WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 1993

ENROLLED

HOUSE BILL No. 2248

(By Delegates White, Brown, Cook, Huntwork, Douglas and Phillips)

Passed April 10, 1993

In Effect Ninety Days From Passage
ENROLLED

H. B. 2248

(By Delegates P. White, Brown, S. Cook, Huntwork, Douglas and Phillips)

[Passed April 10, 1993; 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 assistant-midwives.

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.

(a) As used in this section:
(1) "Physician assistant" means an assistant to a physician who is a graduate of an approved program of instruction in primary health care or surgery, has attained a baccalaureate or master's degree, has passed the national certification examination and is qualified to perform direct patient care services under the supervision of a physician;

(2) "Physician assistant-midwife" means a physician assistant who meets all qualifications set forth under subdivision (1) above and fulfills the requirements set forth in subsection (d); is subject to all provisions of this section; and assists in the management and care of a woman and her infant during the prenatal, delivery and postnatal periods;

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

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

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

(b) The board shall promulgate rules governing the extent to which physician assistants may function in this state. Such rules shall provide that the physician assistant is limited to the performance of those services for which he or she is trained and that he or she performs only under the supervision and control of a physician permanently licensed in this state, but such supervision and control does not require the personal presence of the supervising physician at the place or places where services are rendered if the physician assistant's normal place of employment is on the premises of the supervising physician. The supervising physician may send the physician assistant off the
premises to perform duties under his or her direction, but a separate place of work for the physician assistant shall not be established. In promulgating such rules, the board shall allow the physician assistant to perform those procedures and examinations and in the case of certain authorized physician assistants to prescribe at the direction of his or her supervising physician in accordance with subsection (l) of this section those categories of drugs submitted to it in the job description required by subsection (g) of this section. The board shall compile and publish a biennial report that includes a list of currently licensed physician assistants and their employers and location in the state; a list of approved programs; the number of graduates of such approved programs each year; and the number of physician assistants from other states practicing in this state.

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

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

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

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

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

(d) The board shall license as a physician assistant-midwife any person who meets the standards set forth under subsection (c) of this section and, in addition thereto, the following standards:

(1) He or she is a graduate of a school of midwifery accredited by the American college of nurse-midwives;

(2) He or she has passed an examination approved by
the board;

(3) He or she practices midwifery under the supervision of a board certified obstetrician, gynecologist or a board certified family practice physician who routinely practices obstetrics.

(e) The board may license as a physician assistant any person who files an application and furnishes satisfactory evidence that he or she is of good moral character and meets either of the following standards:

(1) He or she is a graduate of an approved program of instruction in primary health care or surgery prior to the first day of July, one thousand nine hundred ninety-four, and has passed the examination for a primary care physician assistant administered by the National Board of Medical Examiners on behalf of the National Commission on Certification of Physician Assistants; or

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

Licensure of an assistant to a physician practicing the specialty of ophthalmology is permitted under this section: Provided, That a physician assistant may not dispense a prescription for a refraction.

(f) When any graduate of an approved program, within two years of graduation, submits an application to the board, accompanied by a job description in conformity with subsection (g) of this section, for a physician assistant license, the board shall issue to such applicant a temporary license allowing such applicant to function as a physician assistant for the period of one year. Said temporary certificate may be renewed for one additional year upon the request of the supervising physician. A physician assistant who has not been certified as such by the National Board of Medical Examiners on behalf of the National Commission on Certification of Physician Assistants will be restricted to work under the direct supervision of the supervising
(g) Any physician applying to the board to supervise a physician assistant shall provide a job description that sets forth the range of medical services to be provided by such assistant. Before a physician assistant can be employed or otherwise use his or her skills, the supervising physician must obtain approval of the job description from the board. The board may revoke or suspend any license of an assistant to a physician for cause, after giving such person an opportunity to be heard in the manner provided by article five of chapter twenty-nine-a of this code and as set forth in rules duly adopted by the board.

