

SB 535

FILED

2012 APR -2 PM 4: 53

WEST VIRGINIA LEGISLATURE WEST VIRGINIA
EIGHTIETH LEGISLATURE SECRETARY OF STATE
REGULAR SESSION, 2012



ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 535

(SENATORS STOLLINGS, FOSTER AND MILLER, ORIGINAL SPONSORS)

[PASSED MARCH 10, 2012; IN EFFECT NINETY DAYS FROM PASSAGE.]

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Senate Bill No. 535

(SENATORS STOLLINGS, FOSTER AND MILLER, *original sponsors*)

[Passed March 10, 2012; in effect ninety days from passage.]

AN ACT to amend and reenact §30-3-16 of the Code of West Virginia, 1931, as amended; to amend and reenact §30-7-15a of said code; and to amend and reenact §30-14A-1 of said code, all relating to expanding prescriptive authority of advanced practice registered nurses, physician assistants and assistants to osteopathic physicians and surgeons to allow the prescribing of medications for chronic diseases for an annual supply; clarifying that controlled substances are not included and chronic pain management is excluded from chronic diseases; eliminating the exclusion for prescribing anticoagulants for the specific prescribers; and correcting terminology.

Be it enacted by the Legislature of West Virginia:

That §30-3-16 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that §30-7-15a of said code be amended and reenacted; and that §30-14A-1 of said code be amended and reenacted, all 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.

1 (a) As used in this section:

2 (1) "Approved program" means an educational program
3 for physician assistants approved and accredited by the
4 Committee on Accreditation of Allied Health Education
5 Programs or its successor;

6 (2) "Health care facility" means any licensed hospital,
7 nursing home, extended care facility, state health or mental
8 institution, clinic or physician's office;

9 (3) "Physician assistant" means an assistant to a physi-
10 cian who is a graduate of an approved program of instruction
11 in primary health care or surgery, has attained a baccalaure-
12 ate or master's degree, has passed the national certification
13 examination and is qualified to perform direct patient care
14 services under the supervision of a physician;

15 (4) "Physician assistant-midwife" means a physician
16 assistant who meets all qualifications set forth under
17 subdivision (3) of this subsection and fulfills the require-
18 ments set forth in subsection (d) of this section, is subject to
19 all provisions of this section and assists in the management
20 and care of a woman and her infant during the prenatal,
21 delivery and postnatal periods; and

22 (5) "Supervising physician" means a doctor or doctors of
23 medicine or podiatry permanently and fully licensed in this
24 state without restriction or limitation who assume legal and
25 supervisory responsibility for the work or training of any
26 physician assistant under his or her supervision.

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

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

59 (1) Is a graduate of an approved program of instruction
60 in primary health care or surgery;

61 (2) Has passed the certifying examination for a primary
62 care physician assistant administered by the National
63 Commission on Certification of Physician Assistants and has

64 maintained certification by that commission so as to be
65 currently certified;

66 (3) Is of good moral character; and

67 (4) Has attained a baccalaureate or master's degree.

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

72 (1) Is a graduate of a school of midwifery accredited by
73 the American College of Nurse-midwives;

74 (2) Has passed an examination approved by the board;
75 and

76 (3) Practices midwifery under the supervision of a
77 board-certified obstetrician, gynecologist or a
78 board-certified family practice physician who routinely
79 practices obstetrics.

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

85 (1) He or she is a graduate of an approved program of
86 instruction in primary health care or surgery prior to July 1,
87 1994, and has passed the certifying examination for a
88 physician assistant administered by the National Commis-
89 sion on Certification of Physician Assistants and has main-
90 tained certification by that commission so as to be currently
91 certified; or

92 (2) He or she had been certified by the board as a
93 physician assistant then classified as Type B prior to July 1,
94 1983.

95 (f) Licensure of an assistant to a physician practicing the
96 specialty of ophthalmology is permitted under this section:

97 *Provided*, That a physician assistant may not dispense a
98 prescription for a refraction.

99 (g) When a graduate of an approved program who has
100 successfully passed the National Commission on Certifica-
101 tion of Physician Assistants' certifying examination submits
102 an application to the board for a physician assistant license,
103 accompanied by a job description as referenced by this
104 section, and a \$50 temporary license fee, and the application
105 is complete, the board shall issue to that applicant a tempo-
106 rary license allowing that applicant to function as a physi-
107 cian assistant.

