

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 535**

4 (By Senators Stollings, Foster and Miller)

5 \_\_\_\_\_  
6 [Originating in the Committee on Health and Human Resources;  
7 reported February 23, 2012.]

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10  
11 A BILL to amend and reenact §30-3-16 of the Code of West Virginia,  
12 1931, as amended; to amend and reenact §30-7-15a of said code;  
13 and to amend and reenact §30-14A-1 of said code, all relating  
14 to expanding prescriptive authority of advanced nurse  
15 practitioners, physician assistants and assistants to  
16 osteopathic physicians and surgeons to allow the prescribing  
17 of medications for chronic diseases for a ninety-day period  
18 with three ninety-day refills.

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

20 That §30-3-16 of the Code of West Virginia, 1931, as amended,  
21 be amended and reenacted; that §30-7-15a of said code be amended  
22 and reenacted; and that §30-14A-1 of said code be amended and  
23 reenacted, all to read as follows:

24 **ARTICLE 3. WEST VIRGINIA MEDICAL PRACTICE ACT.**

1 §30-3-16. **Physician assistants; definitions; Board of Medicine**  
2 **rules; annual report; licensure; temporary license;**  
3 **relicensure; job description required; revocation or**  
4 **suspension of licensure; responsibilities of**  
5 **supervising physician; legal responsibility for**  
6 **physician assistants; reporting by health care**  
7 **facilities; identification; limitations on employment**  
8 **and duties; fees; continuing education; unlawful**  
9 **representation of physician assistant as a physician;**  
10 **criminal penalties.**

11 (a) As used in this section:

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

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

18 (3) "Physician assistant" means an assistant to a physician  
19 who is a graduate of an approved program of instruction in primary  
20 health care or surgery, has attained a baccalaureate or master's  
21 degree, has passed the national certification examination and is  
22 qualified to perform direct patient care services under the  
23 supervision of a physician;

24 (4) "Physician assistant-midwife" means a physician assistant

1 who meets all qualifications set forth under subdivision (3) of  
2 this subsection and fulfills the requirements set forth in  
3 subsection (d) of this section, is subject to all provisions of  
4 this section and assists in the management and care of a woman and  
5 her infant during the prenatal, delivery and postnatal periods; and

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

11 (b) The board shall promulgate rules pursuant to the  
12 provisions of article three, chapter twenty-nine-a of this code  
13 governing the extent to which physician assistants may function in  
14 this state. The rules shall provide that the physician assistant  
15 is limited to the performance of those services for which he or she  
16 is trained and that he or she performs only under the supervision  
17 and control of a physician permanently licensed in this state but  
18 that supervision and control does not require the personal presence  
19 of the supervising physician at the place or places where services  
20 are rendered if the physician assistant's normal place of  
21 employment is on the premises of the supervising physician. The  
22 supervising physician may send the physician assistant off the  
23 premises to perform duties under his or her direction but a  
24 separate place of work for the physician assistant may not be

1 established. In promulgating the rules, the board shall allow the  
2 physician assistant to perform those procedures and examinations  
3 and, in the case of certain authorized physician assistants, to  
4 prescribe at the direction of his or her supervising physician, in  
5 accordance with subsection (r) of this section, those categories of  
6 drugs submitted to it in the job description required by this  
7 section. Certain authorized physician assistants may pronounce  
8 death in accordance with the rules proposed by the board which  
9 receive legislative approval. The board shall compile and publish  
10 an annual report that includes a list of currently licensed  
11 physician assistants and their supervising physician(s) and  
12 location in the state.

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

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

19 (2) Has passed the certifying examination for a primary care  
20 physician assistant administered by the National Commission on  
21 Certification of Physician Assistants and has maintained  
22 certification by that commission so as to be currently certified;

23 (3) Is of good moral character; and

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

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

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

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

7 (3) Practices midwifery under the supervision of a  
8 board-certified obstetrician, gynecologist or a board-certified  
9 family practice physician who routinely practices obstetrics.

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

14 (1) He or she is a graduate of an approved program of  
15 instruction in primary health care or surgery prior to July 1,  
16 1994, and has passed the certifying examination for a physician  
17 assistant administered by the National Commission on Certification  
18 of Physician Assistants and has maintained certification by that  
19 commission so as to be currently certified; or

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

22 (f) Licensure of an assistant to a physician practicing the  
23 specialty of ophthalmology is permitted under this section:  
24 *Provided, That a physician assistant may not dispense a*

1 prescription for a refraction.

