



SPONSOR: Rep. K. Johnson & Sen. Lockman
Reps. Baumbach, Bolden, Mitchell, Michael Smith; Sen.
Brown

HOUSE OF REPRESENTATIVES
150th GENERAL ASSEMBLY

HOUSE BILL NO. 169

AN ACT TO AMEND TITLE 24 OF THE DELAWARE CODE RELATING TO PHYSICIAN ASSISTANTS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend Chapter 17, Subchapter II, Title 24 of the Delaware Code by making deletions as shown by
2 strike through and insertions as shown by underline as follows:

3 § 1710. Composition.

4 (b) The Board consists of ~~16~~18 voting members appointed by the Governor, 8 of whom are persons certified and
5 registered to practice medicine in this State and of whom at least 1 is an osteopathic physician; 4 of whom are persons
6 certified and registered to practice medicine in this State and have their primary place of practicing medicine in New Castle
7 County; 2 of whom are persons certified and registered to practice medicine in this State and have their primary place of
8 practicing medicine in Kent County; 2 of whom are persons certified and registered to practice medicine in this State and
9 have their primary place of practicing medicine in Sussex County; 2 of whom are physician assistants appointed by the
10 Regulatory Council for Physician Assistants; and 7 of whom are public members. The Director of the Division of Public
11 Health shall serve as a voting member of the Board. A public member may not be nor may ever have been certified,
12 licensed, or registered pursuant to this chapter; may not be the spouse of someone certified, licensed, or registered pursuant
13 to this chapter; at the time of appointment may not be a member of the immediate family of someone certified, licensed, or
14 registered pursuant to this chapter.

15 Section 2. Amend Chapter 17, Subchapter VI, Title 24 of the Delaware Code by making deletions as shown by
16 strike through and insertions as shown by underline as follows:

17 § 1770. The Regulatory Council for Physician Assistants.

18 (a) The Regulatory Council for Physician Assistants (Council) shall consist of 7 voting members, 1 of whom is a
19 physician member appointed by the Board, 1 of whom is a physician who regularly ~~supervises~~ collaborates with physician
20 assistants appointed by the Board, and 1 of whom is a pharmacist appointed by the Board of Pharmacy. The remaining 4
21 members, recommended by the Council and appointed by the Board, must be practicing physician assistants, subject to the
22 same causes for removal as a physician member of the Board except that the requirement for certification and registration to

23 practice medicine is replaced by licensure to practice medicine as a physician assistant. The Council may elect officers as
24 necessary and will elect Council members to sit on the Board.

25 § 1770A. Physician assistants; definitions.

26 As used in this subchapter:

27 ~~(1) "Delegated medical acts" means healthcare activities and duties delegated to a physician assistant by a~~
28 ~~supervising physician.~~

29 ~~(2)~~(1) "Physician assistant" or "PA" means an individual who:

30 a. Has graduated from a physician assistant or surgeon assistant program which is accredited by the
31 Accreditation Review Commission on Education for the Physician Assistant (ARC-PA) or, prior to 2001, by the
32 Committee on Allied Health Education and Accreditation (CAHEA) of the American Medical Association
33 (AMA), or a successor agency acceptable to and approved by the Board, or has passed the Physician Assistant
34 National Certifying Examination administered by the National Commission on Certification of Physician
35 Assistants prior to 1986;

36 b. Has a baccalaureate degree or the equivalent education to a baccalaureate degree, as determined by the
37 Council and the Board;

38 c. Has passed a national certifying examination acceptable to the Regulatory Council for Physician
39 Assistants and approved by the Board;

40 d. Is licensed under this chapter to practice medicine as a physician assistant; and

41 e. Has completed any continuing education credits required by rules and regulations developed under this
42 chapter.

43 f. Completes a collaborative agreement with the collaborating physician.

44 (2) "Collaborative Agreement" means a written document expressing an arrangement of collaboration
45 between a licensed physician and a physician assistant.

46 (3) "Collaborating Physician" means physicians licensed by the Board who practices with a physician
47 assistant using a Collaborative Agreement.

