Senate File 2357 - Enrolled

Senate File 2357

AN ACT

RELATING TO THE PRACTICE AND LICENSURE OF PHYSICIAN ASSISTANTS, AND INCLUDING EFFECTIVE DATE PROVISIONS.

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

Section 1. Section 147.107, subsections 3, 4, and 5, Code 2020, are amended to read as follows:

3. A ~~physician assistant or~~ registered nurse may supply, when pharmacist services are not reasonably available or when it is in the best interests of the patient, on the direct order of the supervising physician, a quantity of properly packaged and labeled prescription drugs, controlled substances, or contraceptive devices necessary to complete a course of therapy. However, a remote clinic, staffed by a ~~physician assistant or~~ registered nurse, where pharmacy services are not reasonably available, shall secure the regular advice and consultation of a pharmacist regarding the distribution, storage, and appropriate use of such drugs, substances, and devices.

4. ~~Notwithstanding subsection 3, a~~ A physician assistant ~~shall not~~ may prescribe, dispense, order, administer, or procure prescription drugs ~~as an incident to the practice of the supervising physician or the physician assistant, but may supply, when pharmacist services are not reasonably~~

~~available, or when it is in the best interests of the patient, a quantity of properly packaged and labeled prescription drugs~~, controlled substances, or medical devices necessary to complete a course of therapy~~. However, a remote clinic, staffed by a physician assistant, where pharmacy services are not reasonably available, shall secure the regular advice and consultation of a pharmacist regarding the distribution, storage, and appropriate use of such drugs, substances, and devices. Prescription drugs supplied under the provisions of this subsection shall be supplied for the purpose of accommodating the patient and shall not be sold for more than the cost of the drug and reasonable overhead costs, as they relate to supplying prescription drugs to the patient, and not at a profit to the physician or the physician assistant. If prescription drug supplying authority is delegated by a supervising physician to a physician assistant, a nurse or staff assistant may assist the physician assistant in providing that service. Rules shall be adopted by the board of physician assistants, after consultation with the board of pharmacy, to implement this subsection~~ pursuant to section 148C.4.

5. Notwithstanding subsection 1 and any other provision of this section to the contrary, a physician may delegate the function of prescribing drugs, controlled substances, and medical devices for which the supervising physician has sufficient training or experience to a physician assistant licensed pursuant to chapter 148C after the supervising physician determines the physician assistant's proficiency and competence. ~~When delegated prescribing occurs, the supervising physician's name shall be used, recorded, or otherwise indicated in connection with each individual prescription so that the individual who dispenses or administers the prescription knows under whose delegated authority the physician assistant is prescribing.~~ Rules relating to the authority of physician assistants to prescribe drugs, controlled substances, and medical devices pursuant to this subsection shall be adopted by the board of physician assistants, after consultation with the board of medicine and the board of pharmacy. ~~However, the rules shall prohibit the~~

~~prescribing of schedule II controlled substances which are listed as depressants pursuant to chapter 124.~~

Sec. 2. Section 147.136, subsection 1, Code 2020, is amended to read as follows:

1. Except as otherwise provided in subsection 2, in an action for damages for personal injury against a physician and surgeon, osteopathic physician and surgeon, dentist, podiatric physician, optometrist, pharmacist, chiropractor, physician assistant, or nurse licensed to practice that profession in this state, or against a hospital licensed for operation in this state, based on the alleged negligence of the practitioner in the practice of the profession or occupation, or upon the alleged negligence of the hospital in patient care, in which liability is admitted or established, the damages awarded shall not include actual economic losses incurred or to be incurred in the future by the claimant by reason of the personal injury, including but not limited to the cost of reasonable and necessary medical care, rehabilitation services, and custodial care, and the loss of services and loss of earned income, to the extent that those losses are replaced or are indemnified by insurance, or by governmental, employment, or service benefit programs or from any other source.