2 (g) When a graduate of an approved program who has  
3 successfully passed the National Commission on Certification of  
4 Physician Assistants' certifying examination submits an application  
5 to the board for a physician assistant license, accompanied by a  
6 job description as referenced by this section, and a \$50 temporary  
7 license fee, and the application is complete, the board shall issue  
8 to that applicant a temporary license allowing that applicant to  
9 function as a physician assistant.

10 (h) When a graduate of an approved program submits an  
11 application to the board for a physician assistant license,  
12 accompanied by a job description as referenced by this section, and  
13 a \$50 temporary license fee, and the application is complete, the  
14 board shall issue to ~~that~~ the applicant a temporary license  
15 allowing ~~that~~ the applicant to function as a physician assistant  
16 until the applicant successfully passes the National Commission on  
17 Certification of Physician Assistants' certifying examination  
18 ~~Provided, That the applicant shall sit for and obtain~~ so long as  
19 the applicant sits for and obtains a passing score on the  
20 examination next offered following graduation from the approved  
21 program.

22 (i) No applicant may receive a temporary license who,  
23 following graduation from an approved program, has ~~sat for and~~ not  
24 obtained a passing score on the examination.

1 (j) A physician assistant who has not been certified by the  
2 National Commission on Certification of Physician Assistants will  
3 be restricted to work under the direct supervision of the  
4 supervising physician.

5 (k) A physician assistant who has been issued a temporary  
6 license shall, within thirty days of receipt of written notice from  
7 the National Commission on Certification of Physician Assistants of  
8 his or her performance on the certifying examination, notify the  
9 board in writing of his or her results. In the event of failure of  
10 that examination, the temporary license shall ~~expire and~~ terminate  
11 automatically and the board shall so notify the physician assistant  
12 in writing.

13 (l) In the event ~~that~~ a physician assistant fails a  
14 recertification examination of the National Commission on  
15 Certification of Physician Assistants and is no longer certified,  
16 the physician assistant shall immediately notify his or her  
17 supervising physician or physicians and the board in writing. The  
18 physician assistant shall immediately cease practicing, the license  
19 shall ~~expire and~~ terminate automatically and the physician  
20 assistant is not eligible for reinstatement until he or she has  
21 obtained a passing score on the examination.

22 (m) ~~Any~~ A physician applying to the board to supervise a  
23 physician assistant shall affirm that the range of medical services  
24 set forth in the physician assistant's job description are

1 consistent with the skills and training of the supervising  
2 physician and the physician assistant. Before a physician  
3 assistant can be employed or otherwise use his or her skills, the  
4 supervising physician and the physician assistant must obtain  
5 approval of the job description from the board. The board may  
6 revoke or suspend any license of an assistant to a physician for  
7 cause, after giving ~~that~~ the assistant an opportunity to be heard  
8 in the manner provided by article five, chapter twenty-nine-a of  
9 this code and as set forth in rules duly adopted by the board.

10 (n) The supervising physician is responsible for observing,  
11 directing and evaluating the work, records and practices of each  
12 physician assistant performing under his or her supervision. He or  
13 she shall notify the board in writing of any termination of his or  
14 her supervisory relationship with a physician assistant within ten  
15 days of the termination. The legal responsibility for any  
16 physician assistant remains with the supervising physician at all  
17 times including occasions when the assistant under his or her  
18 direction and supervision aids in the care and treatment of a  
19 patient in a health care facility. In his or her absence, a  
20 supervising physician must designate an alternate supervising  
21 physician ~~however~~ but the legal responsibility remains with the  
22 supervising physician at all times. A health care facility is not  
23 legally responsible for the actions or omissions of the physician  
24 assistant unless the physician assistant is an employee of the



1 facility.

2 (o) The acts or omissions of a physician assistant employed by  
3 health care facilities providing inpatient or outpatient services  
4 ~~shall be~~ are the legal responsibility of the facilities. Physician  
5 assistants employed by facilities in staff positions shall be  
6 supervised by a permanently licensed physician.

