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SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 1992



ENROLLED

Com. Sub. For

HOUSE BILL No. *HS11*

(By Delegate *s. S. Cook and P. White*)



Passed *March 5,* 1992

In Effect *From* Passage

ENROLLED

COMMITTEE SUBSTITUTE

FOR

H. B. 4511

(By DELEGATES S. COOK AND P. WHITE)

[Passed March 5, 1992; in effect 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 licensure of physician assistants and expanding the use of prescriptive authority.

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; annual report; licensure; temporary license; relicensure; job description required; revocation or suspension of licensure; responsibilities of supervising physician; legal responsibility for physician assistants; reporting by health care facilities; identification; limitations on employment 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 governing the
23 extent to which physician assistants may function in this
24 state. Such rules shall provide that the physician
25 assistant is limited to the performance of those services
26 for which he or she is trained and that he or she
27 performs only under the supervision and control of a
28 physician permanently licensed in this state, but such
29 supervision and control does not require the personal
30 presence of the supervising physician at the place or
31 places where services are rendered if the physician
32 assistant's normal place of employment is on the
33 premises of the supervising physician. The supervising
34 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, the
38 board shall allow the physician assistant to perform
39 those procedures and examinations and in the case of
40 certain authorized physician assistants to prescribe at

41 the direction of his or her supervising physician in
42 accordance with subsection (k) of this section those
43 categories of drugs submitted to it in the job description
44 required by subsection (f) of this section. The board shall
45 compile and publish a biennial report that includes a list
46 of currently licensed physician assistants and their
47 employers and location in the state; a list of approved
48 programs; the number of graduates of such approved
49 programs each year; and the number of physician
50 assistants from other states practicing in this state.

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

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

57 (2) He or she has passed the examination for a
58 primary care physician assistant administered by the
59 National Board of Medical Examiners on behalf of the
60 National Commission on Certification of Physician
61 Assistants and has maintained certification by said
62 commission so as to be currently certified;

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

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

113 (g) The supervising physician is responsible for
114 observing, directing and evaluating the work, records
115 and practices of each physician assistant performing
116 under his or her supervision. He or she shall notify the
117 board in writing of any termination of his or her
118 supervisory relationship with a physician assistant

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

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

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

154 (j) When functioning as a physician assistant, the
155 physician assistant shall wear a name tag that identifies
156 him or her as a physician assistant. A two and one-half
157 by three and one-half inch card of identification shall
158 be furnished by the board upon licensure of the
159 physician assistant.

160 (k) A physician assistant may write or sign prescrip-
161 tions or transmit prescriptions by word of mouth,
162 telephone or other means of communication at the
163 direction of his or her supervising physician. The board
164 shall promulgate rules governing the eligibility and
165 extent to which such a physician assistant may prescribe
166 at the direction of the supervising physician. The rules
167 shall provide for a state formulary classifying pharma-
168 cologic categories of drugs which may be prescribed by
169 such a physician assistant. In classifying such pharma-
170 cologic categories, those categories of drugs which shall
171 be excluded shall include, but not be limited to,
172 Schedules I and II of the Uniformed Controlled Substan-
173 ces Act, anticoagulants, antineoplastics, radiopharma-
174 ceuticals, general anesthetics, and radiographic contrast
175 materials. Drugs listed under Schedule III shall be
176 limited to a seventy-two hour supply without refill. The
177 regulations shall provide that all pharmacological
178 categories of drugs to be prescribed by a physician
179 assistant shall be listed in each job description submit-
180 ted to the board as required in subsection (f) of this
181 section. The rules shall provide the maximum dosage a
182 physician assistant may prescribe. The rule shall also
183 provide that to be eligible for such prescription
184 privileges, a physician assistant shall have performed
185 patient care services for a minimum of two years
186 immediately preceding the submission to the board of
187 the job description containing prescription privileges
188 and shall have successfully completed an accredited
189 course of instruction in clinical pharmacology approved
190 by the board. The regulations shall also provide that to
191 maintain prescription privileges, a physician assistant
192 shall continue to maintain national certification as a
193 physician assistant, and in meeting such national
194 certification requirements shall complete a minimum of
195 ten hours of continuing education in rational drug
196 therapy in each certification period. Nothing in this
197 subsection shall be construed to permit a physician
198 assistant to independently prescribe or dispense drugs.

199 (l) A supervising physician shall not supervise at any
200 one time more than two physician assistants, except that
201 a physician may supervise up to four hospital-employed

202 physician assistants.

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

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

218 (m) Each application for licensure submitted by a
219 licensed supervising physician under this section shall
220 be accompanied by a fee of one hundred dollars. A fee
221 of fifty dollars shall be charged for the biennial renewal
222 of the license. A fee of twenty-five dollars shall be
223 charged for any change of supervising physician.

224 (n) Beginning with the biennial renewal forms
225 completed by physician assistants and submitted to the
226 board in one thousand nine hundred ninety-three, as a
227 condition of renewal of physician assistant license, each
228 physician assistant shall provide written documentation
229 pursuant to rules promulgated by the board in accor-
230 dance with chapter twenty-nine-a of this code of
231 participation in and successful completion during the
232 preceding two-year period of a minimum of either forty
233 hours of continuing education designated as Category I
234 by the American Medical Association, American
235 Academy of Physician Assistants or the Academy of
236 Family Physicians, and sixty hours of continuing
237 education designated as Category II by such association
238 or either academy. Notwithstanding any provision of
239 this chapter to the contrary, failure to timely submit
240 such required written documentation shall result in the
241 automatic suspension of any license as a physician

242 assistant until such time as the written documentation
243 is submitted to and approved by the board.

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

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

259 (q) All physician assistants holding valid certificates
260 issued by the board prior to the first day of July, one
261 thousand nine hundred ninety-two, shall be considered
262 to be licensed under this section.

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

Homer Heck

Chairman Senate Committee

Ernest C. Morse

Chairman House Committee

Originating in the House.

Takes effect from passage.

Harold E. Adams

Clerk of the Senate

Donald G. Koop

Clerk of the House of Delegates

Walter Burdette

President of the Senate

John W. Brantley

Speaker of the House of Delegates

The within *is approved* this the *18th*
day of *March*, 1992.

Yaston Caperton

Governor

PRESENTED TO THE

GOVERNOR

Date 3/13/92

Time 4:16 pm