Sec. 3. Section 147.138, Code 2020, is amended to read as follows:

147.138 Contingent fee of attorney reviewed by court.

In any action for personal injury or wrongful death against any physician and surgeon, osteopathic physician and surgeon, dentist, podiatric physician, optometrist, pharmacist, chiropractor, physician assistant, or nurse licensed under this chapter or against any hospital licensed under chapter 135B, based upon the alleged negligence of the licensee in the practice of that profession or occupation, or upon the alleged negligence of the hospital in patient care, the court shall determine the reasonableness of any contingent fee arrangement between the plaintiff and the plaintiff's attorney.

Sec. 4. Section 148C.1, Code 2020, is amended to read as follows:

148C.1 Definitions.

1. *"Approved program"* means a program for the education

of physician assistants which has been accredited by the ~~American medical association's committee on allied health education and accreditation or its successor, by the commission on accreditation of allied health educational programs or its successor, or by the~~ accreditation review commission on education for the physician assistant or its successor, or, if accredited prior to 2001, either by the committee on allied health education and accreditation, or the commission on accreditation of allied health education programs.

2. *"Board"* means the board of physician assistants created under chapter 147.

3. *"Collaboration"* means consultation with or referral to the appropriate physician or other health care professional by a physician assistant as indicated by the patient's condition; the education, competencies, and experience of the physician assistant; and the standard of care.

~~3.~~ 4. *"Department"* means the ~~Iowa~~ department of public health.

~~4.~~ 5. *"Licensed physician assistant"* or *"Licensed P.A."* means a person who is licensed by the board to practice as a physician assistant under the supervision of one or more physicians. *"Supervision"* does not require the personal presence of the supervising physician at the place where medical services are rendered except insofar as the personal presence is expressly required by this chapter or required by rules of the board adopted pursuant to this chapter.

~~5.~~ 6. *"Physician"* means a person who is currently licensed in Iowa to practice medicine and surgery or osteopathic medicine and surgery. Notwithstanding this subsection, a physician supervising a physician assistant practicing in a federal facility or under federal authority shall not be required to obtain licensure beyond licensure requirements mandated by the federal government for supervising physicians.

~~6.~~ 7. *"Physician assistant"* or *"P.A."* means a person who ~~has successfully completed an approved program and passed an examination approved by the board or is otherwise found by the board to be qualified to perform medical services under the supervision of a physician~~ meets the qualifications under this chapter and is licensed to practice medicine by the board.

~~7. *"Trainee"* means a person who is currently enrolled in an approved program.~~

8. *"Supervising physician"* means a physician who supervises the medical services provided by a physician assistant consistent with the physician assistant's education, training, or experience and who accepts ultimate responsibility for the medical care provided by the supervising physician-physician assistant team.

Sec. 5. Section 148C.3, subsections 1 and 3, Code 2020, are amended to read as follows:

1. The board shall adopt rules to govern the licensure of physician assistants. An applicant for licensure shall submit the fee prescribed by the board and shall meet the requirements established by the board with respect to each of the following:

a. Academic qualifications, including evidence of graduation from an approved program. A physician assistant who is not a graduate of an approved program, but who passed the national commission on certification of physician assistants' ~~physician assistant~~ national certifying examination prior to 1986, is exempt from this graduation requirement.

b. Evidence of passing the national commission on the certification of physician assistants' ~~physician assistant~~ national certifying examination or an equivalent examination approved by the board.

c. Hours of continuing medical education necessary to become or remain licensed.

3. A licensed physician assistant shall perform only those services for which the licensed physician assistant is qualified by training or education and which are not prohibited by the board.

Sec. 6. Section 148C.4, subsection 1, Code 2020, is amended to read as follows:

1. A physician assistant may ~~perform medical services when the services are rendered under the supervision of a physician. A physician assistant student may perform medical services when the services are rendered within the scope of an approved program~~ provide any legal medical service for which the physician assistant has been prepared by the physician assistant's education, training, or experience and is competent

to perform. For the purposes of this section, ~~*"medical services when the services are rendered under the supervision of a physician"*~~ *"legal medical service for which the physician assistant has been prepared by the physician assistant's education, training, or experience and is competent to perform"* includes making a pronouncement of death for a patient whose death is anticipated if the death occurs in a licensed hospital, a licensed health care facility, a correctional institution listed in section 904.102, a Medicare-certified home health agency, or a Medicare-certified hospice program or facility~~, with notice of the death to a physician and in accordance with the directions of a physician~~.

