WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1996

ENROLLED
Committee Substitute for
SENATE BILL NO. 133

(By Senator Manchin, et al.)

PASSED March 9, 1996
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 license procedures for physician assistants; requiring approval of educational programs for physician assistants by the successor organization to the committee on allied health education and accreditation of the American medical association; requiring rules promulgated by the board of medicine to be pursuant to the provisions of chapter twenty-nine-a; changing biennial report to an annual report and eliminating certain report requirements; adding current certification by the national commission on certification of physician assistants for
licensure; changing the name of the certifying examination for physician assistants; changing requirements for temporary licensure; terminating temporary licensure upon failure of the national commission on certification of physician assistants examination; requiring notice to the board of medicine of reports of performance on certifying examination within thirty days of receipt of same; deleting conflicting language regarding criminal penalties for misrepresentation as a physician assistant; and making technical changes.

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; 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) of this subsection and fulfills the require-
ments set forth in subsection (d) of this section; is subject
to all provisions of this section; and assists in the man-
agement 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 pro-
gram for physician assistants approved and accredited
by the committee on allied health education and accredi-
tation on behalf of the American medical association or
its successor; 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 pursuant to the
provisions of article three, chapter twenty-nine-a of this
code governing the extent to which physician assistants
may function in this state. The 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
that supervision and control does not require the per-
sonal 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 pre-
mises 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 the 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
50 accordance with subsection (l) of this section those
51 categories of drugs submitted to it in the job description
52 required by subsection (g) of this section. The board
53 shall compile and publish an annual report that includes
54 a list of currently licensed physician assistants and their
55 employers and location in the state.
56 (c) The board shall license as a physician assistant any
57 person who files an application and furnishes satisfac-
58 tory evidence to it that he or she has met the following
59 standards:
60 (1) He or she is a graduate of an approved program of
61 instruction in primary health care or surgery;
62 (2) He or she has passed the certifying examination for
63 a primary care physician assistant administered by the
64 national commission on certification of physician
65 assistants and has maintained certification by that
66 commission so as to be currently certified;
67 (3) He or she is of good moral character; and
68 (4) He or she has attained a baccalaureate or master's
69 degree.
70 (d) The board shall license as a physician assistant-
71 midwife any person who meets the standards set forth
72 under subsection (c) of this section and, in addition
73 thereto, the following standards:
74 (1) He or she is a graduate of a school of midwifery
75 accredited by the American college of nurse-midwives;
76 (2) He or she has passed an examination approved by
77 the board;
78 (3) He or she practices midwifery under the supervision
79 of a board certified obstetrician, gynecologist or a board
80 certified family practice physician who routinely prac-
81 tices obstetrics.
82 (e) The board may license as a physician assistant any
83 person who files an application and furnishes satisfac-
84 tory 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 certifying examination for a physician assistant administered by the national commission on certification of physician assistants and has maintained certification by that commission so as to be currently certified; 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 for a physician assistant license, accompanied by a job description in conformity with subsection (g) of this section, the board shall issue to that applicant a temporary license allowing that applicant to function as a physician assistant until the applicant successfully passes the national commission on certification of physician assistants' certifying examination: Provided, That the applicant shall sit for and obtain a passing score on the next offered examination within one year of issuance of the temporary license. A physician assistant who has not been certified 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 physician.

A physician assistant who has been issued a temporary license shall, within thirty days of receipt of written notice from the national commission on certification of
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122 physician assistants of his or her performance on the
123 certifying examination, notify the board in writing of his
124 or her results. In the event of failure of that examina-
125 tion, the temporary license shall expire and terminate
126 automatically, and the board shall so notify the physi-
127 cian assistant in writing.

128 (g) Any physician applying to the board to supervise a
129 physician assistant shall provide a job description that
130 sets forth the range of medical services to be provided by
131 the assistant. Before a physician assistant can be
132 employed or otherwise use his or her skills, the supervis-
133 ing physician must obtain approval of the job description
134 from the board. The board may revoke or suspend any
135 license of an assistant to a physician for cause, after
136 giving that assistant an opportunity to be heard in the
137 manner provided by article five of chapter twenty-nine-a
138 of this code and as set forth in rules duly adopted by the
139 board.

140 (h) The supervising physician is responsible for observ-
141 ing, directing and evaluating the work, records and
142 practices of each physician assistant performing under
143 his or her supervision. He or she shall notify the board
144 in writing of any termination of his or her supervisory
145 relationship with a physician assistant within ten days of
146 the termination. The legal responsibility for any physi-
147 cian assistant remains with the supervising physician at
148 all times, including occasions when the assistant under
149 his or her direction and supervision, aids in the care and
150 treatment of a patient in a health care facility. In his or
151 her absence, a supervising physician must designate an
152 alternate supervising physician, however, the legal
153 responsibility remains with the supervising physician at
154 all times. A health care facility is not legally responsible
155 for the actions or omissions of the physician assistant
156 unless the physician assistant is an employee of the
157 facility.

158 (i) The acts or omissions of a physician assistant
159 employed by health care facilities providing inpatient or
outpatient services shall be the legal responsibility of the facilities. Physician assistants employed by 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 the 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 pursuant to the provisions of article three, chapter twenty-nine-a of this code governing the eligibility and extent to which a physician assistant may prescribe at the direction of the supervising physician. The rules shall include, but not be limited to, the following:

(1) Provisions for approving a state formulary classifying pharmacologic categories of drugs that may be
prescribed by a physician assistant.

(A) The following categories of drugs shall be excluded from the formulary: Schedules I and II of the uniform controlled substances act, anticoagulants, anti-neoplastics, radiopharmaceuticals, general anesthetics and radiographic contrast materials.

(B) Drugs listed under schedule III shall be limited to a seventy-two hour supply without refill.

(C) Categories of other drugs may be excluded as determined by the board;

(2) 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;

(3) The maximum dosage a physician assistant may prescribe;

(4) A requirement that to be eligible for 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; and

(5) A requirement that to maintain prescription privileges, a physician assistant shall continue to maintain national certification as a physician assistant, and in meeting the 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 one 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 is to be accompanied by a fee of one hundred dollars. A fee of fifty dollars is to be charged for the biennial renewal of the license. A fee of twenty-five dollars is to 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 the year 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 the association or either academy. Notwithstanding any provision of this chapter to the contrary, failure to timely submit the required
written documentation shall result in the automatic 
suspension of any license as a physician assistant until 
the written documentation is submitted to and approved 
by the board.

(p) It is unlawful for any physician assistant to repre-
sent 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.

(q) 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.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

*Chairman Senate Committee*

*Chairman House Committee*

Originated in the Senate.

In effect ninety days from passage.

*Clerk of the Senate*

*Clerk of the House of Delegates*

*President of the Senate*

*Speaker House of Delegates*

The within was approved this the 1st day of April, 1996.

*Governor*