

WEST VIRGINIA LEGISLATURE

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Originating

Senate Bill 668

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[Originating in the Committee on Health and Human
Resources; Reported on February 21, 2019]

1 A BILL to amend and reenact §30-3E-1, §30-3E-3, §30-3E-9, §30-3E-11, and §30-3E-13 of the
2 Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a
3 new section, designated §30-3E-10a, all relating to physician assistants collaborating with
4 physicians in hospitals; requiring written notice to the appropriate licensing board;
5 requiring rulemaking; and specifying practice requirements.

Be it enacted by the Legislature of West Virginia:

ARTICLE 3E. PHYSICIAN ASSISTANTS PRACTICE ACT.

§30-3E-1. Definitions.

1 As used in this article:

2 (1) "Advance duties" means medical acts that require additional training beyond the basic
3 education program training required for licensure as a physician assistant.

4 (2) "Alternate collaborating physician" means one or more physicians licensed in this state
5 and designated by the collaborating physician to provide collaboration with a physician assistant
6 in accordance with an authorized practice agreement.

7 (3) "Approved program" means an educational program for physician assistants approved
8 and accredited by the Accreditation Review Commission on Education for the Physician Assistant
9 or its successor. Prior to 2001, approval and accreditation would have been by either the
10 Committee on Allied Health Education and Accreditation or the Accreditation Review Commission
11 on Education for the Physician Assistant.

12 (4) "Boards" means the West Virginia Board of Medicine and the West Virginia Board of
13 Osteopathic Medicine.

14 (5) "Chronic condition" means a condition which lasts three months or more, generally
15 cannot be prevented by vaccines, can be controlled but not cured by medication, and does not
16 generally disappear. These conditions include, but are not limited to, arthritis, asthma,
17 cardiovascular disease, cancer, diabetes, epilepsy and seizures, and obesity.

18 (6) “Collaborating physician” means a doctor of medicine, osteopathy, or podiatry fully
19 licensed, by the appropriate board in this state, without restriction or limitation, who collaborates
20 with physician assistants.

21 (7) “Collaboration” means overseeing the activities of ~~and accepting responsibility for~~ the
22 medical services rendered by a physician assistant. Constant physical presence of the
23 collaborating physician is not required as long as the collaborating physician and physician
24 assistant are, or can be, easily in contact with one another by telecommunication. Collaboration
25 does not require the personal presence of the collaborating physician at the place or places where
26 services are rendered.

27 (8) “Endorsement” means a summer camp or volunteer endorsement authorized under
28 this article.

29 (9) “Health care facility” means any licensed hospital, nursing home, extended care facility,
30 state health or mental institution, clinic, or physician’s office.

31 (10) “Hospital” means a facility licensed pursuant to §16-5B-1 *et seq.* of this code and any
32 acute-care facility operated by the state government that primarily provides inpatient diagnostic,
33 treatment, or rehabilitative services to injured, disabled, or sick persons under the supervision of
34 physicians and includes psychiatric hospitals.

35 (11) “License” means a license issued by either of the boards pursuant to the provisions
36 of this article.

37 (12) “Licensee” means a person licensed pursuant to the provisions of this article.

38 (13) “Physician” means a doctor of allopathic or osteopathic medicine who is fully licensed
39 pursuant to the provisions of either §30-3-1 *et seq.* or §30-14-1 *et seq.* of this code to practice
40 medicine and surgery in this state.

41 (14) “Physician assistant” means a person who meets the qualifications set forth in this
42 article and is licensed pursuant to this article to practice medicine under collaboration.

43 (15) "Practice agreement" means a document that is executed between a collaborating
44 physician and a physician assistant pursuant to the provisions of this article, and is filed with and
45 approved by the appropriate licensing board.

46 (16) "Practice notification" means a written notice to the appropriate licensing board that
47 a physician assistant will practice in collaboration with one or more physicians in a hospital in the
48 state of West Virginia.

§30-3E-3. Rulemaking.

1 (a) The boards shall propose rules for legislative approval in accordance with the
2 provisions of §29A-3-1 *et seq.* of this code to implement the provisions of this article, including:

- 3 (1) The extent to which physician assistants may practice in this state;
- 4 (2) The extent to which physician assistants may pronounce death;
- 5 (3) Requirements for licenses and temporary licenses;
- 6 (4) Requirements for practice agreements and practice notifications;
- 7 (5) Requirements for continuing education;
- 8 (6) Conduct of a licensee for which discipline may be imposed;
- 9 (7) The eligibility and extent to which a physician assistant may prescribe at the direction
10 of his or her collaborating physician, including: A state formulary classifying those categories of
11 drugs which ~~shall~~ may not be prescribed by a physician assistant, including, but not limited to,
12 Schedules I and II of the Uniform Controlled Substances Act, antineoplastics,
13 radiopharmaceuticals, and general anesthetics. Drugs listed under Schedule III shall be limited to
14 a 30-day supply without refill. In addition to the above referenced provisions and restrictions and
15 pursuant to a practice agreement or practice notification as set forth in this article, the rules shall
16 permit the prescribing of an annual supply of any drug, with the exception of controlled
17 substances, which is prescribed for the treatment of a chronic condition, other than chronic pain
18 management. For the purposes of this section, a chronic condition is a condition which lasts three
19 months or more, generally cannot be prevented by vaccines, can be controlled but not cured by

20 medication, and does not generally disappear. These conditions, with the exception of chronic
21 pain, include, but are not limited to, arthritis, asthma, cardiovascular disease, cancer, diabetes,
22 epilepsy and seizures, and obesity;