Sec. 7. Section 148C.4, Code 2020, is amended by adding the following new subsection:

NEW SUBSECTION. 3. The degree of collaboration between a physician assistant and the appropriate member of a health care team shall be determined at the practice level, and may involve decisions made by the medical group, hospital service, supervising physician, or employer of the physician assistant, or the credentialing and privileging system of a licensed health care facility. A physician shall be accessible at all times for consultation with a physician assistant unless the physician assistant is providing emergency medical services pursuant to 645 IAC 327.1(1)(n). The supervising physician shall have ultimate responsibility for determining the medical care provided by the supervising physician-physician assistant team.

Sec. 8. Section 249A.4, subsection 7, paragraph b, Code 2020, is amended to read as follows:

b. Advanced registered nurse practitioners licensed pursuant to chapter 152 and physician assistants licensed pursuant to chapter 148C shall be regarded as approved providers of health care services, including primary care, for purposes of managed care or prepaid services contracts under the medical assistance program. This paragraph shall not be construed to expand the scope of practice of an advanced registered nurse practitioner pursuant to chapter 152 or physician assistants pursuant to chapter 148C.

Sec. 9. ADMINISTRATIVE RULEMAKING.

1. The board of medicine and the board of physician assistants shall each, at the next meeting of the respective boards held one calendar week or more after the enactment of this Act, approve a notice of intended action to adopt rules to implement this Act for submission to the administrative rules coordinator and the Iowa administrative code editor pursuant to section 17A.4, subsection 1, paragraph "a".

2. Notwithstanding section 148C.5, the board of medicine and the board of physician assistants, in accordance with chapter 17A and this section, and consistent with this Act, shall each amend, rescind, or adopt rules which address all of the following:

a. For the board of physician assistants, rules relating to and in substantial conformance with all of the following:

(1) Definitions pursuant to 645 IAC 326.1 including all of the following:

(a) "Approved program" means a program for the education of physician assistants which has been accredited by the accreditation review commission on education for the physician assistant or its successor, or if accredited prior to 2001, either by the committee on allied health education and accreditation, or the commission on accreditation of allied health education programs.

(b) "Collaboration" means consultation with or referral to the appropriate physician or other health care professional by a physician assistant as indicated by the patient's condition; the education, competencies, and experience of the physician assistant; and the standard of care.

(c) "Opioid" means a drug that produces an agonist effect on opioid receptors and is indicated or used for the treatment of pain or opioid use disorder.

(d) "Physician assistant" or "P.A." means a person licensed as a physician assistant by the board.

(e) "Remote medical site" means a medical clinic for ambulatory patients which is more than thirty miles away from the main practice location of a supervising physician and in which a supervising physician is present less than fifty percent of the time the site is open. "Remote medical site" does not apply to nursing homes, patient homes, hospital

outpatient departments, outreach clinics, or any location at which medical care is incidentally provided such as a diet center, free clinic, site for athletic physicals, or a jail facility.

(f) "Supervising physician" means a physician who supervises the medical services provided by the physician assistant consistent with the physician assistant's education, training, or experience and who accepts ultimate responsibility for the medical care provided by the physician-physician assistant team.

(2) Examination requirements pursuant to 645 IAC 326.6 including that the applicant for licensure as a physician assistant shall successfully pass the certifying examination conducted by the national commission on certification of physician assistants or a successor examination approved by the board of physician assistants.

(3) Use of title requirements pursuant to 645 IAC 326.15 including that a physician assistant licensed under chapter 148C may use the words "physician assistant" after the person's name or signify the same by the use of the letters "P.A." A person who meets the qualifications for licensure under chapter 148C but does not possess a current license may use the title "P.A." or "physician assistant" but may not act or practice as a physician assistant unless licensed under chapter 148C.