108 (h) When a graduate of an approved program submits an
109 application to the board for a physician assistant license,
110 accompanied by a job description as referenced by this
111 section, and a \$50 temporary license fee, and the application
112 is complete, the board shall issue to the applicant a tempo-
113 rary license allowing the applicant to function as a physician
114 assistant until the applicant successfully passes the National
115 Commission on Certification of Physician Assistants'
116 certifying examination so long as the applicant sits for and
117 obtains a passing score on the examination next offered
118 following graduation from the approved program.

119 (i) No applicant may receive a temporary license who,
120 following graduation from an approved program, has not
121 obtained a passing score on the examination.

122 (j) A physician assistant who has not been certified by
123 the National Commission on Certification of Physician
124 Assistants will be restricted to work under the direct
125 supervision of the supervising physician.

126 (k) A physician assistant who has been issued a tempo-
127 rary license shall, within thirty days of receipt of written
128 notice from the National Commission on Certification of
129 Physician Assistants of his or her performance on the
130 certifying examination, notify the board in writing of his or
131 her results. In the event of failure of that examination, the

132 temporary license shall terminate automatically and the
133 board shall so notify the physician assistant in writing.

134 (l) In the event a physician assistant fails a recertification
135 examination of the National Commission on Certification of
136 Physician Assistants and is no longer certified, the physician
137 assistant shall immediately notify his or her supervising
138 physician or physicians and the board in writing. The
139 physician assistant shall immediately cease practicing, the
140 license shall terminate automatically and the physician
141 assistant is not eligible for reinstatement until he or she has
142 obtained a passing score on the examination.

143 (m) A physician applying to the board to supervise a
144 physician assistant shall affirm that the range of medical
145 services set forth in the physician assistant's job description
146 are consistent with the skills and training of the supervising
147 physician and the physician assistant. Before a physician
148 assistant can be employed or otherwise use his or her skills,
149 the supervising physician and the physician assistant must
150 obtain approval of the job description from the board. The
151 board may revoke or suspend any license of an assistant to a
152 physician for cause, after giving the assistant an opportunity
153 to be heard in the manner provided by article five, chapter
154 twenty-nine-a of this code and as set forth in rules duly
155 adopted by the board.

156 (n) The supervising physician is responsible for observ-
157 ing, directing and evaluating the work, records and practices
158 of each physician assistant performing under his or her
159 supervision. He or she shall notify the board in writing of
160 any termination of his or her supervisory relationship with
161 a physician assistant within ten days of the termination. The
162 legal responsibility for any physician assistant remains with
163 the supervising physician at all times including occasions
164 when the assistant under his or her direction and supervision
165 aids in the care and treatment of a patient in a health care
166 facility. In his or her absence, a supervising physician must
167 designate an alternate supervising physician but the legal
168 responsibility remains with the supervising physician at all
169 times. A health care facility is not legally responsible for the

170 actions or omissions of the physician assistant unless the
171 physician assistant is an employee of the facility.

172 (o) The acts or omissions of a physician assistant em-
173 ployed by health care facilities providing inpatient or
174 outpatient services are the legal responsibility of the facili-
175 ties. Physician assistants employed by facilities in staff
176 positions shall be supervised by a permanently licensed
177 physician.

178 (p) A health care facility shall report in writing to the
179 board within sixty days after the completion of the facility's
180 formal disciplinary procedure and after the commencement
181 and conclusion of any resulting legal action, the name of any
182 physician assistant practicing in the facility whose privileges
183 at the facility have been revoked, restricted, reduced or
184 terminated for any cause including resignation, together
185 with all pertinent information relating to the action. The
186 health care facility shall also report any other formal
187 disciplinary action taken against any physician assistant by
188 the facility relating to professional ethics, medical incompe-
189 tence, medical malpractice, moral turpitude or drug or
190 alcohol abuse. Temporary suspension for failure to maintain
191 records on a timely basis or failure to attend staff or section
192 meetings need not be reported.

