

# **WEST VIRGINIA LEGISLATURE**

## **2021 REGULAR SESSION**

**Enrolled**

### **Senate Bill 714**

BY SENATORS TAKUBO, MARONEY, GRADY, WELD,  
RUCKER, AZINGER, STOVER, WOODRUM, STOLLINGS,  
PLYMALE, ROBERTS, LINDSAY, AND UNGER

[Passed April 9, 2021; in effect 90 days from passage (July 8, 2021)]



1 AN ACT to repeal §30-3E-10 of the Code of West Virginia, 1931, as amended; and to amend and  
2 reenact §30-3E-1, §30-3E-2, §30-3E-3, §30-3E-4, §30-3E-9, §30-3E-10a, §30-3E-11,  
3 §30-3E-12, §30-3E-13, and §30-3E-17 of said code, all relating to health care  
4 practitioners; defining terms; limiting rule-making authority; revising licensure  
5 requirements; revising practice requirements; eliminating practice agreement  
6 requirement; revising practice notification requirement; providing prescriptive authority;  
7 revising collaboration requirements; expanding scope of practice; expanding prescriptive  
8 authority; establishing minimum reimbursement rates; and revising complaint process.

*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 “Approved program” means an educational program for physician assistants approved  
3 and accredited by the Accreditation Review Commission on Education for the Physician Assistant  
4 or its successor. Prior to 2001, approval and accreditation would have been by either the  
5 Committee on Allied Health Education and Accreditation or the Commission on Accreditation of  
6 Allied Health Education Programs.

7 “Boards” means the West Virginia Board of Medicine and the West Virginia Board of  
8 Osteopathic Medicine.

9 “Chronic condition” means a condition which lasts three months or more, generally cannot  
10 be prevented by vaccines, can be controlled but not cured by medication, and does not generally  
11 disappear. These conditions include, but are not limited to, arthritis, asthma, cardiovascular  
12 disease, cancer, diabetes, epilepsy and seizures, and obesity.

13 “Collaborating physician” means a doctor of medicine, osteopathy, or podiatry fully  
14 licensed, by the appropriate board in this state, without restriction or limitation, who collaborates  
15 with physician assistants.

16           “Collaboration” means overseeing the activities of the medical services rendered by a  
17 physician assistant. Constant physical presence of the collaborating physician is not required as  
18 long as the collaborating physician and physician assistant are, or can be, easily in contact with  
19 one another by telecommunication. Collaboration does not require the personal presence of the  
20 collaborating physician at the place or places where services are rendered.

21           “Endorsement” means a summer camp or volunteer endorsement authorized under this  
22 article.

23           “Health care facility” means any licensed hospital, nursing home, extended care facility,  
24 state health or mental institution, clinic, or physician office.

25           “License” means a license issued by either of the boards pursuant to the provisions of this  
26 article.

27           “Licensee” means a person licensed pursuant to the provisions of this article.

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

31           “Physician assistant” means a person who meets the qualifications set forth in this article  
32 and is licensed pursuant to this article to practice medicine with a collaborating physician.

33           “Practice notification” means a written notice to the appropriate licensing board that a  
34 physician assistant will practice in collaboration with one or more collaborating physicians in the  
35 state of West Virginia.

**§30-3E-2. Powers and duties of the boards.**

1           In addition to the powers and duties set forth in this code for the boards, the boards shall:

2           (1) Establish the requirements for licenses and temporary licenses pursuant to this article;

3           (2) Establish the procedures for submitting, approving, and rejecting applications for  
4 licenses and temporary licenses;

5 (3) Propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et*  
6 *seq.* of this code to implement the provisions of this article;

7 (4) Compile and publish an annual report that includes a list of currently licensed physician  
8 assistants and their primary practice locations in the state; and

9 (5) Take all other actions necessary and proper to effectuate the purposes of this article.

**§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 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: *Provided*, That a physician  
13 assistant or an advanced practice registered nurse may prescribe no more than a three-day  
14 supply, without refill, of a drug listed in the Uniform Controlled Substances Act as a Schedule II  
15 drug. Drugs listed under Schedule III shall be limited to a 30-day supply without refill. In addition  
16 to the above referenced provisions and restrictions and pursuant to a practice notification as set  
17 forth in this article, the rules shall permit the prescribing of an annual supply of any drug, with the  
18 exception of controlled substances, which is prescribed for the treatment of a chronic condition,  
19 other than chronic pain management. For the purposes of this section, a chronic condition is a  
20 condition which lasts three months or more, generally cannot be prevented by vaccines, can be

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

24 (8) A fee schedule; and

25 (9) Any other rules necessary to effectuate the provisions of this article.

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

**§30-3E-4. License to practice as a physician assistant.**

1 (a) A person seeking licensure as a physician assistant shall apply to the Board of  
2 Medicine or to the Board of Osteopathic Medicine. The appropriate board shall issue a license to  
3 practice as a physician assistant with the collaboration of that board's licensed physicians or  
4 podiatrists.