(h) The supervising physician is responsible for observing, directing and evaluating the work, records and practices of each physician assistant performing under his or her supervision. He or she shall notify the board in writing of any termination of his or her supervisory relationship with a physician assistant within ten days of the termination. The legal responsibility for any physician assistant remains with the supervising physician at all times, including occasions when the assistant under his or her direction and supervision, aids in the care and treatment of a patient in a health care facility. In his or her absence, a supervising physician must designate an alternate supervising physician, however, the legal responsibility remains with the supervising physician at all times. A health care facility is not legally responsible for the actions or omissions of the physician assistant unless the physician assistant is an employee of the facility.

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

(j) A health care facility shall report in writing to the board within sixty days after the completion of the facility's formal disciplinary procedure, and also after
the commencement, and again after the conclusion, of any resulting legal action, the name of any physician assistant practicing in the facility whose privileges at the facility have been revoked, restricted, reduced or terminated for any cause including resignation, together with all pertinent information relating to such action. The health care facility shall also report any other formal disciplinary action taken against any physician assistant by the facility relating to professional ethics, medical incompetence, medical malpractice, moral turpitude or drug or alcohol abuse. Temporary suspension for failure to maintain records on a timely basis or failure to attend staff or section meetings need not be reported.

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

(l) A physician assistant may write or sign prescriptions or transmit prescriptions by word of mouth, telephone or other means of communication at the direction of his or her supervising physician. The board shall promulgate rules governing the eligibility and extent to which such a physician assistant may prescribe at the direction of the supervising physician. The rules shall provide for a state formulary classifying pharmacologic categories of drugs which may be prescribed by such a physician assistant. In classifying such pharmacologic categories, those categories of drugs which shall be excluded shall include, but not be limited to, Schedules I and II of the Uniform Controlled Substances Act, anticoagulants, antineoplastics, radiopharmaceuticals, general anesthetics, and radiographic contrast materials. Drugs listed under Schedule III shall be limited to a seventy-two hour supply without refill. The regulations shall provide that all pharmacological categories of drugs to be prescribed by a physician assistant shall be listed in each job description submitted to the board as required in subsection (g) of this
section. The rules shall provide the maximum dosage a
physician assistant may prescribe. The rule shall also
provide that to be eligible for such prescription
privileges, a physician assistant shall have performed
patient care services for a minimum of two years
immediately preceding the submission to the board of
the job description containing prescription privileges
and shall have successfully completed an accredited
course of instruction in clinical pharmacology approved
by the board. The regulations shall also provide that to
maintain prescription privileges, a physician assistant
shall continue to maintain national certification as a
physician assistant, and in meeting such national
certification requirements shall complete a minimum of
ten hours of continuing education in rational drug
therapy in each certification period. Nothing in this
subsection shall be construed to permit a physician
assistant to independently prescribe or dispense drugs.

(m) A supervising physician shall not supervise at any
time more than two physician assistants, except that
a physician may supervise up to four hospital-employed
physician assistants.

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

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

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

(o) Beginning with the biennial renewal forms completed by physician assistants and submitted to the board in one thousand nine hundred ninety-three, as a condition of renewal of physician assistant license, each physician assistant shall provide written documentation pursuant to rules promulgated by the board in accordance with chapter twenty-nine-a of this code of participation in and successful completion during the preceding two-year period of a minimum of forty hours of continuing education designated as Category I by the American Medical Association, American Academy of Physician Assistants or the Academy of Family Physicians, and sixty hours of continuing education designated as Category II by such association or either academy. Notwithstanding any provision of this chapter to the contrary, failure to timely submit such required written documentation shall result in the automatic suspension of any license as a physician assistant until such time as the written documentation is submitted to and approved by the board.

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

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

(r) All physician assistants holding valid certificates issued by the board prior to the first day of July, one
thousand nine hundred ninety-two, shall be considered to be licensed under this section.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Clerk of the Senate

Chair of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved this the 12th day of May, 1903.

Governor