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OFFICE WEST VIRGINIA  
SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 2001



# ENROLLED

## House Bill No. 3239

(By Delegates Douglas and Kuhn)



Passed April 10, 2001

In Effect from Passage

FILED

2001 APR 17 P 5: 34

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

ENROLLED

H. B. 3239

(BY DELEGATES DOUGLAS AND KUHN)

[Passed April 10, 2001; 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 changing the number of hours of continuing education required to be completed by a physician assistant.

*Be it enacted by the Legislature of West Virginia:*

That section sixteen, chapter three, article 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;**

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fees; 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 physician  
3 who is a graduate of an approved program of instruction in  
4 primary health care or surgery, has attained a baccalaureate or  
5 master's degree, has passed the national certification examina-  
6 tion and is qualified to perform direct patient care services  
7 under the supervision of a physician;

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

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

19 (4) "Approved program" means an educational program for  
20 physician assistants approved and accredited by the committee  
21 on allied health education and accreditation on behalf of the  
22 American medical association or its successor; and

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

26 (b) The board shall promulgate rules pursuant to the  
27 provisions of article three, chapter twenty-nine-a of this code  
28 governing the extent to which physician assistants may function

29 in this state. The rules shall provide that the physician assistant  
30 is limited to the performance of those services for which he or  
31 she is trained and that he or she performs only under the  
32 supervision and control of a physician permanently licensed in  
33 this state, but that supervision and control does not require the  
34 personal presence of the supervising physician at the place or  
35 places where services are rendered if the physician assistant's  
36 normal place of employment is on the premises of the supervis-  
37 ing physician. The supervising physician may send the physi-  
38 cian assistant off the premises to perform duties under his or her  
39 direction, but a separate place of work for the physician  
40 assistant may not be established. In promulgating the rules, the  
41 board shall allow the physician assistant to perform those  
42 procedures and examinations and in the case of certain autho-  
43 rized physician assistants to prescribe at the direction of his or  
44 her supervising physician in accordance with subsection (1) of  
45 this section those categories of drugs submitted to it in the job  
46 description required by this section. Certain authorized physi-  
47 cian assistants may pronounce death in accordance with the  
48 rules proposed by the board which receive legislative approval.  
49 The board shall compile and publish an annual report that  
50 includes a list of currently licensed physician assistants and  
51 their employers and location in the state.

52 (c) The board shall license as a physician assistant any  
53 person who files an application together with a proposed job  
54 description and furnishes satisfactory evidence to it that he or  
55 she has met the following standards:

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

58 (2) He or she has passed the certifying examination for a  
59 primary care physician assistant administered by the national  
60 commission on certification of physician assistants and has

61 maintained certification by that commission so as to be cur-  
62 rently 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 shall license as a physician assistant-midwife  
67 any person who meets the standards set forth under subsection  
68 (c) of this section and, in addition thereto, the following  
69 standards:

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

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

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

77 (e) The board may license as a physician assistant any  
78 person who files an application together with a proposed job  
79 description and furnishes satisfactory evidence that he or she is  
80 of good moral character and meets either of the following  
81 standards:

82 (1) He or she is a graduate of an approved program of  
83 instruction in primary health care or surgery prior to the first  
84 day of July, one thousand nine hundred ninety-four, and has  
85 passed the certifying examination for a physician assistant  
86 administered by the national commission on certification of  
87 physician assistants and has maintained certification by that  
88 commission so as to be currently certified; or

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

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

96           (f) When any graduate of an approved program submits an  
97 application to the board for a physician assistant license,  
98 accompanied by a job description as referenced by this section,  
99 the board shall issue to that applicant a temporary license  
100 allowing that applicant to function as a physician assistant until  
101 the applicant successfully passes the national commission on  
102 certification of physician assistants' certifying examination:  
103 *Provided*, That the applicant shall sit for and obtain a passing  
104 score on the examination next offered following graduation  
105 from the approved program. No applicant shall receive a  
106 temporary license who, following graduation from an approved  
107 program, has sat for and not obtained a passing score on the  
108 examination. A physician assistant who has not been certified  
109 by the national board of medical examiners on behalf of the  
110 national commission on certification of physician assistants will  
111 be restricted to work under the direct supervision of the  
112 supervising physician.

113           A physician assistant who has been issued a temporary  
114 license shall, within thirty days of receipt of written notice from  
115 the national commission on certification of physician assistants  
116 of his or her performance on the certifying examination, notify  
117 the board in writing of his or her results. In the event of failure  
118 of that examination, the temporary license shall expire and  
119 terminate automatically, and the board shall so notify the  
120 physician assistant in writing.