7 (p) A health care facility shall report in writing to the  
8 board within sixty days after the completion of the facility's  
9 formal disciplinary procedure and ~~also~~ after the commencement and  
10 ~~again after the~~ conclusion of any resulting legal action, the name  
11 of any physician assistant practicing in the facility whose  
12 privileges at the facility have been revoked, restricted, reduced  
13 or terminated for any cause including resignation, together with  
14 all pertinent information relating to the action. The health care  
15 facility shall also report any other formal disciplinary action  
16 taken against any physician assistant by the facility relating to  
17 professional ethics, medical incompetence, medical malpractice,  
18 moral turpitude or drug or alcohol abuse. Temporary suspension for  
19 failure to maintain records on a timely basis or failure to attend  
20 staff or section meetings need not be reported.

21 (q) When functioning as a physician assistant, the physician  
22 assistant shall wear a name tag that identifies him or her as a  
23 physician assistant. A two and one-half by three and one-half inch  
24 card of identification shall be furnished by the board upon

1 licensure of the physician assistant.

2 (r) A physician assistant may write or sign prescriptions or  
3 transmit prescriptions by word of mouth, telephone or other means  
4 of communication at the direction of his or her supervising  
5 physician. A fee of \$50 will be charged for prescription-writing  
6 privileges. The board shall promulgate rules pursuant to the  
7 provisions of article three, chapter twenty-nine-a of this code  
8 governing the eligibility and extent to which a physician assistant  
9 may prescribe at the direction of the supervising physician. The  
10 rules shall include, but not be limited to, the following:

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

14 (A) ~~The following categories of drugs shall be excluded from~~  
15 ~~the formulary:~~ Schedules I and II of the Uniform Controlled  
16 Substances Act, anticoagulants, antineoplastic,  
17 radiopharmaceuticals, general anesthetics and radiographic contrast  
18 materials shall be excluded from the formulary;

19 (B) Drugs listed under Schedule III shall be limited to a  
20 seventy-two hour supply without refill; ~~and~~

21 (C) At the direction of a supervising physician, permit the  
22 prescribing of a ninety-day supply with three, ninety-day refills  
23 of any drug which is prescribed for the treatment of a chronic  
24 condition. For the purposes of this section, a "chronic condition"

1 is a condition which lasts three months or more, generally cannot  
2 be prevented by vaccines, can be controlled but not cured by  
3 medication and does not generally disappear. These conditions  
4 include arthritis, asthma, cardiovascular disease, cancer,  
5 diabetes, epilepsy and seizures, obesity and oral health problems;  
6 and

7 ~~(C)~~ (D) Categories of other drugs may be excluded as  
8 determined by the board.

9 (2) All pharmacological categories of drugs to be prescribed  
10 by a physician assistant shall be listed in each job description  
11 submitted to the board as required in subsection (i) of this  
12 section;

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

14 (4) A requirement that to be eligible for prescription  
15 privileges, a physician assistant shall have performed patient care  
16 services for a minimum of two years immediately preceding the  
17 submission to the board of the job description containing  
18 prescription privileges and shall have successfully completed an  
19 accredited course of instruction in clinical pharmacology approved  
20 by the board; and

21 (5) A requirement that to maintain prescription privileges, a  
22 physician assistant shall continue to maintain National  
23 Certification as a Physician Assistant and, in meeting the national  
24 certification requirements, shall complete a minimum of ten hours

1 of continuing education in rational drug therapy in each  
2 certification period. Nothing in this subsection ~~shall be~~  
3 ~~construed to permit~~ permits a physician assistant to independently  
4 prescribe or dispense drugs.

5 (s) A supervising physician may not supervise at any one time  
6 more than three full-time physician assistants or their equivalent,  
7 except that a physician may supervise up to four hospital-employed  
8 physician assistants. No physician shall supervise more than four  
9 physician assistants at any one time.

10 (t) A physician assistant may not sign any prescription,  
11 except in the case of an authorized physician assistant at the  
12 direction of his or her supervising physician in accordance with  
13 the provisions of subsection (r) of this section. A physician  
14 assistant may not perform any service that his or her supervising  
15 physician is not qualified to perform. A physician assistant may  
16 not perform any service that is not included in his or her job  
17 description and approved by the board as provided for in this  
18 section.

