

PHYSICIAN ASSISTANT ACT AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

LONG TITLE

General Description:

This bill amends provisions relating to the practice of a physician assistant.

Highlighted Provisions:

This bill:

- ▶ amends the scope of practice for a physician assistant;
- ▶ removes the requirement that a physician assistant maintain a specific relationship with a physician or any other health care provider;
- ▶ changes the membership of the Physician Assistant Licensing Board;
- ▶ authorizes a physician assistant to be eligible for direct payment by all public and private payers;
- ▶ creates requirements for newly graduated physician assistants;
- ▶ permits a physician assistant to respond during a health care emergency or disaster;
- and
- ▶ makes technical and corresponding changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

- 58-70a-102**, as last amended by Laws of Utah 2017, Chapter 309
- 58-70a-201**, as last amended by Laws of Utah 2010, Chapter 37
- 58-70a-302**, as last amended by Laws of Utah 2020, Chapter 339
- 58-70a-305**, as last amended by Laws of Utah 2019, Chapter 349
- 58-70a-306**, as last amended by Laws of Utah 2020, Chapter 339
- 58-70a-501**, as last amended by Laws of Utah 2017, Chapter 309
- 58-70a-502**, as last amended by Laws of Utah 2014, Chapter 72

33 **58-70a-503**, as last amended by Laws of Utah 2020, Chapter 25

34

35 *Be it enacted by the Legislature of the state of Utah:*

36 Section 1. Section **58-70a-102** is amended to read:

37 **58-70a-102. Definitions.**

38 In addition to the definitions in Section 58-1-102, as used in this chapter:

39 (1) "Board" means the Physician Assistant Licensing Board created in Section
40 58-70a-201.

41 ~~[(2)(a) "Delegation of services agreement" means written criteria jointly developed by~~
42 ~~a physician assistant's supervising physician and substitute supervising physicians and the~~
43 ~~physician assistant, that permits a physician assistant, working under the direction or review of~~
44 ~~the supervising physician, to assist in the management of common illnesses and injuries.]~~

45 ~~[(b) The agreement defines the working relationship and delegation of duties between~~
46 ~~the supervising physician and the physician assistant as specified by division rule and shall~~
47 ~~include:]~~

48 ~~[(i) the prescribing of controlled substances;]~~

49 ~~[(ii) the degree and means of supervision;]~~

50 ~~[(iii) the frequency and mechanism of quality review, including the mechanism for~~
51 ~~review of patient data and documentation of the review, as determined by the supervising~~
52 ~~physician and the physician assistant;]~~

53 ~~[(iv) procedures addressing situations outside the scope of practice of the physician~~
54 ~~assistant; and]~~

55 ~~[(v) procedures for providing backup for the physician assistant in emergency~~
56 ~~situations.]~~

57 ~~[(3) "Direct supervision" means the supervising physician is:]~~

58 ~~[(a) physically present at the point of patient treatment on site where the physician~~
59 ~~assistant he is supervising is practicing; and]~~

60 ~~[(b) immediately available for consultation with the physician assistant.]~~

61 (2) "Competence" means possessing the requisite cognitive, non-cognitive, and
62 communicative abilities and qualities to perform effectively within the scope of practice of the
63 physician assistant's practice while adhering to professional and ethical standards.

64 (3) "Physician" means the same as that term is defined in Section 58-67-102.

65 (4) "Physician assistant" means an individual who is licensed to practice medicine
66 under this chapter.

67 (5) "Physician assistant's facility" means a facility or practice described in Section
68 58-70a-501.5.

69 ~~[(4)] (6) "Practice as a physician assistant" means~~~~[(a)]~~ the professional activities and
70 conduct of a physician assistant, also known as a PA, in diagnosing, treating, advising, or
71 prescribing for any human disease, ailment, injury, infirmity, deformity, pain, or other
72 condition~~[-dependent upon and under the supervision of a supervising physician or substitute~~
73 ~~supervising physician in accordance with a delegation of services agreement; and].~~

74 ~~[(b) the physician assistant acts as the agent of the supervising physician or substitute~~
75 ~~supervising physician when acting in accordance with a delegation of services agreement.]~~

76 ~~[(5) "Substitute supervising physician" means an individual who meets the~~
77 ~~requirements of a supervising physician under this chapter and acts as the supervising physician~~
78 ~~in the absence of the supervising physician.]~~

79 ~~[(6) "Supervising physician" means an individual who:]~~

80 ~~[(a) is currently licensed to practice under Title 58, Chapter 67, Utah Medical Practice~~
81 ~~Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;]~~

