

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 535

(By Senators Stollings, Foster and Miller)

[Originating in the Committee on Health and Human Resources;
reported February 23, 2012.]

A BILL 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 nurse practitioners, physician assistants and assistants to osteopathic physicians and surgeons to allow the prescribing of medications for chronic diseases for a ninety-day period with three ninety-day refills.

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 ~~that~~ the applicant a
113 temporary license allowing ~~that~~ the applicant to function as
114 a physician assistant until the applicant successfully passes
115 the National Commission on Certification of Physician
116 Assistants' certifying examination ~~*Provided*, That the~~
117 ~~applicant shall sit for and obtain~~ so long as the applicant sits

118 for and obtains a passing score on the examination next
119 offered following graduation from the approved program.

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

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

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

136 (l) In the event ~~that~~ a physician assistant fails a
137 recertification examination of the National Commission on
138 Certification of Physician Assistants and is no longer
139 certified, the physician assistant shall immediately notify his

140 or her supervising physician or physicians and the board in
141 writing. The physician assistant shall immediately cease
142 practicing, the license shall ~~expire and~~ terminate automati-
143 cally and the physician assistant is not eligible for reinstate-
144 ment until he or she has obtained a passing score on the
145 examination.

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

159 (n) The supervising physician is responsible for observ-
160 ing, directing and evaluating the work, records and practices
161 of each physician assistant performing under his or her

162 supervision. He or she shall notify the board in writing of
163 any termination of his or her supervisory relationship with
164 a physician assistant within ten days of the termination. The
165 legal responsibility for any physician assistant remains with
166 the supervising physician at all times including occasions
167 when the assistant under his or her direction and supervision
168 aids in the care and treatment of a patient in a health care
169 facility. In his or her absence, a supervising physician must
170 designate an alternate supervising physician ~~however~~ but the
171 legal responsibility remains with the supervising physician
172 at all times. A health care facility is not legally responsible
173 for the actions or omissions of the physician assistant unless
174 the physician assistant is an employee of the facility.

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

181 (p) A health care facility shall report in writing to the
182 board within sixty days after the completion of the facility's
183 formal disciplinary procedure and ~~also~~ after the commence-

184 ment and ~~again after the~~ conclusion of any resulting legal
185 action, the name of any physician assistant practicing in the
186 facility whose privileges at the facility have been revoked,
187 restricted, reduced or terminated for any cause including
188 resignation, together with all pertinent information relating
189 to the action. The health care facility shall also report any
190 other formal disciplinary action taken against any physician
191 assistant by the facility relating to professional ethics,
192 medical incompetence, medical malpractice, moral turpitude
193 or drug or alcohol abuse. Temporary suspension for failure
194 to maintain records on a timely basis or failure to attend
195 staff or section meetings need not be reported.

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

201 (r) A physician assistant may write or sign prescriptions
202 or transmit prescriptions by word of mouth, telephone or
203 other means of communication at the direction of his or her
204 supervising physician. A fee of \$50 will be charged for
205 prescription-writing privileges. The board shall promulgate

206 rules pursuant to the provisions of article three, chapter
207 twenty-nine-a of this code governing the eligibility and
208 extent to which a physician assistant may prescribe at the
209 direction of the supervising physician. The rules shall
210 include, but not be limited to, the following:

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

214 (A) ~~The following categories of drugs shall be excluded~~
215 ~~from the formulary:~~ Schedules I and II of the Uniform
216 Controlled Substances Act, anticoagulants, antineoplastic,
217 radiopharmaceuticals, general anesthetics and radiographic
218 contrast materials shall be excluded from the formulary:

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

221 (C) At the direction of a supervising physician, permit the
222 prescribing of a ninety-day supply with three, ninety-day
223 refills of any drug which is prescribed for the treatment of a
224 chronic condition. For the purposes of this section, a
225 “chronic condition” is a condition which lasts three months
226 or more, generally cannot be prevented by vaccines, can be
227 controlled but not cured by medication and does not gener-

228 ally disappear. These conditions include arthritis, asthma,
229 cardiovascular disease, cancer, diabetes, epilepsy and
230 seizures, obesity and oral health problems; and

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

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

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

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

246 (5) A requirement that to maintain prescription privi-
247 leges, a physician assistant shall continue to maintain
248 National Certification as a Physician Assistant and, in
249 meeting the national certification requirements, shall

250 complete a minimum of ten hours of continuing education in
251 rational drug therapy in each certification period. Nothing
252 in this subsection ~~shall be construed to permit~~ permits a
253 physician assistant to independently prescribe or dispense
254 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 ~~any 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 ~~shall result~~ results in the automatic expira-
295 tion of any license as a physician assistant until the written
296 documentation 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. ~~Any~~ 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, ~~shall be considered~~
323 ~~to be~~ are licensed under 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 nurse practitioner to prescribe prescription drugs in
3 a collaborative relationship with a physician licensed to
4 practice in West Virginia and in accordance with applicable
5 state and federal laws. An authorized advanced nurse
6 practitioner may write or sign prescriptions or transmit
7 prescriptions verbally or by other means of communication.