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

198 (r) A physician assistant may write or sign prescriptions
199 or transmit prescriptions by word of mouth, telephone or
200 other means of communication at the direction of his or her
201 supervising physician. A fee of \$50 will be charged for
202 prescription-writing privileges. The board shall promulgate
203 rules pursuant to the provisions of article three, chapter
204 twenty-nine-a of this code governing the eligibility and
205 extent to which a physician assistant may prescribe at the

206 direction of the supervising physician. The rules shall
207 include, but not be limited to, the following:

208 (1) Provisions and restrictions for approving a state
209 formulary classifying pharmacologic categories of drugs that
210 may be prescribed by a physician assistant are as follows:

211 (A) Schedules I and II of the Uniform Controlled Sub-
212 stances Act, antineoplastic, radiopharmaceuticals, general
213 anesthetics and radiographic contrast materials shall be
214 excluded from the formulary;

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

217 (C) In addition to the above referenced provisions and
218 restrictions and at the direction of a supervising physician,
219 the rules shall permit the prescribing of an annual supply of
220 any drug, with the exception of controlled substances, which
221 is prescribed for the treatment of a chronic condition, other
222 than chronic pain management. For the purposes of this
223 section, a "chronic condition" is a condition which lasts
224 three months or more, generally cannot be prevented by
225 vaccines, can be controlled but not cured by medication and
226 does not generally disappear. These conditions, with the
227 exception of chronic pain, include, but are not limited to,
228 arthritis, asthma, cardiovascular disease, cancer, diabetes,
229 epilepsy and seizures and obesity. The prescriber authorized
230 in this section shall note on the prescription the chronic
231 disease being treated.

232 (D) Categories of other drugs may be excluded as
233 determined by the board.

234 (2) All pharmacological categories of drugs to be pre-
235 scribed by a physician assistant shall be listed in each job
236 description submitted to the board as required in subsection
237 (i) of this section;

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

240 (4) A requirement that to be eligible for prescription
241 privileges, a physician assistant shall have performed patient
242 care services for a minimum of two years immediately
243 preceding the submission to the board of the job description
244 containing prescription privileges and shall have successfully
245 completed an accredited course of instruction in clinical
246 pharmacology approved by the board; and

247 (5) A requirement that to maintain prescription privi-
248 leges, a physician assistant shall continue to maintain
249 National Certification as a Physician Assistant and, in
250 meeting the national certification requirements, shall
251 complete a minimum of ten hours of continuing education in
252 rational drug therapy in each certification period. Nothing
253 in this subsection permits a physician assistant to independ-
254 ently prescribe or dispense drugs.

255 (s) A supervising physician may not supervise at any one
256 time more than three full-time physician assistants or their
257 equivalent, except that a physician may supervise up to four
258 hospital-employed physician assistants. No physician shall
259 supervise more than four physician assistants at any one
260 time.

261 (t) A physician assistant may not sign any prescription,
262 except in the case of an authorized physician assistant at the
263 direction of his or her supervising physician in accordance
264 with the provisions of subsection (r) of this section. A
265 physician assistant may not perform any service that his or
266 her supervising physician is not qualified to perform. A
267 physician assistant may not perform any service that is not
268 included in his or her job description and approved by the
269 board as provided for in this section.

270 (u) The provisions of this section do not authorize a
271 physician assistant to perform any specific function or duty
272 delegated by this code to those persons licensed as chiroprac-
273 tors, dentists, dental hygienists, optometrists or pharmacists
274 or certified as nurse anesthetists.

275 (v) Each application for licensure submitted by a licensed
276 supervising physician under this section is to be accompa-
277 nied by a fee of \$200. A fee of \$100 is to be charged for the
278 biennial renewal of the license. A fee of \$50 is to be charged
279 for any change or addition of supervising physician or
280 change or addition of job location. A fee of \$50 will be
281 charged for prescriptive writing privileges.

282 (w) As a condition of renewal of physician assistant
283 license, each physician assistant shall provide written
284 documentation of participation in and successful completion
285 during the preceding two-year period of continuing educa-
286 tion, in the number of hours specified by the board by rule,
287 designated as Category I by the American Medical Associa-
288 tion, American Academy of Physician Assistants or the
289 Academy of Family Physicians and continuing education, in
290 the number of hours specified by the board by rule, desig-
291 nated as Category II by the Association or either Academy.

292 (x) Notwithstanding any provision of this chapter to the
293 contrary, failure to timely submit the required written
294 documentation results in the automatic expiration of any
295 license as a physician assistant until the written documenta-
296 tion is submitted to and approved by the board.