48 ~~(3)~~(4) ~~"Supervision of physician assistants" means the ability of the supervising physician to provide or~~
49 ~~exercise control and direction over the services, activities, and duties of a physician assistant and to~~ "Collaboration or
50 "collaborating" means a process in which the physician assistant and physician jointly contribute to the healthcare and
51 medical evaluation and treatment or management of patients with each performing actions he or she is individually
52 licensed for and has the education, training, and experience to perform. The collaborating physician must be available

53 for consultation with the physician assistant during the time of the patient encounter with the physician assistant, if
54 necessary to provide advice on the ongoing care of the patient. The constant physical presence of the ~~supervising~~
55 collaborating physician is not required on-site in the practice setting in the supervising of a physician assistant,
56 provided that the ~~supervising~~ collaborating physician is readily accessible by some form of electronic communication.

57 § 1771 Physician's ~~duties~~ role in supervision collaborating with a physician assistant.

58 (a) A physician who ~~a-delegates medical acts to~~ collaborates with a physician assistant ~~is responsible for the~~
59 ~~physician assistant's medical acts and must provide adequate supervision~~ must be available for consultation with the
60 physician assistant. Adequate supervision will depend on the nature of the practice setting and the experience of the
61 ~~physician assistant.~~ It is the obligation of each team of physician(s) and physician assistant(s) to ensure that the physician
62 assistant's scope of practice is identified, and that delegation of medical tasks is appropriate to the physician assistant's level
63 ~~of competence education, training, and experience~~ that the relationship of, and access to, the ~~supervising~~ collaborating
64 physician is defined, and that a process for evaluation of the physician assistant's performance is established.

65 (b) Each physician-physician assistant team, hospital, clinic, medical group, or other healthcare facility shall be
66 responsible for creating a written collaborative agreement, which shall be kept on file at the primary location where the
67 physician assistant provides care, describing the information required by subsection (a) of this section. The written
68 collaborative agreement shall be made available to the Board or the Council upon request.

69 ~~(c) A supervising physician may not delegate a medical act to a physician assistant who, by statute or professional~~
70 ~~regulation, is prohibited from performing the act.~~

71 ~~(c)~~ ~~(d)~~ Supervising A collaborating physician may not be involved in patient care in name only.

72 ~~(e)~~ ~~(d)~~ A ~~supervising~~ collaborating physician may not ~~delegate~~ assign medical acts to a physician assistant that
73 exceed the physician's ~~scope of license.~~ practice.

74 ~~(f)~~ ~~(e)~~ A ~~supervising~~ collaborating physician may not at any given time ~~supervise~~ collaborate with more than 4
75 physician assistants, unless a regulation of the Board increases or decreases the number. This limit does not apply to
76 physicians and physician assistants who practice in the same physical office or facility building, such as an emergency
77 department.

78 ~~(g)~~ ~~(f)~~ A physician who ~~supervises~~ collaborates with a physician assistant in violation of the provisions of this
79 subchapter or of regulations adopted pursuant to this subchapter is subject to disciplinary action by the Board of Medical
80 Licensure and Discipline for permitting the unauthorized practice of medicine.

81 ~~(h)(g)~~ Hospitals, clinics, medical groups and other healthcare facilities may employ physician assistants,⁵
82 however, no more than 4 physician assistants may at any given time be employed and supervised for each physician
83 practicing in the same facility unless a regulation of the Board increases or decreases the number.

84 ~~(i)(h)~~ If the supervising physician delegates the authority to a physician assistant to treat patients in a setting
85 where the supervising collaborating physician is not routinely present the physician must assure that the means and
86 methods of supervision collaboration are adequate to assure appropriate patient care. This may include telecommunication,
87 chart review, or other methods of communication and oversight that are appropriate to the care setting and the education,
88 training and experience of the physician assistant. ~~The supervision plan must be detailed in the practice agreement and~~
89 ~~made available to the Board or Council upon request. Failure to have a supervision plan or failure to provide quality patient~~
90 ~~care due to lack of adequate supervision constitutes grounds for discipline.~~

91 § 1772 Prohibited acts by a physician assistant.

92 (a) A physician assistant may not maintain or manage an office location separate and apart from the office of the
93 that does not have oversight by the physician assistant's supervising collaborating physician.