8 (b) For purposes of this section an agreement to a
9 collaborative relationship for prescriptive practice between
10 a physician and an advanced nurse practitioner shall be set
11 forth in writing. Verification of ~~such~~ the agreement shall be

12 filed with the board by the advanced nurse practitioner. The
13 board shall forward a copy of ~~such~~ the verification to the
14 Board of Medicine. Collaborative agreements shall include,
15 but ~~not be~~ are not limited to, the following:

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

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

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

25 (4) Periodic and joint review and updating of the written
26 guidelines or protocols.

27 (c) The board shall promulgate legislative rules in
28 accordance with the provisions of chapter twenty-nine-a of
29 this code governing the eligibility and extent to which an
30 advanced nurse practitioner may prescribe drugs. Such rules
31 shall provide, at a minimum, a state formulary classifying
32 those categories of drugs which shall not be prescribed by
33 advanced nurse practitioners including, but not limited to,

34 Schedules I and II of the Uniform Controlled Substances Act,
35 anticoagulants, antineoplastics, radio-pharmaceuticals and
36 general anesthetics. Drugs listed under Schedule III shall be
37 limited to a seventy-two hour supply without refill. Addi-
38 tionally, pursuant to a collaborative agreement as set forth
39 in subsections (a) and (b) of this section, the rules shall
40 permit the prescribing of a ninety-day supply with three
41 ninety-day refills of any drug which is prescribed for the
42 treatment of a chronic condition. For the purposes of this
43 section, a “chronic condition” is a condition which last three
44 months or more, generally cannot be prevented by vaccines,
45 can be controlled but not cured by medication and does not
46 generally disappear. These conditions include arthritis,
47 asthma, cardiovascular disease, cancer, diabetes, epilepsy
48 and seizures, obesity, and oral health problems.

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

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

54 (1) The name of the authorized advanced nurse practitio-
55 ner;

56 (2) The prescriber's identification number assigned by
57 the board; and

58 (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, ~~shall~~
22 ~~be considered to be~~ are licensed under the provisions of this
23 article, ~~Provided, That a person holding a certificate issued~~
24 ~~prior to March 31, 2010, but~~ but must renew the license pursuant
25 to the provisions of this article.

26 (6) “Osteopathic physician assistant” means an assistant
27 to an osteopathic physician who is a graduate of an approved

28 program of instruction in primary care or surgery, has passed
29 the National Certification Examination and is qualified to
30 perform direct patient care services under the supervision of
31 an osteopathic physician.

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

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

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

43 (2) The osteopathic physician assistant performs only
44 under the supervision and control of an osteopathic physi-
45 cian permanently licensed in this state but such supervision
46 and control does not require the personal presence of the
47 supervising physician at the place or places where services
48 are rendered if the osteopathic physician assistant's normal
49 place of employment is on the premises of the supervising

50 physician. The supervising physician may send the osteo-
51 pathic physician assistant off the premises to perform duties
52 under his or her direction, but a separate place of work for
53 the osteopathic physician assistant may not be established;
54 and

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

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

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

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

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

75 (3) Is of good moral character.

76 (e) When ~~any~~ a graduate of an approved program submits
77 an application to the board, accompanied by a job descrip-
78 tion in conformity with this section, for an osteopathic
79 physician assistant license, the board may issue to the
80 applicant a temporary license allowing the applicant to
81 function as an osteopathic physician assistant for the period
82 of one year. The temporary license may be renewed for one
83 additional year upon the request of the supervising physi-
84 cian. An osteopathic physician assistant who has not been
85 certified as such by the National Board of Medical Examin-
86 ers on behalf of the National Commission on Certification of
87 Physician Assistants will be restricted to work under the
88 direct supervision of the supervising physician.

89 (f) ~~Any~~ An osteopathic physician applying to the board
90 to supervise an osteopathic physician assistant shall provide
91 a job description that sets forth the range of medical services
92 to be provided by the assistant. Before an osteopathic

93 physician assistant can be employed or otherwise use his or
94 her skills, the supervising physician must obtain approval of
95 the job description from the board. The board may revoke or
96 suspend ~~any~~ a license of an assistant to a physician for cause,
97 after giving ~~such~~ the person an opportunity to be heard in
98 the manner provided by sections eight and nine, article one
99 of this chapter.