82 ~~[(b) acts as the primary supervisor of a physician assistant and takes responsibility for~~
83 ~~the professional practice and conduct of a physician assistant in accordance with this chapter;~~
84 ~~and]~~

85 ~~[(c) is not an employee of the physician assistant whom the individual supervises.]~~

86 ~~[(7) "Supervision" means the supervising physician is available for consultation with~~
87 ~~the physician assistant, either personally or by other means permitting direct verbal~~
88 ~~communication between the physician and the physician assistant.]~~

89 ~~[(8)] (7) "Unlawful conduct" means the same as that term is [as] defined in Sections~~

90 58-1-501 and 58-70a-502.

91 ~~[(9)] (8) "Unprofessional conduct" [is] means "unprofessional conduct":~~

92 (a) as defined in Sections 58-1-501 and 58-70a-503; and [as may be further defined by
93 rule.]

94 (b) as further defined by the division by rule.

95 Section 2. Section **58-70a-201** is amended to read:

96 **58-70a-201. Board.**

97 (1) There is created the Physician Assistant Licensing Board, which consists of seven
98 members:

99 (a) [~~three~~] two licensed physicians[~~, at least two of whom are individuals who are~~
100 ~~supervising or who have supervised a physician assistant~~] who currently work or have
101 previously worked collaboratively with a physician assistant;

102 (b) [~~three~~] four physician assistants, one of whom is involved in the administration of
103 an approved physician assistant education program within the state; and

104 (c) one person from the general public.

105 (2) The board shall be appointed and serve in accordance with Section 58-1-201.

106 (3) (a) The duties and responsibilities of the board are in accordance with Sections
107 58-1-202 and 58-1-203. [~~In addition, the~~]

108 (b) The board shall designate one of its members on a permanent or rotating basis to:

109 [~~(a)~~] (i) assist the division in reviewing complaints concerning the unlawful or
110 unprofessional conduct of a licensee; and

111 [~~(b)~~] (ii) advise the division in [~~its~~] the division's investigation of these complaints.

112 (4) (a) A board member who has, under Subsection (3), reviewed a complaint or
113 advised in its investigation may be disqualified from participating with the board when the
114 board serves as a presiding officer in an adjudicative proceeding concerning the complaint.

115 (b) The board member described in Subsection (4)(a) may be disqualified:

116 [~~(a)~~] (i) on the member's own motion, due to actual or perceived bias or lack of
117 objectivity; or

118 [~~(b)~~] (ii) upon challenge for cause raised on the record by any party to the adjudicative
119 proceeding.

120 Section 3. Section **58-70a-302** is amended to read:

121 **58-70a-302. Qualifications for licensure.**

122 Each applicant for licensure as a physician assistant shall:

123 (1) submit an application in a form prescribed by the division;

124 (2) pay a fee determined by the department under Section 63J-1-504;

125 (3) have successfully completed a physician assistant program accredited by [~~the~~]:

126 (a) the Accreditation Review Commission on Education for the Physician Assistant; or

127 (b) if prior to January 1, 2001, either the:

128 (i) Committee on Accreditation of Allied Health Education Programs; or

129 (ii) Committee on Allied Health Education and Accreditation;

130 (4) have passed the licensing examinations required by division rule made in

131 collaboration with the board; and

132 (5) meet with the board and representatives of the division, if requested, for the

133 purpose of evaluating the applicant's qualifications for licensure~~[-and]~~.

134 ~~[(6)(a) if the applicant desires to practice in Utah, complete a form provided by the~~
135 ~~division indicating:]~~

136 ~~[(i) the applicant has completed a delegation of services agreement signed by the~~
137 ~~physician assistant and the supervising physician; and]~~

138 ~~[(ii) the agreement is on file at the Utah practice sites; or]~~

139 ~~[(b) complete a form provided by the division indicating the applicant is not practicing~~
140 ~~in Utah and, prior to practicing in Utah, the applicant will meet the requirements of Subsection~~
141 ~~(6)(a).]~~

142 Section 4. Section **58-70a-305** is amended to read:

143 **58-70a-305. Exemptions from licensure.**

144 (1) In addition to the exemptions from licensure in Section 58-1-307,~~[the following~~
145 ~~persons]~~ an individual described in Subsection (2) may engage in acts included within the
146 definition of practice as a physician assistant, subject to the stated circumstances and
147 limitations, without being licensed under this chapter~~[-]~~.

