

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Enrolled

Senate Bill 668

BY SENATORS AZINGER, MAYNARD, PALUMBO, PREZIOSO,

ROBERTS, RUCKER, STOLLINGS, TARR, TAKUBO, WELD,

AND MARONEY

[Passed March 6, 2019; in effect 90 days from
passage]

1 AN ACT to amend and reenact §30-3E-1, §30-3E-3, §30-3E-9, §30-3E-11, §30-3E-12, and §30-
2 3E-13 of the Code of West Virginia, 1931, as amended; and to amend said code by adding
3 thereto a new section, designated §30-3E-10a, all relating to physician assistants
4 collaborating with physicians in hospitals; requiring written notice to the appropriate
5 licensing board; requiring rulemaking; amending scope of practice; providing for
6 disciplinary proceedings for failure to provide timely notice of termination of practice
7 notification; 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 the medical services rendered by a
22 physician assistant. Constant physical presence of the collaborating physician is not required as
23 long as the collaborating physician and physician assistant are, or can be, easily in contact with
24 one another by telecommunication. Collaboration does not require the personal presence of the
25 collaborating physician at the place or places where services are rendered.

26 (8) "Endorsement" means a summer camp or volunteer endorsement authorized under
27 this article.

28 (9) "Health care facility" means any licensed hospital, nursing home, extended care facility,
29 state health or mental institution, clinic, or physician's office.

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

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

36 (12) "Licensee" means a person licensed pursuant to the provisions of this article.

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

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

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

45 (16) "Practice notification" means a written notice to the appropriate licensing board that
46 a physician assistant will practice in collaboration with one or more physicians in a hospital in the
47 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, including: A
10 state formulary classifying those categories of drugs which may not be prescribed by a physician
11 assistant, including, but not limited to, Schedules I and II of the Uniform Controlled Substances
12 Act, antineoplastics, radiopharmaceuticals, and general anesthetics. Drugs listed under Schedule
13 III shall be limited to a 30-day supply without refill. In addition to the above referenced provisions
14 and restrictions and pursuant to a practice agreement or practice notification as set forth in this
15 article, the rules shall permit the prescribing of an annual supply of any drug, with the exception
16 of controlled substances, which is prescribed for the treatment of a chronic condition, other than
17 chronic pain management. For the purposes of this section, a chronic condition is a condition
18 which lasts three months or more, generally cannot be prevented by vaccines, can be controlled
19 but not cured by medication, and does not generally disappear. These conditions, with the

20 exception of chronic pain, include, but are not limited to, arthritis, asthma, cardiovascular disease,
21 cancer, diabetes, epilepsy and seizures, and obesity;

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

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

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

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

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

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

38 (9) A fee schedule; and

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

40 (b) The boards may propose emergency rules pursuant to §29A-3-1 *et seq.* of this code
41 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 (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 (d) A physician applying to collaborate with a physician assistant shall affirm that:

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

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

17 (e) A collaborating physician may enter into practice agreements with up to five full-time
18 physician assistants at any one time.

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

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

1 (a) A physician assistant shall collaborate with physicians in a hospital only after the
2 physician assistant is notified by the appropriate licensing board that a complete practice
3 notification has been filed with the board.

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

6 (c) A physician assistant shall notify the board, in writing, within 10 days of the termination
7 of a practice notification. Failure to provide timely notice of the termination constitutes

8 unprofessional conduct and disciplinary proceedings may be instituted by the appropriate
9 licensing board.

§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;

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 shall observe, direct, and evaluate the physician assistant's
12 work records and practices, including collaborating with the physician assistant in the care and
13 treatment of a patient in a health care facility.

14 (c) A health care facility is only legally responsible for the actions or omissions of a
15 physician assistant when the physician assistant is employed by or on behalf of the facility.

16 (d) Every licensed physician assistant shall be individually responsible and liable for the
17 care they provide. This article does not relieve physician assistants or collaborating physicians of
18 responsibility and liability which otherwise may exist for acts and omissions occurring during
19 collaboration.

§30-3E-12. Scope of practice.

1 (a) A license issued to a physician assistant by the appropriate state licensing board shall
2 authorize the physician assistant to perform medical acts:

3 (1) Pursuant to a practice notification or delegated to the physician assistant as part of an
4 authorized practice agreement;

5 (2) Appropriate to the education, training, and experience of the physician assistant;

6 (3) Customary to the practice of the collaborating physician; and

7 (4) Consistent with the laws of this state and rules of the boards.

8 (b) This article does not authorize a physician assistant to perform any specific function or
9 duty delegated by this code to those persons licensed as chiropractors, dentists, dental
10 hygienists, optometrists, or pharmacists, or certified as nurse anesthetists.

§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 place of practice.

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

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Chairman, Senate Committee

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Chairman, House Committee

Originated in the Senate.

In effect 90 days from passage.

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Clerk of the Senate

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Clerk of the House of Delegates

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President of the Senate

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Speaker of the House of Delegates

The within this the.....
Day of, 2019.

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Governor