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

115 omissions of an osteopathic physician assistant unless the
116 osteopathic physician assistant is an employee of the facility.

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

123 (i) A health care facility shall report in writing to the
124 board within sixty days after the completion of the facility's
125 formal disciplinary procedure, and ~~also~~ after the commence-
126 ment and ~~again after~~ the conclusion of any resulting legal
127 action, the name of ~~any~~ an osteopathic physician assistant
128 practicing in the facility whose privileges at the facility have
129 been revoked, restricted, reduced or terminated for any cause
130 including resignation, together with all pertinent informa-
131 tion relating to such action. The health care facility shall
132 also report any other formal disciplinary action taken
133 against ~~any~~ an osteopathic physician assistant by the facility
134 relating to professional ethics, medical incompetence,
135 medical malpractice, moral turpitude or drug or alcohol
136 abuse. Temporary suspension for failure to maintain records

137 on a timely basis or failure to attend staff or section meetings
138 need not be reported.

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

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

147 (2) An osteopathic physician assistant shall not perform
148 any service that his or her supervising physician is not
149 qualified to perform.

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

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

159 (l) An application for license or renewal of license shall
160 be accompanied by payment of a fee ~~which shall be~~ estab-
161 lished by legislative rule of the Board of Osteopathy pursu-
162 ant to the provisions of article three, chapter twenty-nine-a
163 of this code.

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

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

187 (o) It is unlawful for ~~any~~ an osteopathic physician
188 assistant to represent to any person that he or she is a
189 physician. ~~Any~~ A person who violates the provisions of this
190 subsection is guilty of a felony, and, upon conviction thereof,
191 shall be imprisoned in a state correctional facility for not less
192 than one, nor more than two years, or be fined not more than
193 \$2,000, or both fined and imprisoned.

194 (p) An osteopathic physician assistant may write or sign
195 prescriptions or transmit prescriptions by word of mouth,
196 telephone or other means of communication at the direction
197 of his or her supervising physician. The board shall propose
198 rules for legislative approval in accordance with the provi-
199 sions of article three, chapter twenty-nine-a of this code
200 governing the eligibility and extent to which ~~such~~ an
201 osteopathic physician assistant may prescribe at the direc-

202 tion of the supervising physician. The rules shall provide for
203 a state formulary classifying pharmacologic categories of
204 drugs which may be prescribed by such an osteopathic
205 physician assistant. In classifying such pharmacologic
206 categories, those categories of drugs which shall be excluded
207 ~~shall include, but not be~~ include, but are not limited to,
208 Schedules I and II of the Uniform Controlled Substances Act,
209 anticoagulants, antineoplastics, radio-pharmaceuticals,
210 general anesthetics and radiographic contrast materials.
211 Drugs listed under Schedule III are limited to a seventy-two
212 hour supply without refill. Additionally, at the direction of
213 a supervising physician, the rules shall permit the prescrib-
214 ing of a ninety-day supply with three ninety-day refills of
215 any drug which is prescribed for the treatment of a chronic
216 condition. For the purposes of this section, a "chronic
217 condition" is a condition which last three months or more,
218 generally cannot be prevented by vaccines, can be controlled
219 but not cured by medication and does not generally disap-
220 pear. These conditions include arthritis, asthma, cardiovas-
221 cular disease, cancer, diabetes, epilepsy and seizures, obesity
222 and oral health problems. The rules shall provide that all
223 pharmacological categories of drugs to be prescribed by an

224 osteopathic physician assistant ~~shall~~ be listed in each job
225 description submitted to the board as required in this
226 section. The rules shall provide the maximum dosage an
227 osteopathic physician assistant may prescribe.

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

231 (A) Submit an application to the board for ~~such~~ prescrip-
232 tion privileges; ~~The rules shall also provide that an osteo-~~
233 ~~pathic physician assistant shall~~

234 (B) Have performed patient care services for a minimum
235 of two years immediately preceding ~~the submission to the~~
236 ~~board of said application for prescription privileges and shall~~
237 the application; and

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

240 (2) The rules shall ~~also~~ provide that to maintain prescrip-
241 tion privileges, an osteopathic physician assistant shall:

242 (A) Continue to maintain national certification as an
243 osteopathic physician assistant; and ~~in meeting such national~~
244 ~~certification requirements shall~~

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

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

(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.)