19 (u) The provisions of this section do not authorize ~~any a~~  
20 physician assistant to perform any specific function or duty  
21 delegated by this code to those persons licensed as chiropractors,  
22 dentists, dental hygienists, optometrists or pharmacists or  
23 certified as nurse anesthetists.

24 (v) Each application for licensure submitted by a licensed

1 supervising physician under this section is to be accompanied by a  
2 fee of \$200. A fee of \$100 is to be charged for the biennial  
3 renewal of the license. A fee of \$50 is to be charged for any  
4 change or addition of supervising physician or change or addition  
5 of job location. A fee of \$50 will be charged for prescriptive  
6 writing privileges.

7 (w) As a condition of renewal of physician assistant license,  
8 each physician assistant shall provide written documentation of  
9 participation in and successful completion during the preceding  
10 two-year period of continuing education, in the number of hours  
11 specified by the board by rule, designated as Category I by the  
12 American Medical Association, American Academy of Physician  
13 Assistants or the Academy of Family Physicians and continuing  
14 education, in the number of hours specified by the board by rule,  
15 designated as Category II by the Association or either Academy.

16 (x) Notwithstanding any provision of this chapter to the  
17 contrary, failure to timely submit the required written  
18 documentation ~~shall result~~ results in the automatic expiration of  
19 any license as a physician assistant until the written  
20 documentation is submitted to and approved by the board.

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

24 (1) Provide certification with supporting written

1 documentation of the successful completion of the required  
2 continuing education;

3 (2) Pay a renewal fee; and

4 (3) Pay a reinstatement fee equal to fifty percent of the  
5 renewal fee.

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

9 (1) Apply for a new license;

10 (2) Provide certification with supporting written  
11 documentation of the successful completion of the required  
12 continuing education; and

13 (3) Pay such fees as determined by the board.

14 (aa) It is unlawful for any physician assistant to represent  
15 to any person that he or she is a physician, surgeon or podiatrist.

16 ~~Any~~ A person who violates the provisions of this subsection is  
17 guilty of a felony and, upon conviction thereof, shall be  
18 imprisoned in a state correctional facility for not less than one  
19 nor more than two years, or be fined not more than \$2,000, or both  
20 fined and imprisoned.

21 (bb) All physician assistants holding valid certificates  
22 issued by the board prior to July 1, 1992, ~~shall be considered to~~  
23 ~~be~~ are licensed under this section.

24 **ARTICLE 7. REGISTERED PROFESSIONAL NURSES.**

1 **§30-7-15a. Prescriptive authority for prescription drugs;**  
2 **coordination with Board of Pharmacy.**

3 (a) The board may, in its discretion, authorize an advanced  
4 nurse practitioner to prescribe prescription drugs in a  
5 collaborative relationship with a physician licensed to practice in  
6 West Virginia and in accordance with applicable state and federal  
7 laws. An authorized advanced nurse practitioner may write or sign  
8 prescriptions or transmit prescriptions verbally or by other means  
9 of communication.

10 (b) For purposes of this section an agreement to a  
11 collaborative relationship for prescriptive practice between a  
12 physician and an advanced nurse practitioner shall be set forth in  
13 writing. Verification of ~~such~~ the agreement shall be filed with  
14 the board by the advanced nurse practitioner. The board shall  
15 forward a copy of ~~such~~ the verification to the Board of Medicine.  
16 Collaborative agreements shall include, but ~~not be~~ are not limited  
17 to, the following:

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

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

24 (3) Periodic and joint evaluation of prescriptive practice;

1 and

2 (4) Periodic and joint review and updating of the written  
3 guidelines or protocols.

4 (c) The board shall promulgate legislative rules in accordance  
5 with the provisions of chapter twenty-nine-a of this code governing  
6 the eligibility and extent to which an advanced nurse practitioner  
7 may prescribe drugs. Such rules shall provide, at a minimum, a  
8 state formulary classifying those categories of drugs which shall  
9 not be prescribed by advanced nurse practitioners including, but  
10 not limited to, Schedules I and II of the Uniform Controlled  
11 Substances Act, anticoagulants, antineoplastics,  
12 radio-pharmaceuticals and general anesthetics. Drugs listed under  
13 Schedule III shall be limited to a seventy-two hour supply without  
14 refill. Additionally, pursuant to a collaborative agreement as set  
15 forth in subsections (a) and (b) of this section, the rules shall  
16 permit the prescribing of a ninety-day supply with three ninety-day  
17 refills of any drug which is prescribed for the treatment of a  
18 chronic condition. For the purposes of this section, a "chronic  
19 condition" is a condition which last three months or more,  
20 generally cannot be prevented by vaccines, can be controlled but  
21 not cured by medication and does not generally disappear. These  
22 conditions include arthritis, asthma, cardiovascular disease,  
23 cancer, diabetes, epilepsy and seizures, obesity, and oral health  
24 problems.