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

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

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

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

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

173 (l) A physician assistant may write or sign prescriptions or  
174 transmit prescriptions by word of mouth, telephone or other  
175 means of communication at the direction of his or her supervis-  
176 ing physician. The board shall promulgate rules pursuant to the  
177 provisions of article three, chapter twenty-nine-a of this code  
178 governing the eligibility and extent to which a physician  
179 assistant may prescribe at the direction of the supervising  
180 physician. The rules shall include, but not be limited to, the  
181 following:

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

185 (A) The following categories of drugs shall be excluded  
186 from the formulary: Schedules I and II of the uniform con-  
187 trolled substances act, anticoagulants, antineoplastic, radio-  
188 pharmaceuticals, general anesthetics and radiographic contrast  
189 materials;

190 (B) Drugs listed under Schedule III shall be limited to a  
191 seventy-two hour supply without refill;

192 (C) Categories of other drugs may be excluded as deter-  
193 mined by the board;

194 (2) All pharmacological categories of drugs to be pre-  
195 scribed by a physician assistant shall be listed in each job  
196 description submitted to the board as required in subsection (g)  
197 of this section;

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

200 (4) A requirement that to be eligible for prescription  
201 privileges, a physician assistant shall have performed patient  
202 care services for a minimum of two years immediately preced-  
203 ing the submission to the board of the job description contain-  
204 ing prescription privileges and shall have successfully com-  
205 pleted an accredited course of instruction in clinical pharmacol-  
206 ogy approved by the board; and

207 (5) A requirement that to maintain prescription privileges,  
208 a physician assistant shall continue to maintain national  
209 certification as a physician assistant, and in meeting the  
210 national certification requirements shall complete a minimum  
211 of ten hours of continuing education in rational drug therapy in  
212 each certification period. Nothing in this subsection shall be  
213 construed to permit a physician assistant to independently  
214 prescribe or dispense drugs.

215 (m) A supervising physician may not supervise at any one  
216 time more than three full-time physician assistants or their  
217 equivalent, except that a physician may supervise up to four  
218 hospital-employed physician assistants. No physician shall  
219 supervise more than four physician assistants at any one time.

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

229 The provisions of this section do not authorize any physi-  
230 cian assistant to perform any specific function or duty delegated  
231 by this code to those persons licensed as chiropractors, dentists,  
232 dental hygienists, optometrists or pharmacists or certified as  
233 nurse anesthetists.

234 (n) Each application for licensure submitted by a licensed  
235 supervising physician under this section is to be accompanied  
236 by a fee of one hundred dollars. A fee of fifty dollars is to be  
237 charged for the biennial renewal of the license. A fee of  
238 twenty-five dollars is to be charged for any change of supervis-  
239 ing physician.

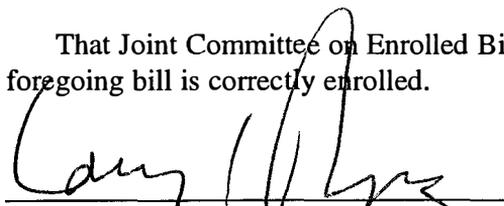
240 (o) Beginning with the biennial renewal forms completed  
241 by physician assistants and submitted to the board in the year  
242 one thousand nine hundred ninety-three, as a condition of  
243 renewal of physician assistant license, each physician assistant  
244 shall provide written documentation pursuant to rules promul-  
245 gated by the board in accordance with chapter twenty-nine-a of  
246 this code of participation in and successful completion during

247 the preceding two-year period of continuing education, in the  
248 number of hours specified by the board by rule, designated as  
249 Category I by the American medical association, American  
250 academy of physician assistants or the academy of family  
251 physicians, and continuing education, in the number of hours  
252 specified by the board by rule, designated as Category II by the  
253 association or either academy. Notwithstanding any provision  
254 of this chapter to the contrary, failure to timely submit the  
255 required written documentation shall result in the automatic  
256 suspension of any license as a physician assistant until the  
257 written documentation is submitted to and approved by the  
258 board.

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

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

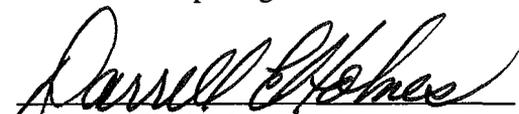
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

  
Chairman Senate Committee

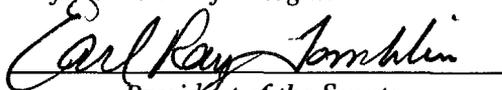
  
Chairman House Committee

Originating in the House.

In effect from passage

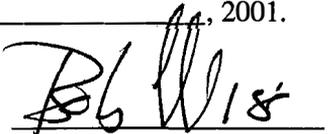
  
Clerk of the Senate

  
Clerk of the House of Delegates

  
President of the Senate

  
Speaker of the House of Delegates

The within is approved this the 17<sup>th</sup>  
day of April, 2001.

  
Governor

PRESENTED TO THE

GOVERNOR

Date 4/14/01

Time 12:45 pm