23 (8) The authority a collaborating physician may delegate for prescribing, dispensing, and
24 administering of controlled substances, prescription drugs, or medical devices if the practice
25 agreement or practice notification includes:

26 (A) A notice of intent to delegate prescribing of controlled substances, prescription drugs,
27 or medical devices;

28 (B) An attestation that all prescribing activities of the physician assistant shall comply with
29 applicable federal and state law governing the practice of physician assistants;

30 (C) An attestation that all medical charts or records shall contain a notation of any
31 prescriptions written by a physician assistant;

32 (D) An attestation that all prescriptions shall include the physician assistant's name and
33 the collaborating physician's name, business address, and business telephone number legibly
34 written or printed; and

35 (E) An attestation that the physician assistant has successfully completed each of the
36 requirements established by the appropriate board to be eligible to prescribe pursuant to a
37 practice agreement or practice notification accompanied by the production of any required
38 documentation establishing eligibility;

39 (9) A fee schedule; and

40 (10) Any other rules necessary to effectuate the provisions of this article.

41 (b) The boards may propose emergency rules pursuant to §29A-3-1 *et seq.* of this code
42 to ensure conformity with this article.

§30-3E-9. Practice requirements.

1 (a) A physician assistant may not practice independent of a collaborating physician.

2 (b) A physician assistant may practice in a hospital in collaboration with physicians after
3 filing a practice notification with the appropriate board.

4 ~~(b)~~ (c) Except as set forth in subsection (b) of this section, before a licensed physician
5 assistant may practice and before a collaborating physician may delegate medical acts to a
6 physician assistant, the collaborating physician, and the physician assistant shall:

7 (1) File a practice agreement with the appropriate licensing board, including any
8 designated alternate collaborating physicians;

9 (2) Pay the applicable fees; and

10 (3) Receive written authorization from the appropriate licensing board to commence
11 practicing as a physician assistant pursuant to the practice agreement.

12 ~~(c)~~ (d) A physician applying to collaborate with a physician assistant shall affirm that:

13 (1) The medical services set forth in the practice agreement or practice notification are
14 consistent with the skills and training of the collaborating physician and the physician assistant;
15 and

16 (2) The activities delegated to a physician assistant are consistent with sound medical
17 practice and will protect the health and safety of the patient.

18 ~~(d)~~ (e) A collaborating physician may enter into practice agreements with up to five full-
19 time physician assistants at any one time. ~~A physician is prohibited from being a collaborating or~~
20 ~~alternate collaborating physician to more than five physician assistants at any one time. However,~~
21 ~~a physician practicing medicine in an emergency department of a hospital or a physician who~~
22 ~~collaborating with a physician assistant who is employed by or on behalf of a hospital may~~
23 ~~collaborate with up to five physician assistants per shift if the physician has an authorized practice~~
24 ~~agreement in place with the physician assistant or the physician has been properly authorized as~~
25 ~~an alternate collaborating physician for each physician assistant.~~

26 (f) A physician may collaborate with physician assistants in a hospital as approved by the
27 hospital.

§30-3E-10a. Practice notification requirements.

1 (a) A physician assistant shall collaborate with physicians in a hospital after the physician
2 assistant receives notification from the appropriate licensing board that a practice notification has
3 been received.

4 (b) The licensing boards shall promulgate emergency rules to establish the criteria for
5 submission of practice notifications for physician assistant hospital practice.

§30-3E-11. Collaboration with physician assistants.

1 (a) A licensed physician or podiatrist may collaborate with a physician assistant:

2 (1) As a collaborating physician in accordance with an authorized practice agreement; or

3 (2) As an alternate collaborating physician who:

4 (A) Collaborates in accordance with an authorized practice agreement;

5 (B) Has been designated an alternate collaborating physician in the authorized practice
6 agreement; and

7 (C) Only delegates those medical acts that have been authorized by the practice
8 agreement and are within the scope of practice of both the primary collaborating physician and
9 the alternate collaborating physician; or

10 (3) In a hospital pursuant to a practice notification.

11 (b) A collaborating physician ~~is responsible at all times for the physician assistant with~~
12 ~~whom he or she is collaborating, including:~~

13 ~~(1) The legal responsibility of the physician assistant;~~

14 ~~(2) Observing, directing and evaluating the physician assistant's work records and~~
15 ~~practices; and~~

16 ~~(3) Collaborating with the physician assistant in the care and treatment of a patient in a~~
17 health care facility shall observe, direct, and evaluate the physician assistant's work records and
18 practices, including collaborating with the physician assistant in the care and treatment of a patient
19 in a health care facility.

20 (c) A health care facility is only legally responsible for the actions or omissions of a
21 physician assistant when the physician assistant is employed by or on behalf of the facility.
22 Credentialed medical facility staff and attending physicians of a hospital who provide direction to
23 or utilize physician assistants employed by or on behalf of the hospital are considered alternate
24 collaborating physicians.

25 (d) Every licensed physician assistant shall be individually responsible and liable for the
26 care they provide. This article does not relieve the physician assistant of responsibility and liability
27 for the acts and omissions of the physician assistant.

§30-3E-13. Identification.

1 (a) While practicing, a physician assistant shall wear a name tag that identifies him or her
2 as a physician assistant.

3 (b) A physician assistant shall keep his or her license and current practice agreement or
4 practice notification available for inspection at his or her primary place of practice.

NOTE: The purpose of this bill is to provide requirements for physician assistants who are collaborating with physicians in hospitals. The bill requires written notice to the appropriate licensing board, requires rulemaking, and specifies practice requirements.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.