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

3 (e) The board shall transmit to the Board of Pharmacy a list  
4 of all advanced nurse practitioners with prescriptive authority.  
5 The list shall include:

6 (1) The name of the authorized advanced nurse practitioner;

7 (2) The prescriber's identification number assigned by the  
8 board; and

9 (3) The effective date of prescriptive authority.

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

11 **§30-14A-1. Osteopathic physician assistant to osteopathic**  
12 **physicians and surgeons; definitions; board of**  
13 **osteopathy rules; licensure; temporary licensure;**  
14 **renewal of license; job description required;**  
15 **revocation or suspension of license;**  
16 **responsibilities of the supervising physician;**  
17 **legal responsibility for osteopathic physician**  
18 **assistants; reporting of disciplinary procedures;**  
19 **identification; limitation on employment and**  
20 **duties; fees; unlawful use of the title of**  
21 **"osteopathic physician assistant"; unlawful**  
22 **representation of an osteopathic physician**  
23 **assistant as a physician; criminal penalties.**

1 (a) As used in this section:

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

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

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

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

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

24 (6) "Osteopathic physician assistant" means an assistant to an

1 osteopathic physician who is a graduate of an approved program of  
2 instruction in primary care or surgery, has passed the National  
3 Certification Examination and is qualified to perform direct  
4 patient care services under the supervision of an osteopathic  
5 physician.

6 (7) "Supervising physician" means a doctor of osteopathy  
7 permanently licensed in this state who assumes legal and  
8 supervising responsibility for the work or training of ~~any~~ a  
9 osteopathic physician assistant under his or her supervision.

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

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

17 (2) The osteopathic physician assistant performs only under  
18 the supervision and control of an osteopathic physician permanently  
19 licensed in this state but such supervision and control does not  
20 require the personal presence of the supervising physician at the  
21 place or places where services are rendered if the osteopathic  
22 physician assistant's normal place of employment is on the premises  
23 of the supervising physician. The supervising physician may send  
24 the osteopathic physician assistant off the premises to perform

1 duties under his or her direction, but a separate place of work for  
2 the osteopathic physician assistant may not be established; and

3 (3) The board may allow the osteopathic physician assistant to  
4 perform those procedures and examinations and, in the case of  
5 authorized osteopathic physician assistants, to prescribe at the  
6 direction of his or her supervising physician in accordance with  
7 subsections (p) and (q) of this section those categories of drugs  
8 submitted to it in the job description required by subsection (f)  
9 of this section.

10 (c) The board shall compile and publish an annual report that  
11 includes a list of currently licensed osteopathic physician  
12 assistants and their employers and location in the state.

13 (d) The board shall license as an osteopathic physician  
14 assistant ~~any~~ a person who files an application together with a  
15 proposed job description and furnishes satisfactory evidence that  
16 he or she has met the following standards:

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

19 (2) Has passed the examination for a primary care or surgery  
20 physician assistant administered by the National Board of Medical  
21 Examiners on behalf of the National Commission on Certification of  
22 Physician Assistants; and

23 (3) Is of good moral character.

24 (e) When ~~any~~ a graduate of an approved program submits an

1 application to the board, accompanied by a job description in  
2 conformity with this section, for an osteopathic physician  
3 assistant license, the board may issue to the applicant a temporary  
4 license allowing the applicant to function as an osteopathic  
5 physician assistant for the period of one year. The temporary  
6 license may be renewed for one additional year upon the request of  
7 the supervising physician. An osteopathic physician assistant who  
8 has not been certified as such by the National Board of Medical  
9 Examiners on behalf of the National Commission on Certification of  
10 Physician Assistants will be restricted to work under the direct  
11 supervision of the supervising physician.