297 (y) If a license is automatically expired and reinstatement
298 is sought within one year of the automatic expiration, the
299 former licensee shall:

300 (1) Provide certification with supporting written docu-
301 mentation of the successful completion of the required
302 continuing education;

303 (2) Pay a renewal fee; and

304 (3) Pay a reinstatement fee equal to fifty percent of the
305 renewal fee.

306 (z) If a license is automatically expired and more than
307 one year has passed since the automatic expiration, the
308 former licensee shall:

- 309 (1) Apply for a new license;
- 310 (2) Provide certification with supporting written docu-
311 mentation of the successful completion of the required
312 continuing education; and
- 313 (3) Pay such fees as determined by the board.
- 314 (aa) It is unlawful for any physician assistant to repre-
315 sent to any person that he or she is a physician, surgeon or
316 podiatrist. A person who violates the provisions of this
317 subsection is guilty of a felony and, upon conviction thereof,
318 shall be imprisoned in a state correctional facility for not less
319 than one nor more than two years, or be fined not more than
320 \$2,000, or both fined and imprisoned.
- 321 (bb) All physician assistants holding valid certificates
322 issued by the board prior to July 1, 1992, are licensed under
323 this section.

ARTICLE 7. REGISTERED PROFESSIONAL NURSES.

§30-7-15a. Prescriptive authority for prescription drugs; coordi- nation with Board of Pharmacy.

- 1 (a) The board may, in its discretion, authorize an ad-
2 vanced practice registered nurse to prescribe prescription
3 drugs in a collaborative relationship with a physician
4 licensed to practice in West Virginia and in accordance with
5 applicable state and federal laws. An authorized advanced
6 practice registered nurse may write or sign prescriptions or
7 transmit prescriptions verbally or by other means of commu-
8 nication.
- 9 (b) For purposes of this section an agreement to a
10 collaborative relationship for prescriptive practice between
11 a physician and an advanced practice registered nurse shall
12 be set forth in writing. Verification of the agreement shall be
13 filed with the board by the advanced practice registered
14 nurse. The board shall forward a copy of the verification to
15 the Board of Medicine and the Board of Osteopathic Medi-

16 cine. Collaborative agreements shall include, but are not
17 limited to, the following:

18 (1) Mutually agreed upon written guidelines or protocols
19 for prescriptive authority as it applies to the advanced
20 practice registered nurse's clinical practice;

21 (2) Statements describing the individual and shared
22 responsibilities of the advanced practice registered nurse and
23 the physician pursuant to the collaborative agreement
24 between them;

25 (3) Periodic and joint evaluation of prescriptive practice;
26 and

27 (4) Periodic and joint review and updating of the written
28 guidelines or protocols.

29 (c) The board shall promulgate legislative rules in
30 accordance with the provisions of chapter twenty-nine-a of
31 this code governing the eligibility and extent to which an
32 advanced practice registered nurse may prescribe drugs.
33 Such rules shall provide, at a minimum, a state formulary
34 classifying those categories of drugs which shall not be
35 prescribed by advanced practice registered nurse including,
36 but not limited to, Schedules I and II of the Uniform Con-
37 trolled Substances Act, antineoplastics, radio-pharma-
38 ceuticals and general anesthetics. Drugs listed under Sched-
39 ule III shall be limited to a seventy-two hour supply without
40 refill. In addition to the above referenced provisions and
41 restrictions and pursuant to a collaborative agreement as set
42 forth in subsections (a) and (b) of this section, the rules shall
43 permit the prescribing of an annual supply of any drug, with
44 the exception of controlled substances, which is prescribed
45 for the treatment of a chronic condition, other than chronic
46 pain management. For the purposes of this section, a
47 "chronic condition" is a condition which lasts three months
48 or more, generally cannot be prevented by vaccines, can be
49 controlled but not cured by medication and does not gener-
50 ally disappear. These conditions, with the exception of
51 chronic pain, include, but are not limited to, arthritis,

52 asthma, cardiovascular disease, cancer, diabetes, epilepsy
53 and seizures and obesity. The prescriber authorized in this
54 section shall note on the prescription the chronic disease
55 being treated.

56 (d) The board shall consult with other appropriate boards
57 for the development of the formulary.