5 (b) A license may be granted to a person who:

6 (1) Files a complete application;

7 (2) Pays the applicable fees;

8 (3) Demonstrates to the board's satisfaction that he or she:

9 (A) Obtained a baccalaureate or master's degree from an accredited program of  
10 instruction for physician assistants;

11 (B) Prior to July 1, 1994, graduated from an approved program of instruction in primary  
12 health care or surgery; or

13 (C) Prior to July 1, 1983, was certified by the Board of Medicine as a physician assistant  
14 then classified as Type B;

15 (4) Has passed the Physician Assistant National Certifying Examination administered by  
16 the National Commission on Certification of Physician Assistants;

17 (5) Has a current certification from the National Commission on Certification of Physician  
18 Assistants or has a current license in good standing from a state that does not require a physician  
19 assistant to maintain national certification;

20 (6) Is mentally and physically able to engage safely in practice as a physician assistant;

21 (7) Has not had a physician assistant license, certification, or registration in any jurisdiction  
22 suspended or revoked;

23 (8) Is not currently subject to any limitation, restriction, suspension, revocation, or  
24 discipline concerning a physician assistant license, certification, or registration in any jurisdiction:  
25 *Provided*, That if a board is made aware of any problems with a physician assistant license,  
26 certification, or registration and agrees to issue a license, certification, or registration  
27 notwithstanding the provisions of this subdivision or subdivision (7) of this subsection;

28 (9) Is of good moral character; and

29 (10) Has fulfilled any other requirement specified by the appropriate board.

30 (c) A board may deny an application for a physician assistant license to any applicant  
31 determined to be unqualified by the board.

**§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 collaboration with physicians in any practice  
3 setting pursuant to a practice notification which has been filed with, and activated by, the  
4 appropriate board in accordance with §30-3E-10a of this code: *Provided*, That a physician  
5 assistant who is currently practicing in collaboration with physicians pursuant to a practice  
6 agreement which was authorized by a board prior to June 1, 2021, may continue to practice under  
7 that authorization until the practice agreement terminates or until June 1, 2022, whichever is  
8 sooner.

9 (c) Notwithstanding any other provision of this code to the contrary, and to the degree  
10 permitted by federal law, physician assistants shall be considered providers and shall not be

11 reimbursed at rates lower than other providers who render similar health services by health  
12 insurers as well as health plans operated or paid for by the state.

**§30-3E-10. Practice agreement requirements.**

1 [Repealed.]

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

1 (a) Before a licensed physician assistant may practice in collaboration with physicians,  
2 the physician assistant and a health care facility shall:

3 (1) File a practice notification with the appropriate licensing board;

4 (2) Pay the applicable fee; and

5 (3) Receive written notice from the appropriate licensing board that the practice notification  
6 is complete and active.

7 (b) The licensing boards shall promulgate emergency rules to establish the content and  
8 criteria for submission of practice notifications.

9 (c) A physician assistant shall notify the board, in writing, within 10 days of the termination  
10 of a practice notification. Failure to provide timely notice of the termination constitutes  
11 unprofessional conduct and disciplinary proceedings may be instituted by the appropriate  
12 licensing board.

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

1 (a) Unless otherwise prohibited by a health care facility, a physician who practices  
2 medicine or podiatry at a health care facility may collaborate with any physician assistant who  
3 holds an active practice notification with the same facility.

4 (b) When collaborating with physician assistants, collaborating physicians shall observe,  
5 direct, and evaluate the physician assistant's work, records, and practices as necessary for  
6 appropriate and meaningful collaboration.

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



9 (d) Every licensed physician assistant shall be individually responsible and liable for the  
10 care they provide. This article does not relieve physician assistants or collaborating physicians of  
11 responsibility and liability which otherwise may exist for acts and omissions occurring during  
12 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 commensurate with their education,  
3 training, and experience and which they are competent to perform, consistent with the rules of  
4 the boards. Medical acts include prescribing, dispensing, and administering of controlled  
5 substances, prescription drugs, or medical devices.

6 (b) A physician assistant shall provide only those medical services for which they have  
7 been prepared by their education, training, and experience and are competent to perform,  
8 consistent with sound medical practice and that will protect the health and safety of the patient.  
9 This may occur in any health care setting, both hospital and outpatient in accordance with their  
10 practice notification.

11 (c) A physician assistant with an active practice notification may perform medical acts  
12 and/or procedures in collaboration with physicians which are consistent with the physician  
13 assistant's education, training and experience, the collaborating physician's scope of practice,  
14 and any credentialing requirements of the health care facility where the physician assistant holds  
15 an active practice notification.

16 (d) This article does not authorize a physician assistant to perform any specific function or  
17 duty delegated by this code to those persons licensed as chiropractors, dentists, dental  
18 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 notification  
4 available for inspection at his or her place of practice.

**§30-3E-17. Complaint process.**

1           (a) All hearings and procedures related to denial of a license, and all complaints,  
2 investigations, hearings, and procedures regarding a physician assistant license and the  
3 discipline accorded thereto, shall be in accordance with the processes and procedures set forth  
4 in either §30-3-1 *et seq.* or §30-14-1 *et seq.* of this code, depending on which board licenses the  
5 physician assistant.

6           (b) The boards may impose the same discipline, restrictions, and/or limitations upon the  
7 license of a physician assistant as they are authorized to impose upon physicians and/or  
8 podiatrists.

9           (c) The boards shall direct to the appropriate licensing board a complaint against a  
10 physician assistant and/or a collaborating physician.

11           (d) In the event that independent complaint processes are warranted by the boards with  
12 respect to the professional conduct of a physician assistant or a collaborating physician, the  
13 boards are authorized to work cooperatively and to disclose to one another information which may  
14 assist the recipient appropriate licensing board in its disciplinary process. The determination of  
15 what information, if any, to disclose shall be at the discretion of the disclosing board.

16           (e) A physician assistant licensed under this article may not be disciplined for providing  
17 expedited partner therapy in accordance with §16-4F-1 *et seq.* of this code.

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

.....  
*Chairman, Senate Committee*

.....  
*Chairman, House Committee*

Originated in the Senate.

In effect 90 days from passage.

.....  
*Clerk of the Senate*

.....  
*Clerk of the House of Delegates*

.....  
*President of the Senate*

.....  
*Speaker of the House of Delegates*

\_\_\_\_\_

The within ..... this the.....  
Day of ....., 2021.

.....  
*Governor*