(4) Recognition of an approved program pursuant to 645 IAC 326.18 including that the board shall recognize a program for education and training of physician assistants if it is accredited by the accreditation review commission on education for the physician assistant or its successor, or, if accredited prior to 2001, either by the committee on allied health education and accreditation or the commission on accreditation of allied health educational programs.

(5) Duties pursuant to 645 IAC 327.1(1), unnumbered paragraph 1, including that the medical services to be provided by the physician assistant are those for which the physician assistant has been prepared by education, training, or experience and is competent to perform. The ultimate role of the physician assistant cannot be rigidly defined because of the variations in practice requirements due to

geographic, economic, and sociologic factors. The high degree of responsibility a physician assistant may assume requires that, at the conclusion of formal education, the physician assistant possess the knowledge, skills, and abilities necessary to provide those services appropriate to the practice setting. The physician assistant's services may be utilized in any clinical settings including but not limited to the office, the ambulatory clinic, the hospital, the patient's home, extended care facilities, and nursing homes. Diagnostic and therapeutic medical tasks for which the supervising physician has sufficient training or experience may be delegated to the physician assistant after a supervising physician determines the physician assistant's proficiency and competence.

(6) Duties pursuant to 645 IAC 327.1 relating to prescribing, dispensing, ordering, administering, and procuring drugs and medical devices including all of the following:

(a) A physician assistant may administer any drug.

(b) A physician assistant may prescribe, dispense, order, administer, and procure drugs and medical devices. A physician assistant may plan and initiate a therapeutic regimen that includes ordering and prescribing nonpharmacological interventions, including but not limited to durable medical equipment, nutrition, blood and blood products, and diagnostic support services including but not limited to home health care, hospice, and physical and occupational therapy. The prescribing and dispensing of drugs may include schedule II through V substances as described in chapter 124 and all legend drugs.

(c) A physician assistant may prescribe drugs and medical devices subject to all the following conditions:

(i) The physician assistant shall have passed the national certifying examination conducted by the national commission on the certification of physician assistants or its successor examination approved by the board. Physician assistants with a temporary license may order drugs and medical devices only with the prior approval and direction of a supervising physician. Prior approval may include discussion of the specific medical problems with a supervising physician prior to the patient being seen by the physician assistant.

(ii) The physician assistant must comply with appropriate federal and state regulations.

(iii) If a physician assistant prescribes or dispenses controlled substances, the physician assistant must register with the federal drug enforcement administration.

(iv) The physician assistant may prescribe or order schedule II controlled substances which are listed as depressants in chapter 124 only with the prior approval and direction of a supervising physician who has sufficient training or experience. Prior approval may include discussion of the specific medical problems with a supervising physician prior to the patient being seen by the physician assistant.

(v) A physician assistant shall not prescribe substances that the supervising physician does not have the authority to prescribe except as allowed in 645 IAC 327.1(1)(n) when providing immediate evaluation, treatment, and institution of procedures essential to providing an appropriate response to emergency medical problems.

(vi) The physician assistant may prescribe, supply, and administer drugs and medical devices in all settings including but not limited to hospitals, health care facilities, health care institutions, clinics, offices, health maintenance organizations, and outpatient and emergency care settings.

(vii) A physician assistant may request, receive, and supply sample drugs and medical devices.

(viii) The board of physician assistants shall be the only board to regulate the practice of physician assistants relating to prescribing and supplying prescription drugs, controlled substances, and medical devices.

(d) A physician assistant may supply properly packaged and labeled prescription drugs, controlled substances, or medical devices when pharmacist services are not reasonably available or when it is in the best interests of the patient.

(i) When the physician assistant is the prescriber of the medications supplied, these medications shall be supplied for the purpose of accommodating the patient and shall not be sold for more than the cost of the drug and reasonable overhead costs as they relate to supplying prescription drugs to the patient and not at a profit to the physician or physician

assistant.

(ii) A nurse or staff assistant may assist the physician assistant in supplying medications.