58 (e) The board shall transmit to the Board of Pharmacy a
59 list of all advanced practice registered nurse with prescrip-
60 tive authority. The list shall include:

61 (1) The name of the authorized advanced practice
62 registered nurse;

63 (2) The prescriber's identification number assigned by
64 the board; and

65 (3) The effective date of prescriptive authority.

**ARTICLE 14A. ASSISTANTS TO OSTEOPATHIC PHYSICIANS AND
SURGEONS.**

**§30-14A-1. Osteopathic physician assistant to osteopathic physi-
cians and surgeons; definitions; board of osteopa-
thy rules; licensure; temporary licensure; renewal
of license; job description required; revocation or
suspension of license; responsibilities of the super-
vising physician; legal responsibility for osteo-
pathic physician assistants; reporting of disciplin-
ary procedures; identification; limitation on em-
ployment and duties; fees; unlawful use of the title
of "osteopathic physician assistant"; unlawful
representation of an osteopathic physician assis-
tant as a physician; criminal penalties.**

1 (a) As used in this section:

2 (1) "Approved program" means an educational program
3 for osteopathic physician assistants approved and accredited
4 by the Committee on Allied Health Education and Accredita-
5 tion or its successor.

6 (2) "Board" means the Board of Osteopathy established
7 under the provisions of article fourteen, chapter thirty of this
8 code.

9 (3) "Direct supervision" means the presence of the
10 supervising physician at the site where the osteopathic
11 physician assistant performs medical duties.

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

15 (5) "License" means a certificate issued to an osteopathic
16 physician assistant who has passed the examination for a
17 primary care or surgery physician assistant administered by
18 the National Board of Medical Examiners on behalf of the
19 National Commission on Certification of Physician Assis-
20 tants. All osteopathic physician assistants holding valid
21 certificates issued by the board prior to March 31, 2010, are
22 licensed under the provisions of this article, but must renew
23 the license pursuant to the provisions of this article.

24 (6) "Osteopathic physician assistant" means an assistant
25 to an osteopathic physician who is a graduate of an approved
26 program of instruction in primary care or surgery, has passed
27 the National Certification Examination and is qualified to
28 perform direct patient care services under the supervision of
29 an osteopathic physician.

30 (7) "Supervising physician" means a doctor of osteopathy
31 permanently licensed in this state who assumes legal and
32 supervising responsibility for the work or training of a
33 osteopathic physician assistant under his or her supervision.

34 (b) The board shall propose emergency and legislative
35 rules for legislative approval pursuant to the provisions of
36 article three, chapter twenty-nine-a of this code, governing
37 the extent to which osteopathic physician assistants may
38 function in this state. The rules shall provide that:

39 (1) The osteopathic physician assistant is limited to the
40 performance of those services for which he or she is trained;

41 (2) The osteopathic physician assistant performs only
42 under the supervision and control of an osteopathic physi-
43 cian permanently licensed in this state but such supervision
44 and control does not require the personal presence of the
45 supervising physician at the place or places where services
46 are rendered if the osteopathic physician assistant's normal
47 place of employment is on the premises of the supervising
48 physician. The supervising physician may send the osteo-
49 pathic physician assistant off the premises to perform duties
50 under his or her direction, but a separate place of work for
51 the osteopathic physician assistant may not be established;
52 and

53 (3) The board may allow the osteopathic physician
54 assistant to perform those procedures and examinations and,
55 in the case of authorized osteopathic physician assistants, to
56 prescribe at the direction of his or her supervising physician
57 in accordance with subsections (p) and (q) of this section
58 those categories of drugs submitted to it in the job descrip-
59 tion required by subsection (f) of this section.

60 (c) The board shall compile and publish an annual report
61 that includes a list of currently licensed osteopathic physi-
62 cian assistants and their employers and location in the state.

63 (d) The board shall license as an osteopathic physician
64 assistant a person who files an application together with a
65 proposed job description and furnishes satisfactory evidence
66 that he or she has met the following standards:

67 (1) Is a graduate of an approved program of instruction
68 in primary health care or surgery;

69 (2) Has passed the examination for a primary care or
70 surgery physician assistant administered by the National
71 Board of Medical Examiners on behalf of the National
72 Commission on Certification of Physician Assistants; and

73 (3) Is of good moral character.

