each physician assistant shall provide written document-
232 ation pursuant to rules and regulations promulgated by
233 the board in accordance with chapter twenty-nine-a of
234 this code of participation in and successful completion
235 during the preceding two-year period of a minimum of
236 either forty hours of continuing education designated as
237 Category I by the American Medical Association,

238 American Academy of Physician Assistants or the
239 Academy of Family Physicians, and sixty hours of
240 continuing education designated as Category II by such
241 association or either academy. Notwithstanding any
242 provision of this chapter to the contrary, failure to
243 timely submit such required written documentation
244 shall result in the automatic suspension of any certifi-
245 cation as a physician assistant until such time as the
246 written documentation is submitted to and approved by
247 the board.

248 (o) It is unlawful for any person who is not certified
249 by the board as a physician assistant to use the title of
250 "physician assistant" or to represent to any other person
251 that he or she is a physician assistant. Any person who
252 violates the provisions of this subsection is guilty of a
253 misdemeanor, and, upon conviction thereof, shall be
254 fined not more than two thousand dollars.

255 (p) It is unlawful for any physician assistant to
256 represent to any person that he or she is a physician,
257 surgeon or podiatrist. Any person who violates the
258 provisions of this subsection is guilty of a felony, and,
259 upon conviction thereof, shall be imprisoned in the
260 penitentiary for not less than one nor more than two
261 years, or be fined not more than two thousand dollars,
262 or both fined and imprisoned.

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

Homer Beck
.....
Chairman Senate Committee

Ernest C Moore
.....
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Barrett Edmonds
.....
Clerk of the Senate

Donald G Kopp
.....
Clerk of the House of Delegates

Walter Burdette
.....
President of the Senate

Bob Carr
.....
Speaker of the House of Delegates

The within *is approved* this the *3rd*
day of *April*, 1991.

Walter Taylor
.....
Governor

PRESENTED TO THE

GOVERNOR

Date 9/18/91

Time 9:50