148 ~~[(1)]~~ (2) Subsection (1) applies to a student enrolled in an accredited physician
149 assistant education program while engaged in activities as a physician assistant:

150 (a) that are a part of the education program;

151 (b) that are conducted at an affiliated medical facility under the direct supervision of a:

152 (i) physician associated with the program; or

153 (ii) licensed physician assistant associated with the medical faculty; and

154 (c) for which the program accepts in writing the responsibility for the student~~[-and]~~.

155 ~~[(2) a "medical assistant," as defined in Sections 58-67-102 and 58-68-102, who:]~~

156 ~~[(a) does not diagnose, advise, independently treat, or prescribe to or on behalf of any~~

157 ~~person; and]~~

158 ~~[(b) for whom the supervising physician accepts responsibility.]~~

159 Section 5. Section **58-70a-306** is amended to read:

160 **58-70a-306. Temporary license.**

161 (1) An applicant for licensure as a physician assistant who has met all qualifications for
162 licensure except passing an examination component as required in Section 58-70a-302, may
163 apply for and be granted a temporary license to practice under Subsection (2).

164 (2) (a) The applicant shall submit to the division evidence of completion of a physician
165 assistant program as defined in Subsection 58-70a-302(3).

166 (b) (i) The temporary license shall be issued for a period not to exceed 120 days to
167 allow the applicant to pass the Physician Assistant National Certifying Examination.

168 (ii) The temporary license may not be renewed or extended.

169 ~~[(c) A physician assistant holding a temporary license may work only under the direct
170 supervision of an approved supervising or substitute supervising physician in accordance with
171 a delegation of services agreement, and all patient charts shall be reviewed and countersigned
172 by the supervising or substitute supervising physician.]~~

173 (c) A temporary license holder shall work under the direct supervision of:

174 (i) a physician;

175 (ii) a physician assistant; or

176 (iii) an individual licensed to engage in the practice of advanced practice registered
177 nursing as defined in Section 58-31b-102.

178 Section 6. Section **58-70a-501** is amended to read:

179 **58-70a-501. Scope of practice.**

180 (1) (a) A physician assistant may provide any medical services that are not specifically
181 prohibited under this chapter or rules adopted under this chapter, and that are~~[(a)]~~ within the
182 physician assistant's skills and scope of competence~~[;]~~.

183 ~~[(b) within the usual scope of practice of the physician assistant's supervising
184 physician; and]~~

185 ~~[(c) provided under the supervision of a supervising physician and in accordance with a
186 delegation of services agreement.]~~

187 (b) A physician assistant shall consult, collaborate with, and refer to appropriate

188 members of the health care team:

189 (i) as indicated by the patient's condition;

190 (ii) based on the physician assistant's education, experience, and competencies; and

191 (iii) the applicable standard of care.

192 (c) The degree of collaboration under Subsection (1)(b) shall be determined at the

193 physician assistant's practice, including decisions made by the physician assistant's:

194 (i) employer;

195 (ii) group;

196 (iii) hospital service; or

197 (iv) health care facility credentialing and privileging system.

198 (d) The services provided by a physician assistant includes, but is not limited to:

199 (i) obtaining a comprehensive health history;

200 (ii) performing a physical examination;

201 (iii) evaluating, diagnosing, managing, and providing medical treatment;

202 (iv) ordering, performing, and interpreting diagnostic studies and therapeutic

203 procedures;

204 (v) educating a patient on health promotion and disease prevention;

205 (vi) providing a consultation upon request; and

206 (vii) writing medical orders.

207 (e) A physician assistant may, within the physician assistant's scope of practice:

208 (i) provide a service in any health care facility or program including:

209 (A) a hospital;

210 (B) a nursing care facility;

211 (C) an assisted living facility; and

212 (D) hospice;

213 (ii) obtain informed consent;

214 (iii) supervise, delegate, and assign therapeutic and diagnostic measures;

215 (iv) certify the health or disability of a patient for any local, state, or federal program;

216 and

217 (v) authenticate through a signature, certification, stamp, verification, affidavit, or

218 endorsement any document that may be authenticated by a physician.

219 (f) A physician assistant is responsible for the care that the physician assistant
220 provides.

221 ~~(2) (a) A physician assistant[, in accordance with a delegation of services agreement,]~~
222 ~~may prescribe or administer an appropriate controlled substance if[~~:(a)~~] the physician assistant~~
223 ~~holds a Utah controlled substance license and a DEA registration[~~;~~ and].~~

224 ~~[(b) the prescription or administration of the controlled substance is within the~~
225 ~~prescriptive practice of the supervising physician and also within the delegated prescribing~~
226 ~~stated in the delegation of services agreement.]~~

227 (b) A physician assistant may prescribe, dispense, order, administer, and procure a drug
228 or medical device.