94 ~~(b)~~ A physician assistant may not engage in diagnosis, prescribe or dispense legend drugs or therapeutics, or
95 practice medicine or surgery or perform refractions in any setting independent of the supervision of a physician who is
96 certified to practice medicine.

97 ~~(c)~~ A physician assistant may not assign a delegated medical act to another individual without the supervising
98 physician's authorization.

99 ~~(d)~~ A physician assistant may not independently bill a patient for services rendered at the request of the
100 supervising physician.

101 ~~(e)(b)~~ Nothing in this chapter may be construed to authorize a physician assistant to practice independent of a
102 supervising collaborating physician.

103 ~~(f)(c)~~ Except as otherwise provided in this chapter or in a medical emergency, a physician assistant may not
104 perform any medical act which has not been delegated by a supervising physieian without a collaborative agreement.

105 ~~(g)(d)~~ A physician assistant may not practice as a member of any other health profession regulated under this code
106 unless the physician assistant is certified, licensed, registered, or otherwise authorized to practice the other profession.

107 § 1773 Regulation of physician assistants.

108 (a) The Council shall adopt rules and regulations which address the following:

109 (1) The licensing of physician assistants to allow:

- 110 a. The ~~performance of delegated medical acts~~ practice of medicine within the education, training, and
111 experience of physician assistants; and
- 112 b. The performance of ~~services~~ medical services customary to the practice of the ~~supervising~~
113 collaborating physician;
- 114 (2) ~~Delegated~~ Medical acts provided by physician assistants to include, but not be limited to:
- 115 a. The performance of complete patient histories and physical examinations;
- 116 b. The recording of patient progress notes in an in-patient or out-patient setting;
- 117 c. The ordering, relaying, transcribing, or executing of specific diagnostic or therapeutic orders or
118 procedures;
- 119 d. Medical acts of diagnosis and prescription of therapeutic drugs and treatments ~~which have been~~
120 delegated by the supervising physician; and referral of patients to specialists as needed;
- 121 e. Prescriptive authority for therapeutic drugs and treatments within the scope of physician assistant
122 practice, ~~as delegated by the supervising physician~~. The physician assistant's prescriptive authority and authority to
123 practice as a physician assistant are subject to biennial renewal upon application to the Physician Assistant
124 Regulatory Council; and
- 125 f. The use of telemedicine as defined in this chapter and, as further described in regulation, the use of and
126 participation in telehealth.

127 (b)(1) The Board, in conjunction with the Regulatory Council for Physician Assistants, shall suspend, revoke, or
128 restrict the license of a physician assistant or take disciplinary action or other action against a physician assistant for
129 engaging in unprofessional conduct as defined in § 1731(b) of this title; or for the inability to render ~~delegated~~ medical acts
130 with reasonable skill or safety to patients because of the physician assistant's physical, mental, or emotional illness or
131 incompetence, including but not limited to: deterioration through the aging process, or loss of motor skills, or excessive use
132 of drugs, including alcohol; or for representing himself or herself as a physician, or for knowingly allowing himself or
133 herself to be represented as a physician; for failing to report in writing to the Board within 30 days of becoming aware of
134 any physician, physician assistant, or healthcare provider who the licensee reasonably believes has engaged in
135 unprofessional conduct as defined in § 1731(b) of this title or is unable to act with reasonable skill or safety to patients
136 because of the physician's, physician assistant's, or other healthcare provider's physical, mental, or emotional illness or
137 incompetence, including but not limited to deterioration through the aging process, or loss of motor skills, or excessive use
138 of drugs, including alcohol for failing to report child abuse and neglect as required by § 903 of Title 16. The license of any
139 physician assistant who is convicted of a felony sexual offense shall be revoked. Disciplinary action or other action

140 undertaken against a physician assistant must be in accordance with the procedures, including appeal procedures, applicable
141 to disciplinary actions against physicians pursuant to subchapter IV of this chapter, except that a hearing panel for a
142 complaint against a physician assistant consists of 3 unbiased members of the Regulatory Council, the 3 members being 2
143 physician assistant members and 1 physician or pharmacist member if practicable.