74 (e) When a graduate of an approved program submits an
75 application to the board, accompanied by a job description

76 in conformity with this section, for an osteopathic physician
77 assistant license, the board may issue to the applicant a
78 temporary license allowing the applicant to function as an
79 osteopathic physician assistant for the period of one year.
80 The temporary license may be renewed for one additional
81 year upon the request of the supervising physician. An
82 osteopathic physician assistant who has not been certified as
83 such by the National Board of Medical Examiners on behalf
84 of the National Commission on Certification of Physician
85 Assistants will be restricted to work under the direct
86 supervision of the supervising physician.

87 (f) An osteopathic physician applying to the board to
88 supervise an osteopathic physician assistant shall provide a
89 job description that sets forth the range of medical services
90 to be provided by the assistant. Before an osteopathic
91 physician assistant can be employed or otherwise use his or
92 her skills, the supervising physician must obtain approval of
93 the job description from the board. The board may revoke or
94 suspend a license of an assistant to a physician for cause,
95 after giving the person an opportunity to be heard in the
96 manner provided by sections eight and nine, article one of
97 this chapter.

98 (g) The supervising physician is responsible for observ-
99 ing, directing and evaluating the work records and practices
100 of each osteopathic physician assistant performing under his
101 or her supervision. He or she shall notify the board in writing
102 of any termination of his or her supervisory relationship with
103 an osteopathic physician assistant within ten days of his or
104 her termination. The legal responsibility for any osteopathic
105 physician assistant remains with the supervising physician
106 at all times, including occasions when the assistant, under
107 his or her direction and supervision, aids in the care and
108 treatment of a patient in a health care facility. In his or her
109 absence, a supervising physician must designate an alternate
110 supervising physician but the legal responsibility remains
111 with the supervising physician at all times. A health care
112 facility is not legally responsible for the actions or omissions

113 of an osteopathic physician assistant unless the osteopathic
114 physician assistant is an employee of the facility.

115 (h) The acts or omissions of an osteopathic physician
116 assistant employed by health care facilities providing in-
117 patient services are the legal responsibility of the facilities.
118 Osteopathic physician assistants employed by such facilities
119 in staff positions shall be supervised by a permanently
120 licensed physician.

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

136 (j) When functioning as an osteopathic physician assis-
137 tant, the osteopathic physician assistant shall wear a name
138 tag that identifies him or her as a physician assistant.

139 (k) (1) A supervising physician shall not supervise at any
140 time more than three osteopathic physician assistants except
141 that a physician may supervise up to four hospital-employed
142 osteopathic physician assistants: *Provided*, That an alterna-
143 tive supervisor has been designated for each.

144 (2) An osteopathic physician assistant shall not perform
145 any service that his or her supervising physician is not
146 qualified to perform.

147 (3) An osteopathic physician assistant shall not perform
148 any service that is not included in his or her job description
149 and approved by the board as provided in this section.

150 (4) The provisions of this section do not authorize an
151 osteopathic physician assistant to perform any specific
152 function or duty delegated by this code to those persons
153 licensed as chiropractors, dentists, registered nurses, li-
154 censed practical nurses, dental hygienists, optometrists or
155 pharmacists or certified as nurse anesthetists.

156 (l) An application for license or renewal of license shall
157 be accompanied by payment of a fee established by legisla-
158 tive rule of the Board of Osteopathy pursuant to the provi-
159 sions of article three, chapter twenty-nine-a of this code.

160 (m) As a condition of renewal of an osteopathic physician
161 assistant license, each osteopathic physician assistant shall
162 provide written documentation satisfactory to the board of
163 participation in and successful completion of continuing
164 education in courses approved by the Board of Osteopathy
165 for the purposes of continuing education of osteopathic
166 physician assistants. The osteopathy board shall propose
167 legislative rules for minimum continuing hours necessary for
168 the renewal of a license. These rules shall provide for
169 minimum hours equal to or more than the hours necessary
170 for national certification. Notwithstanding any provision of
171 this chapter to the contrary, failure to timely submit the
172 required written documentation results in the automatic
173 suspension of a license as an osteopathic physician assistant
174 until the written documentation is submitted to and ap-
175 proved by the board.

176 (n) It is unlawful for any person who is not licensed by
177 the board as an osteopathic physician assistant to use the
178 title of osteopathic physician assistant or to represent to any
179 other person that he or she is an osteopathic physician
180 assistant. A person who violates the provisions of this
181 subsection is guilty of a misdemeanor and, upon conviction
182 thereof, shall be fined not more than \$2,000.