12 (f) ~~Any~~ An osteopathic physician applying to the board to  
13 supervise an osteopathic physician assistant shall provide a job  
14 description that sets forth the range of medical services to be  
15 provided by the assistant. Before an osteopathic physician  
16 assistant can be employed or otherwise use his or her skills, the  
17 supervising physician must obtain approval of the job description  
18 from the board. The board may revoke or suspend ~~any~~ a license of  
19 an assistant to a physician for cause, after giving ~~such~~ the person  
20 an opportunity to be heard in the manner provided by sections eight  
21 and nine, article one of this chapter.

22 (g) The supervising physician is responsible for observing,  
23 directing and evaluating the work records and practices of each  
24 osteopathic physician assistant performing under his or her

1 supervision. He or she shall notify the board in writing of any  
2 termination of his or her supervisory relationship with an  
3 osteopathic physician assistant within ten days of his or her  
4 termination. The legal responsibility for any osteopathic  
5 physician assistant remains with the supervising physician at all  
6 times, including occasions when the assistant, under his or her  
7 direction and supervision, aids in the care and treatment of a  
8 patient in a health care facility. In his or her absence, a  
9 supervising physician must designate an alternate supervising  
10 physician ~~however~~ but the legal responsibility remains with the  
11 supervising physician at all times. A health care facility is not  
12 legally responsible for the actions or omissions of an osteopathic  
13 physician assistant unless the osteopathic physician assistant is  
14 an employee of the facility.

15 (h) The acts or omissions of an osteopathic physician  
16 assistant employed by health care facilities providing in-patient  
17 services are the legal responsibility of the facilities.  
18 Osteopathic physician assistants employed by such facilities in  
19 staff positions shall be supervised by a permanently licensed  
20 physician.

21 (i) A health care facility shall report in writing to the  
22 board within sixty days after the completion of the facility's  
23 formal disciplinary procedure, and ~~also~~ after the commencement and  
24 ~~again after~~ the conclusion of any resulting legal action, the name

1 of ~~any~~ an osteopathic physician assistant practicing in the  
2 facility whose privileges at the facility have been revoked,  
3 restricted, reduced or terminated for any cause including  
4 resignation, together with all pertinent information relating to  
5 such action. The health care facility shall also report any other  
6 formal disciplinary action taken against ~~any~~ an osteopathic  
7 physician assistant by the facility relating to professional  
8 ethics, medical incompetence, medical malpractice, moral turpitude  
9 or drug or alcohol abuse. Temporary suspension for failure to  
10 maintain records on a timely basis or failure to attend staff or  
11 section meetings need not be reported.

12 (j) When functioning as an osteopathic physician assistant,  
13 the osteopathic physician assistant shall wear a name tag that  
14 identifies him or her as a physician assistant.

15 (k) (1) A supervising physician shall not supervise at any  
16 time more than three osteopathic physician assistants except that  
17 a physician may supervise up to four hospital-employed osteopathic  
18 physician assistants: *Provided*, That an alternative supervisor has  
19 been designated for each.

20 (2) An osteopathic physician assistant shall not perform any  
21 service that his or her supervising physician is not qualified to  
22 perform.

23 (3) An osteopathic physician assistant shall not perform any  
24 service that is not included in his or her job description and

1 approved by the board as provided in this section.

2 (4) The provisions of this section do not authorize an  
3 osteopathic physician assistant to perform any specific function or  
4 duty delegated by this code to those persons licensed as  
5 chiropractors, dentists, registered nurses, licensed practical  
6 nurses, dental hygienists, optometrists or pharmacists or certified  
7 as nurse anesthetists.

8 (1) An application for license or renewal of license shall be  
9 accompanied by payment of a fee ~~which shall be~~ established by  
10 legislative rule of the Board of Osteopathy pursuant to the  
11 provisions of article three, chapter twenty-nine-a of this code.

12 (m) As a condition of renewal of an osteopathic physician  
13 assistant license, each osteopathic physician assistant shall  
14 provide written documentation satisfactory to the board of  
15 participation in and successful completion of continuing education  
16 in courses approved by the Board of Osteopathy for the purposes of  
17 continuing education of osteopathic physician assistants. The  
18 osteopathy board shall propose legislative rules for minimum  
19 continuing hours necessary for the renewal of a license. These  
20 rules shall provide for minimum hours equal to or more than the  
21 hours necessary for national certification. Notwithstanding any  
22 provision of this chapter to the contrary, failure to timely submit  
23 the required written documentation ~~shall result~~ results in the  
24 automatic suspension of ~~any~~ a license as an osteopathic physician



1 assistant until ~~such time as~~ the written documentation is submitted  
2 to and approved by the board.