(e) A physician assistant may, at the request of the peace officer, withdraw a specimen of blood from a patient for the purpose of determining the alcohol concentration or the presence of drugs.

(f) A physician assistant may direct medical personnel, health professionals, and others involved in caring for patients and the execution of patient care.

(g) A physician assistant may authenticate medical forms by signing the form.

(h) A physician assistant may perform other duties as appropriate to a physician assistant's practice.

(i) Health care providers shall consider the instructions of a physician assistant to be authoritative.

(7) Remote medical site requirements pursuant to 645 IAC 327.4(1) and (2), including all of the following:

(a) A physician assistant may provide medical services in a remote medical site if any of the following conditions is met:

(i) The physician assistant has a permanent license and at least one year of practice as a physician assistant.

(ii) The physician assistant with less than one year of practice has a permanent license and meets all of the following criteria:

(A) The physician assistant has practiced as a physician assistant for at least six months.

(B) The physician assistant and supervising physician have worked together at the same location for a period of at least three months.

(C) The supervising physician reviews patient care provided by the physician assistant as determined to be appropriate by the supervising physician.

(D) The supervising physician reviews a representative sample of patient charts unless the medical record documents that direct consultation with the supervising physician occurred for a period the supervising physician determines is appropriate.

(iii) The physician assistant and supervising physician

provide a written statement sent directly to the board that the physician assistant is qualified to provide the needed medical services and that the medical care will be unavailable at the remote site unless the physician assistant is allowed to practice there. In addition, for three months, the supervising physician must review a representative sample of patient charts for patient care provided by the physician assistant at least weekly.

(b) The supervising physician must visit a remote site or communicate with the physician assistant at the remote site via electronic communications to provide additional medical direction, medical services, and consultation at least every two weeks. For purposes of this rule, communication may consist of, but shall not be limited to, in-person meetings, two-way interactive communication directly between the supervising physician and the physician assistant via telephone, secure messaging, electronic mail, or chart review.

(8) Identification as a physician assistant pursuant to 645 IAC 327.5 including that the physician assistant shall be identified as a physician assistant to patients and to the public, regardless of their educational degree.

(9) Prescription requirements pursuant to 645 IAC 327.6(2) including that each oral prescription drug order issued by a physician assistant shall include the same information required for a written prescription, except for the written signature of the physician assistant and the physician assistant’s practice address.

(10) Grounds for discipline pursuant to 645 IAC 329.2(25) including prohibiting a person from representing the person as a physician assistant when the persons’s license has been suspended or revoked, or when the person’s license is on inactive status except as provided by 645 IAC 326.15.

b. For the board of medicine rules relating to and in substantial conformance with the following relating to supervisory agreements pursuant to 653 IAC 21.4 including all of the following:

(1) A physician who supervises a physician assistant shall establish a written supervisory agreement prior to supervising a physician assistant. A sample supervisory

agreement form is available from the board. The purpose of the supervisory agreement is to define the nature and extent of the supervisory relationship and the expectations of each party. The supervisory agreement shall take into account the physician assistant's demonstrated skills, training and experience, proximity of the supervising physician to the physician assistant, and the nature and scope of the medical practice. The supervising physician shall maintain a copy of the supervisory agreement and provide a copy of the agreement to the board upon request. The supervisory agreement shall, at a minimum, address all of the following provisions:

(a) Review of requirements. The supervising physician and the physician assistant shall review all of the requirements of physician assistant licensure, practice, supervision, and delegation of medical services as set forth in section 148.13 and chapter 148C, Iowa administrative code chapter 653, and 645 IAC chapters 326 to 329.

(b) Assessment of education, training, skills, and experience. Each supervising physician shall assess the education, training, skills, and relevant experience of the physician assistant prior to providing supervision. Each supervising physician and physician assistant shall ensure that the other party has the appropriate education, training, skills, and relevant experience necessary to successfully collaborate on patient care delivered by the team. The method for assessing and providing feedback regarding the physician assistant's education, training, skills, and experience shall be reflected in the supervision agreement.

