
By: **Delegates Redmer, Petzold, and Guns**
Introduced and read first time: February 9, 2001
Assigned to: Environmental Matters

Committee Report: Favorable with amendments
House action: Adopted with floor amendments
Read second time: March 16, 2001

CHAPTER _____

1 AN ACT concerning

2 **Maryland Physician Assistants Act - Revisions**

3 FOR the purpose of clarifying the practice responsibilities of a physician assistant
4 and a supervising physician; adding to the list of items required to be included
5 in a delegation agreement between the physician assistant and supervising
6 physician; altering the actions that the State Board of Physician Quality
7 Assurance may take after reviewing a delegation agreement; altering the
8 manner in which a physician may supervise a physician assistant; exempting
9 individual members of the Board from civil liability for certain actions;
10 authorizing the Board to assess a certain fee and providing for the use of the fees
11 assessed; authorizing the Board to assess a civil penalty for a violation of the
12 law regulating the delegation of duties to physician assistants; providing for the
13 use of the civil penalties assessed; ~~repealing~~ altering certain provisions
14 pertaining to physician assistants and medication orders; adding certain
15 clarifying language; defining a certain term; altering certain definitions; making
16 stylistic changes; and generally relating to the Maryland Physician Assistants
17 Act.

18 BY repealing and reenacting, with amendments,
19 Article - Health Occupations
20 Section 15-101, 15-301, 15-302, ~~and~~ 15-302.3, and 15-403
21 Annotated Code of Maryland
22 (2000 Replacement Volume)

23 BY repealing
24 Article - Health Occupations
25 Section 15-302.1

1 Annotated Code of Maryland
2 (2000 Replacement Volume)

3 BY adding to

4 Article - Health Occupations
5 Section 15-310(e)
6 Annotated Code of Maryland
7 (2000 Replacement Volume)

8 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
9 MARYLAND, That the Laws of Maryland read as follows:

10 **Article - Health Occupations**

11 15-101.

12 (a) In this title the following words have the meanings indicated.

13 (B) "ALTERNATE SUPERVISING PHYSICIAN" MEANS ONE OR MORE
14 PHYSICIANS DESIGNATED BY THE SUPERVISING PHYSICIAN TO PROVIDE
15 SUPERVISION OF A PHYSICIAN ASSISTANT DURING THE ABSENCE OF THE
16 SUPERVISING PHYSICIAN AND IN ACCORDANCE WITH THE DELEGATION
17 AGREEMENT ON FILE WITH THE BOARD.

18 [(b)] (C) "Board" means the State Board of Physician Quality Assurance,
19 established under § 14-201 of this article.

20 [(c)] (D) "Certificate" means a certificate issued by the Board to a physician
21 assistant under this title.

22 [(d)] (E) "Committee" means the Physician Assistant Advisory Committee.

23 [(e)] (F) "Controlled dangerous substances" has the meaning stated in Art. 27,
24 § 277 of the Code.

25 [(f)] (G) "Correctional facility" includes a State or local correctional facility.

26 [(g)] (H) "Delegated medical acts" means activities that constitute the practice
27 of medicine delegated by a physician under Title 14 of this article.

28 [(h)] (I) "Delegation agreement" means a document that is executed by a
29 supervising physician and a physician assistant containing the requirements of §
30 15-302 of this title [and:

31 (1) § 15-302.1 of this title; or

32 (2) § 15-302.2 of this title].

1 [(i)] (J) "Designated pharmacy" means a pharmacy that has an agreement to
2 supply medications for a hospital, public health facility, correctional facility, or
3 detention center if:

4 (1) The hospital, public health facility, correctional facility, or detention
5 center does not have an on-site pharmacy; or

6 (2) The on-site pharmacy at the hospital, public health facility,
7 correctional facility, or detention center is closed or does not have a particular
8 medication in stock.

9 [(j)] (K) "Hospital" means:

10 (1) A hospital as defined under § 19-301(g) of the Health - General
11 Article;

12 (2) A comprehensive care facility that:

13 (i) Meets the requirements of a hospital-based skilled nursing
14 facility under federal law;

15 (ii) Offers acute care in the same building; and

16 (iii) Has the same protocols and degree of supervision of physician
17 assistants as it does in its acute care area; and

18 (3) An emergency room that is physically connected to a hospital.