3 (n) It is unlawful for any person who is not licensed by the  
4 board as an osteopathic physician assistant to use the title of  
5 osteopathic physician assistant or to represent to any other person  
6 that he or she is an osteopathic physician assistant. ~~Any~~ A person  
7 who violates the provisions of this subsection is guilty of a  
8 misdemeanor and, upon conviction thereof, shall be fined not more  
9 than \$2,000.

10 (o) It is unlawful for ~~any~~ an osteopathic physician assistant  
11 to represent to any person that he or she is a physician. ~~Any~~ A  
12 person who violates the provisions of this subsection is guilty of  
13 a felony, and, upon conviction thereof, shall be imprisoned in a  
14 state correctional facility for not less than one, nor more than  
15 two years, or be fined not more than \$2,000, or both fined and  
16 imprisoned.

17 (p) An osteopathic physician assistant may write or sign  
18 prescriptions or transmit prescriptions by word of mouth, telephone  
19 or other means of communication at the direction of his or her  
20 supervising physician. The board shall propose rules for  
21 legislative approval in accordance with the provisions of article  
22 three, chapter twenty-nine-a of this code governing the eligibility  
23 and extent to which ~~such~~ an osteopathic physician assistant may  
24 prescribe at the direction of the supervising physician. The rules

1 shall provide for a state formulary classifying pharmacologic  
2 categories of drugs which may be prescribed by such an osteopathic  
3 physician assistant. In classifying such pharmacologic categories,  
4 those categories of drugs which shall be excluded ~~shall include,~~  
5 ~~but not be~~ include, but are not limited to, Schedules I and II of  
6 the Uniform Controlled Substances Act, anticoagulants,  
7 antineoplastics, radio-pharmaceuticals, general anesthetics and  
8 radiographic contrast materials. Drugs listed under Schedule III  
9 are limited to a seventy-two hour supply without refill.  
10 Additionally, at the direction of a supervising physician, the  
11 rules shall permit the prescribing of a ninety-day supply with  
12 three ninety-day refills of any drug which is prescribed for the  
13 treatment of a chronic condition. For the purposes of this  
14 section, a "chronic condition" is a condition which last three  
15 months or more, generally cannot be prevented by vaccines, can be  
16 controlled but not cured by medication and does not generally  
17 disappear. These conditions include arthritis, asthma,  
18 cardiovascular disease, cancer, diabetes, epilepsy and seizures,  
19 obesity and oral health problems. The rules shall provide that all  
20 pharmacological categories of drugs to be prescribed by an  
21 osteopathic physician assistant ~~shall~~ be listed in each job  
22 description submitted to the board as required in this section.  
23 The rules shall provide the maximum dosage an osteopathic physician  
24 assistant may prescribe.

1 (q) (1) The rules shall ~~also~~ provide that to be eligible for  
2 such prescription privileges, an osteopathic physician assistant  
3 must:

4 (A) Submit an application to the board for ~~such~~ prescription  
5 privileges; ~~The rules shall also provide that an osteopathic~~  
6 ~~physician assistant shall~~

7 (B) Have performed patient care services for a minimum of two  
8 years immediately preceding ~~the submission to the board of said~~  
9 ~~application for prescription privileges and shall~~ the application;  
10 and

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

13 (2) The rules shall ~~also~~ provide that to maintain prescription  
14 privileges, an osteopathic physician assistant shall:

15 (A) Continue to maintain national certification as an  
16 osteopathic physician assistant; and ~~in meeting such national~~  
17 ~~certification requirements shall~~

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

20 (3) Nothing in this subsection ~~may be construed to permit~~  
21 permits an osteopathic physician assistant to independently  
22 prescribe or dispense drugs.

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(NOTE: The purpose of this bill is to expand prescriptive authority for physician assistants, advanced nurse practitioners and osteopathic physician assistants to include medications for chronic health conditions within specific limitations.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.)