(2) The supervision agreement between the physician assistant and the physician shall address all of the following:

(a) The medical services the supervising physician delegates to the physician assistant. The medical services and medical tasks delegated to and provided by the physician assistant shall be in compliance with 645 IAC 327.1(1). All delegated medical services shall be within the scope of practice of the supervising physician and the physician assistant.

(b) Methods for communication between the physician assistant and the physician and whether the physician assistant

practices at the same site or a remote site. Each supervising physician and physician assistant shall conduct ongoing discussions and evaluation of the supervisory agreement, including supervision; expectations for both parties; assessment of education, training, skills, and relevant experience; review of delegated services; review of the medical services provided by the physician assistant; and the types of cases and situations when the supervising physician expects to be consulted.

(i) The plan for completing and documenting chart reviews. A licensed physician within the same facility or health care system as the physician assistant shall conduct an ongoing review of a representative sample of the physician assistant's patient charts encompassing the scope of the physician assistant's practice. The findings of the review shall be discussed with the physician assistant in a manner determined by the practice in consultation with the physician assistant's primary supervising physician.

(ii) Remote medical site. "Remote medical site" means a medical clinic for ambulatory patients which is more than thirty miles away from the main practice location of the supervising physician and in which the supervising physician is present less than fifty percent of the time when the remote medical site is open. "Remote medical site" does not apply to nursing homes, patient homes, hospital outpatient departments, outreach clinics, or any location at which medical care is incidentally provided, such as a diet center, free clinic, site for athletic physicals, or a jail facility. The supervisory agreement shall include a provision which ensures that the supervising physician visits the remote medical site, or communicates with a physician assistant at the remote medical site via electronic communications, at least every two weeks to provide additional medical direction, medical services, and consultation specific to the medical services provided at the remote medical site. For purposes of this subparagraph subdivision, communication may consist of, but shall not be limited to, in-person meetings or two-way, interactive communication directly between the supervising physician and the physician assistant via telephone, secure messaging,

electronic mail, or chart review. The board shall only grant a waiver or variance of this provision if substantially equal protection of public health, safety, and welfare will be afforded by a means other than that prescribed in this subparagraph subdivision.

(iii) The expectations and plan for alternate supervision. The supervising physician shall ensure that the alternate supervising physician is available for a timely consultation and shall ensure that the physician assistant is notified of the means by which to reach the alternate supervising physician.

Sec. 10. RESCISSION OF ADMINISTRATIVE RULES.

1. The board of physician assistants shall rescind all of the following:

a. 645 Iowa administrative code, rule 326.19, subrule (3), paragraph "b", subparagraph (3).

b. 645 Iowa administrative code, rule 327.1, subrule (1), paragraphs "r" through "z".

c. 645 Iowa administrative code, rule 327.4, subrules (1) and (2).

2. The board of medicine shall rescind 653 Iowa administrative code, rule 21.4, subrules (3) through (7).

Sec. 11. RULEMAKING —— LIMITATION ON AMENDMENTS —— CONSTRUCTION.

1. The board of medicine and the board of physician assistants, upon the adoption of rules pursuant to chapter 17A as required by sections 9 and 10 of this Act, shall not thereafter approve a notice of intended action pursuant to section 17A.4, subsection 1, paragraph "a", for the amendment or rescission of such rules for a period of two years from the effective date of this Act.

2. Except as provided in subsection 1, the rulemaking requirements provided in sections 9 and 10 of this Act shall not be construed to prohibit the board of medicine or the board of physician assistants from engaging in further rulemaking not in conflict with sections 9 or 10 of this Act relating to the subject matter of those sections or to otherwise diminish the authority to engage in rulemaking provided to either board by section 147.76 or any other statute.

Sec. 12. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

CHARLES SCHNEIDER President of the Senate	PAT GRASSLEY Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2357, Eighty-eighth General Assembly.

W. CHARLES SMITHSON
Secretary of the Senate

Approved _____, 2020

KIM REYNOLDS
Governor