19 [(k)] "Medication order" means a directive written in a medical chart:

20 (1) For controlled dangerous substances, noncontrolled substances, or
21 nonprescription medications; and

22 (2) In accordance with the protocols of a hospital, public health facility,
23 correctional facility, or detention center.]

24 (l) "National certifying examination" means an examination offered by a
25 national organization, which certifies physician assistants as having achieved a
26 certain level of training.

27 (m) "Physician assistant" means an individual who is certified under this title
28 to perform delegated medical acts under the supervision of a physician.

29 (n) "Practice as a physician assistant" means the performance of medical acts
30 that are:

31 (1) Delegated by a supervising physician to a physician assistant;

32 (2) Within the supervising physician's scope of practice; and

1 (3) Appropriate to the physician assistant's education, training, and
2 experience.

3 (o) "Prescriptive authority" means the authority delegated by a supervising
4 physician to a physician assistant to prescribe and administer controlled dangerous
5 substances, prescription drugs, [and] medical devices, AND THE ORAL, WRITTEN, OR
6 ELECTRONIC ORDERING OF MEDICATIONS.

7 (p) "Protocols" means written policies, bylaws, rules, or regulations
8 established by a hospital, public health facility, correctional facility, or detention
9 center that:

10 (1) Are established in consultation with and with the approval of its
11 medical staff;

12 (2) Describe the delegated medical acts a physician assistant may
13 execute; and

14 (3) Specify the minimum requirements for supervision by a physician.

15 (q) "Public health facility" means a fixed site where clinical public health
16 services are rendered under the auspices of the Department, a local health
17 department in a county, or the Baltimore City Health Department.

18 (r) "Supervising physician" means a physician who has been approved by the
19 Board to supervise 1 or more physician assistants.

20 (s) (1) "Supervision" means the responsibility of a physician to exercise [on
21 site] ON-SITE supervision or immediately available direction for physician assistants
22 performing delegated medical acts.

23 (2) "Supervision" includes physician oversight of and acceptance of direct
24 responsibility for the patient services and care rendered by a physician assistant,
25 including continuous availability to the physician assistant in person, through
26 written instructions, or by electronic means AND BY DESIGNATION OF ONE OR MORE
27 ALTERNATE SUPERVISING PHYSICIANS.

28 15-301.

29 (a) Nothing in this title may be construed to authorize a physician assistant to
30 practice independent of a supervising physician.

31 (b) A certificate issued to a physician assistant shall limit the physician
32 assistant's scope of practice to medical acts:

33 (1) Delegated by the supervising physician;

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

36 (3) Customary to the practice of the supervising physician; and

- 1 (4) Consistent with the delegation agreement submitted to the Board.
- 2 (c) Patient services that may be provided by a physician assistant include:
- 3 (1) (i) Taking complete, detailed, and accurate patient histories; and
- 4 (ii) Reviewing patient records to develop comprehensive medical
- 5 status reports;
- 6 (2) Performing physical examinations and recording all pertinent
- 7 patient data;
- 8 (3) Interpreting and evaluating patient data as authorized by the
- 9 supervising physician for the purpose of determining management and treatment of
- 10 patients;
- 11 (4) Initiating requests for or performing diagnostic procedures as
- 12 indicated by pertinent data and as authorized by the supervising physician;
- 13 (5) Providing instructions and guidance regarding medical care matters
- 14 to patients;
- 15 (6) Assisting the supervising physician in the delivery of services to
- 16 patients who require medical care in the home and in health care institutions,
- 17 including:
- 18 (i) Recording patient progress notes;
- 19 (ii) Issuing diagnostic orders ~~that must be countersigned by the~~
- 20 ~~supervising physician within 48 hours~~ A PERIOD REASONABLE AND APPROPRIATE TO
- 21 THE PRACTICE SETTING AND CONSISTENT WITH CURRENT STANDARDS OF
- 22 ACCEPTABLE MEDICAL PRACTICE; and
- 23 (iii) Transcribing or executing specific orders at the direction of the
- 24 supervising physician; and
- 25 (7) [(i) Writing medication orders under an approved delegation
- 26 agreement and in accordance with § 15-302.1 of this subtitle; or
- 27 (ii)] Exercising prescriptive authority under an approved delegation
- 28 agreement and in accordance with § 15-302.2 of this subtitle.
- 29 (d) (1) Except as otherwise provided in this title, an individual shall be
- 30 certified by the Board before the individual may practice as a physician assistant.
- 31 (2) Except as otherwise provided in this title, a physician may not
- 32 supervise a physician assistant in the performance of delegated medical acts without
- 33 the approval of the Board.
- 34 (3) Except as otherwise provided in this title or in a medical emergency,
- 35 a physician assistant may not perform any medical act for which:

- 1 (i) The individual has not been certified; and
2 (ii) The medical acts have not been delegated by a supervising
3 physician.

