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SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 1993



ENROLLED

HOUSE BILL No. 2248

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



Passed April 10, 1993

In Effect Ninety Days From Passage

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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.

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

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

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

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

29 (b) The board shall promulgate rules governing the
30 extent to which physician assistants may function in this
31 state. Such rules shall provide that the physician
32 assistant is limited to the performance of those services
33 for which he or she is trained and that he or she
34 performs only under the supervision and control of a
35 physician permanently licensed in this state, but such
36 supervision and control does not require the personal
37 presence of the supervising physician at the place or
38 places where services are rendered if the physician
39 assistant's normal place of employment is on the
40 premises of the supervising physician. The supervising
41 physician may send the physician assistant off the

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

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

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

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

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

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

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

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

79 (2) He or she has passed an examination approved by

80 the board;

81 (3) He or she practices midwifery under the supervi-
82 sion of a board certified obstetrician, gynecologist or a
83 board certified family practice physician who routinely
84 practices obstetrics.

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

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

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

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

105 (f) When any graduate of an approved program,
106 within two years of graduation, submits an application
107 to the board, accompanied by a job description in
108 conformity with subsection (g) of this section, for a
109 physician assistant license, the board shall issue to such
110 applicant a temporary license allowing such applicant
111 to function as a physician assistant for the period of one
112 year. Said temporary certificate may be renewed for one
113 additional year upon the request of the supervising
114 physician. A physician assistant who has not been
115 certified as such by the National Board of Medical
116 Examiners on behalf of the National Commission on
117 Certification of Physician Assistants will be restricted
118 to work under the direct supervision of the supervising

119 physician.

120 (g) Any physician applying to the board to supervise
121 a physician assistant shall provide a job description that
122 sets forth the range of medical services to be provided
123 by such assistant. Before a physician assistant can be
124 employed or otherwise use his or her skills, the
125 supervising physician must obtain approval of the job
126 description from the board. The board may revoke or
127 suspend any license of an assistant to a physician for
128 cause, after giving such person an opportunity to be
129 heard in the manner provided by article five of chapter
130 twenty-nine-a of this code and as set forth in rules duly
131 adopted by the board.

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

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

156 (j) A health care facility shall report in writing to the
157 board within sixty days after the completion of the
158 facility's formal disciplinary procedure, and also after

159 the commencement, and again after the conclusion, of
160 any resulting legal action, the name of any physician
161 assistant practicing in the facility whose privileges at
162 the facility have been revoked, restricted, reduced or
163 terminated for any cause including resignation, together
164 with all pertinent information relating to such action.
165 The health care facility shall also report any other
166 formal disciplinary action taken against any physician
167 assistant by the facility relating to professional ethics,
168 medical incompetence, medical malpractice, moral
169 turpitude or drug or alcohol abuse. Temporary suspen-
170 sion for failure to maintain records on a timely basis or
171 failure to attend staff or section meetings need not be
172 reported.

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

179 (l) A physician assistant may write or sign prescrip-
180 tions or transmit prescriptions by word of mouth,
181 telephone or other means of communication at the
182 direction of his or her supervising physician. The board
183 shall promulgate rules governing the eligibility and
184 extent to which such a physician assistant may prescribe
185 at the direction of the supervising physician. The rules
186 shall provide for a state formulary classifying pharma-
187 cologic categories of drugs which may be prescribed by
188 such a physician assistant. In classifying such pharma-
189 cologic categories, those categories of drugs which shall
190 be excluded shall include, but not be limited to,
191 Schedules I and II of the Uniform Controlled Substances
192 Act, anticoagulants, antineoplastics, radiopharmaceuti-
193 cals, general anesthetics, and radiographic contrast
194 materials. Drugs listed under Schedule III shall be
195 limited to a seventy-two hour supply without refill. The
196 regulations shall provide that all pharmacological
197 categories of drugs to be prescribed by a physician
198 assistant shall be listed in each job description submit-
199 ted to the board as required in subsection (g) of this

200 section. The rules shall provide the maximum dosage a
201 physician assistant may prescribe. The rule shall also
202 provide that to be eligible for such prescription
203 privileges, a physician assistant shall have performed
204 patient care services for a minimum of two years
205 immediately preceding the submission to the board of
206 the job description containing prescription privileges
207 and shall have successfully completed an accredited
208 course of instruction in clinical pharmacology approved
209 by the board. The regulations shall also provide that to
210 maintain prescription privileges, a physician assistant
211 shall continue to maintain national certification as a
212 physician assistant, and in meeting such national
213 certification requirements shall complete a minimum of
214 ten hours of continuing education in rational drug
215 therapy in each certification period. Nothing in this
216 subsection shall be construed to permit a physician
217 assistant to independently prescribe or dispense drugs.

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

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

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

237 (n) Each application for licensure submitted by a
238 licensed supervising physician under this section shall
239 be accompanied by a fee of one hundred dollars. A fee

240 of fifty dollars shall be charged for the biennial renewal
241 of the license. A fee of twenty-five dollars shall be
242 charged for any change of supervising physician.

243 (o) Beginning with the biennial renewal forms
244 completed by physician assistants and submitted to the
245 board in one thousand nine hundred ninety-three, as a
246 condition of renewal of physician assistant license, each
247 physician assistant shall provide written documentation
248 pursuant to rules promulgated by the board in accord-
249 dance with chapter twenty-nine-a of this code of
250 participation in and successful completion during the
251 preceding two-year period of a minimum of forty hours
252 of continuing education designated as Category I by the
253 American Medical Association, American Academy of
254 Physician Assistants or the Academy of Family Physi-
255 cians, and sixty hours of continuing education desig-
256 nated as Category II by such association or either
257 academy. Notwithstanding any provision of this chapter
258 to the contrary, failure to timely submit such required
259 written documentation shall result in the automatic
260 suspension of any license as a physician assistant until
261 such time as the written documentation is submitted to
262 and approved by the board.

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

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

278 (r) All physician assistants holding valid certificates
279 issued by the board prior to the first day of July, one

280 thousand nine hundred ninety-two, shall be considered
281 to be licensed under this section.

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

[Handwritten Signature]
Chairman Senate Committee

Ernest C Moore
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Parrell A. Holmes
Clerk of the Senate

Donald L. Kapp
Clerk of the House of Delegates

[Handwritten Signature]
President of the Senate

[Handwritten Signature]
Speaker of the House of Delegates

The within *is approved* this the *12th*
day of *May*, 1993.

Yaston Capen
Governor

PRESENTED TO THE

GOVERNOR,

Date

9/27/93

Time

2:00pm