144 A person reporting or testifying in any proceeding as a result of making a report pursuant to this section is
145 immune from claim, suit, liability, damages, or any other recourse, civil or criminal, so long as the person acted in
146 good faith and without gross or wanton negligence; good faith being presumed until proven otherwise, and gross or
147 wanton negligence required to be shown by the complainant.

148 § 1773A Participation in disaster or emergency care.

149 (a) A physician assistant licensed in this State or licensed or authorized to practice in any other U.S. jurisdiction
150 or credentialed as a physician assistant by a federal employer who is responding to a need for medical care created by an
151 emergency or a state or local disaster (excluding an emergency which occurs in that person's place of employment or
152 practice) may render such care that he or she is able to provide without ~~supervision~~ collaboration pursuant to § 1770A of
153 this title or with such ~~supervision~~ collaboration as is available.

154 (b) Any physician who ~~supervises~~ collaborates with a physician assistant providing medical care in response to
155 such an emergency or state or local disaster shall not be required to meet the requirements set forth in this subchapter for a
156 supervising physician.

157 § 1774 Temporary licensing of physician assistants.

158 (b) An individual who is temporarily licensed pursuant to this section may not have a prescriptive practice and
159 may not perform delegated medical acts except in the physical presence of the individual's ~~supervising~~ collaborating
160 physician.

161 § 1774D Inactive license; return to clinical practice.

162 (b) If a physician assistant whose license has been on inactive status for in excess of 3 years and who has not
163 practiced as a physician assistant in any jurisdiction of the United States for over 3 years requests to reactivate his or her
164 license, the Board may grant a re-entry license and may, after consultation with the Council, impose additional practice and
165 supervision requirements for the re-entry license. A re-entry license granted under this subsection shall be valid for no
166 longer than 6 months and may be renewed only once at the Board's discretion. In the month immediately preceding the
167 month during which the re-entry license will expire, a physician assistant may apply to the Board for a full license as a
168 physician assistant. The Board shall grant a full license to a physician assistant who meets all qualifications for licensure
169 and whom the Board determines is qualified to practice. If the Board determines that a physician assistant is still not

170 qualified to receive a full license at the conclusion of the re-entry license period, the Board may only once renew the re-
171 entry license. If the Board elects to renew a re-entry license instead of issuing a full license, the Board shall provide to the
172 physician assistant a written explanation for that decision when issuing the renewed re-entry license.

173 Additional practice requirements that the Board may choose to impose as a condition of a re-entry license may
174 include:

175 (1) Requiring the ~~supervising~~ collaborating physician to be physically on-site while the physician assistant is
176 practicing;

177 (2) Requiring the ~~supervising~~ collaborating physician to review and countersign a portion of patient charts for
178 patients seen by the physician assistant;

179 (3) Requiring the physician assistant to possess current certification from the NCCPA;

180 (4) Requiring the physician assistant to take a review course or to complete a specified amount of Category 1
181 CME, as determined by the Council and agreed upon by the Board as appropriate; and

182 (5) Requiring documentation of a specific minimum number of clinical practice hours performed under the
183 re-entry license.

184 § 1774E Participation in charitable and voluntary care.

185 (1) A physician assistant licensed in this state, or licensed or authorized to practice in any other U.S.
186 jurisdiction, or who is credentialed by a federal employer or meets the licensure requirements of their requisite federal
187 agency as a physician assistant may volunteer to render such medical care that they are able to provide at a public or
188 community events and facilities without a collaborating physician as it is defined in this chapter or with such
189 collaborating physicians as may be available. Such medical care must be rendered without compensation or
190 remuneration.

SYNOPSIS

This bill changes the relationship between physicians and physician assistants from supervisory to collaborative, in recognition of the evolving role of physician assistants and reflecting the education, training, and experience required for licensing, which emphasizes the team-based practice model. The bill retains a 1:4 ratio of physician assistants to physicians, unless a regulation of the Board increases or decreases the number. This limit of 1:4 does not apply to physicians and physician assistants who practice in the same physical office or facility building, such as an emergency department. This bill increases the number of Board of Medical Licensure and Discipline members from 16 to 18, to include two physician assistant members appointed by the Regulatory Council for Physician Assistants. The bill authorizes physician assistants to participate as uncompensated volunteers in public or community events.