229 (c) A physician assistant may plan and initiate a therapeutic regimen that may include
230 ordering and prescribing:

231 (i) non-pharmacological interventions, including durable medical equipment, nutrition,
232 blood, and blood products; and

233 (ii) diagnostic support services, including home health care, hospice, physical therapy,
234 and occupational therapy.

235 (3) A physician assistant with less than 2,000 hours of post-graduate clinical practice
236 experience shall practice under written policies and procedures established at a practice level
237 that describe:

238 (a) how collaboration will occur under Subsection (1); and

239 (b) methods for evaluating the physician assistant's competency, knowledge, and skills.

240 (4) Notwithstanding any other provision of state law, a physician assistant may provide
241 mental health care and mental health therapy and treatment in a non-psychiatric practice setting
242 if the services are consistent with:

243 (a) customary and accepted practices in similar practice settings; and

244 (b) applicable standards of care.

245 ~~(3)~~ (5) A physician assistant shall, while practicing as a physician assistant, wear an
246 identification badge showing the physician assistant's license classification as a physician
247 assistant.

248 ~~(4)~~ (6) A physician assistant may not:

249 ~~(a) independently charge or bill a patient, or others on behalf of the patient, for~~

250 ~~services rendered;]~~

251 ~~[(b)]~~ (a) identify himself or herself to any person in connection with activities allowed
252 under this chapter other than as a physician assistant; or

253 ~~[(c)]~~ (b) use the title [~~"doctor"~~] "doctor of osteopathic medicine," "medical doctor," or
254 "physician," or by any knowing act or omission lead or permit anyone to believe the physician
255 assistant is a physician.

256 Section 7. Section **58-70a-502** is amended to read:

257 **58-70a-502. Unlawful conduct.**

258 [~~"Unlawful conduct" includes engaging in practice as a licensed physician assistant~~
259 ~~while not under the supervision of a supervising physician or substitute supervising physician.]~~

260 Reserved.

261 Section 8. Section **58-70a-503** is amended to read:

262 **58-70a-503. Unprofessional conduct.**

263 (1) "Unprofessional conduct" includes:

264 (a) violation of a patient confidence to any person who does not have a legal right and a
265 professional need to know the information concerning the patient;

266 (b) knowingly prescribing, selling, giving away, or directly or indirectly administering,
267 or offering to prescribe, sell, furnish, give away, or administer any prescription drug except for
268 a legitimate medical purpose upon a proper diagnosis indicating use of that drug in the amounts
269 prescribed or provided;

270 (c) prescribing prescription drugs for oneself or administering prescription drugs to
271 oneself, except those that have been legally prescribed for the physician assistant by a licensed
272 practitioner and that are used in accordance with the prescription order for the condition
273 diagnosed;

274 [~~(d) failure to maintain at the practice site a delegation of services agreement that~~
275 ~~accurately reflects current practices;]~~

276 [~~(e) failure to make the delegation of services agreement available to the division for~~
277 ~~review upon request;]~~

278 [~~(f) in a practice that has physician assistant ownership interests, failure to allow the~~
279 ~~supervising physician the independent final decision making authority on patient treatment~~
280 ~~decisions, as set forth in the delegation of services agreement or as defined by rule;]~~

281 ~~[(g)]~~ (d) violating the dispensing requirements of Chapter 17b, Part 8, Dispensing
282 Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable; ~~[or]~~
283 and

284 ~~[(h)]~~ (e) falsely making an entry in, or altering, a medical record with the intent to
285 conceal:

286 (i) a wrongful or negligent act or omission of an individual licensed under this chapter
287 or an individual under the direction or control of an individual licensed under this chapter; or

288 (ii) conduct described in Subsections (1)(a) through ~~[(g)]~~ (d) or Subsection
289 58-1-501(1).

290 (2) (a) "Unprofessional conduct" does not include, in accordance with Title 26, Chapter
291 61a, Utah Medical Cannabis Act, when registered as a qualified medical provider, as that term
292 is defined in Section 26-61a-102, recommending the use of medical cannabis.

293 ~~[(3)]~~ (b) Notwithstanding Subsection (2)(a), the division, in consultation with the board
294 and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall
295 define unprofessional conduct for a physician assistant described in Subsection (2)(a).