183 (o) It is unlawful for an osteopathic physician assistant
184 to represent to any person that he or she is a physician. A
185 person who violates the provisions of this subsection is guilty
186 of a felony, and, upon conviction thereof, shall be imprisoned
187 in a state correctional facility for not less than one, nor more
188 than two years, or be fined not more than \$2,000, or both
189 fined and imprisoned.

190 (p) An osteopathic physician assistant may write or sign
191 prescriptions or transmit prescriptions by word of mouth,
192 telephone or other means of communication at the direction
193 of his or her supervising physician. The board shall propose
194 rules for legislative approval in accordance with the provi-
195 sions of article three, chapter twenty-nine-a of this code
196 governing the eligibility and extent to which an osteopathic
197 physician assistant may prescribe at the direction of the
198 supervising physician. The rules shall provide for a state
199 formulary classifying pharmacologic categories of drugs
200 which may be prescribed by such an osteopathic physician
201 assistant. In classifying such pharmacologic categories, those
202 categories of drugs which shall be excluded include, but are
203 not limited to, Schedules I and II of the Uniform Controlled
204 Substances Act, antineoplastics, radio-pharmaceuticals,
205 general anesthetics and radiographic contrast materials.
206 Drugs listed under Schedule III are limited to a seventy-two
207 hour supply without refill. In addition to the above refer-
208 enced provisions and restrictions *and* at the direction of a
209 supervising physician, the rules shall permit the prescribing
210 an annual supply of any drug other than controlled sub-
211 stances which is prescribed for the treatment of a chronic
212 condition other than chronic pain management. For the
213 purposes of this section, a "chronic condition" is a condition
214 which last three months or more, generally cannot be
215 prevented by vaccines, can be controlled but not cured by
216 medication and does not generally disappear. These condi-
217 tions include, but are not limited to, arthritis, asthma,
218 cardiovascular disease, cancer, diabetes, epilepsy and
219 seizures and obesity. The prescriber authorized in this
220 section shall note on the prescription the condition for which
221 the patient is being treated. The rules shall provide that all

222 pharmacological categories of drugs to be prescribed by an
223 osteopathic physician assistant be listed in each job descrip-
224 tion submitted to the board as required in this section. The
225 rules shall provide the maximum dosage an osteopathic
226 physician assistant may prescribe.

227 (q) (1) The rules shall provide that to be eligible for such
228 prescription privileges, an osteopathic physician assistant
229 must:

230 (A) Submit an application to the board for prescription
231 privileges;

232 (B) Have performed patient care services for a minimum
233 of two years immediately preceding the application; and

234 (C) Have successfully completed an accredited course of
235 instruction in clinical pharmacology approved by the board.

236 (2) The rules shall provide that to maintain prescription
237 privileges, an osteopathic physician assistant shall:

238 (A) Continue to maintain national certification as an
239 osteopathic physician assistant; and

240 (B) Complete a minimum of ten hours of continuing
241 education in rational drug therapy in each licensing period.

242 (3) Nothing in this subsection permits an osteopathic
243 physician assistant to independently prescribe or dispense
244 drugs.

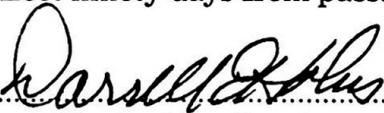
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.


.....
Chairman Senate Committee

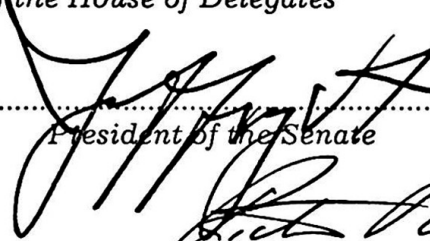

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Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.


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Clerk of the Senate


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Clerk of the House of Delegates


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President of the Senate


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Speaker of the House of Delegates

OFFICE WEST VIRGINIA
SECRETARY OF STATE

2012 APR -2 PM 4: 53

FILED

The within *is* approved this the *2nd*
Day of *April*, 2012.


.....
Governor

PRESENTED TO THE GOVERNOR

MAR 29 2012

Time 4:20 pm