4 (e) A physician assistant is the agent of the supervising physician in the
5 performance of all practice-related activities, including the oral, written, or electronic
6 ordering of diagnostic, therapeutic, and other medical services.

7 (f) Except as provided in subsection (g) of this section, the following
8 individuals may practice as a physician assistant without a certificate:

9 (1) A physician assistant student in a physician assistant training
10 program that is accredited by the Commission on Allied Health Education Programs
11 and approved by the Board; or

12 (2) A physician assistant employed in the service of the federal
13 government while performing duties incident to that employment.

14 (g) A physician may not delegate the authority to write medication orders or
15 the ability to exercise prescriptive authority to a physician assistant student in a
16 training program approved by the Board.

17 (h) (1) Except as prohibited by § 15-102(a) of this title, if a duty that is to be
18 delegated under this section is a part of the practice of a health occupation that is
19 regulated under this article by another board, any rule or regulation concerning that
20 duty shall be adopted jointly by the Board of Physician Quality Assurance and the
21 board that regulates the other health occupation.

22 (2) If the two boards cannot agree on a proposed rule or regulation, the
23 proposal shall be submitted to the Secretary for a final decision.

24 (i) Notwithstanding the provisions of this section, a patient being treated
25 regularly for a life threatening, chronic, degenerative, or disabling condition shall be
26 seen initially by the supervising physician and as frequently as the patient's condition
27 requires, but no less than within every five appointments or within 180 days,
28 whichever occurs first.

29 15-302.

30 (a) Subject to the provisions of subsection (i) of this section, the Board may
31 authorize a physician to delegate medical acts to a physician assistant only after:

32 (1) A delegation agreement has been executed and submitted to the
33 Committee for review to ensure the delegation agreement contains the requirements
34 of this subtitle; and

35 (2) The Board has reviewed and approved a favorable recommendation
36 by the Committee that the requirements of this subtitle have been met.

1 (b) The delegation agreement shall contain:

2 (1) A description of the qualifications of the supervising physician and
3 physician assistant;

4 (2) A description of the settings in which the physician assistant will
5 practice;

6 (3) A description of the continuous physician supervision mechanisms
7 that are reasonable and appropriate to the practice setting;

8 (4) A DESCRIPTION OF THE DELEGATED MEDICAL ACTS THAT ARE
9 WITHIN THE SUPERVISING PHYSICIAN'S SCOPE OF PRACTICE AND REQUIRE
10 SPECIALIZED EDUCATION OR TRAINING THAT IS CONSISTENT WITH ACCEPTED
11 MEDICAL PRACTICE;

12 ~~(4)~~ (5) An attestation that all medical acts to be delegated to the
13 physician assistant are within the scope of practice of the supervising physician and
14 appropriate to the physician assistant's education, training, and level of competence;

15 ~~(5)~~ (6) An attestation of continuous supervision of the physician
16 assistant by the supervising physician through the mechanisms described in the
17 delegation agreement;

18 ~~(6)~~ (7) An attestation by the supervising physician of the physician's
19 acceptance of responsibility for any care given by the physician assistant;

20 ~~(7)~~ (8) An attestation by the supervising physician that the physician
21 will respond in a timely manner when contacted by the physician assistant; and

22 ~~(8)~~ (9) Any other information deemed necessary by the Board or
23 Committee to carry out the provisions of this subtitle.

24 (c) (1) The delegation agreement shall be submitted with the application fee
25 established by the Board and the supervising physician and physician assistant shall
26 comply with all other requirements established by the Board in accordance with this
27 title.

28 (2) The Board shall set the application fee so as to produce funds to
29 approximate the cost of reviewing and approving delegation agreements and any
30 other related services provided.

31 (d) The Committee shall review the delegation agreement and recommend to
32 the Board that the delegation agreement be approved, rejected, or modified to ensure
33 conformance with the requirements of this title.

34 (e) The Committee may conduct a personal interview of the supervising
35 physician and the physician assistant.

1 (f) On review of the Committee's recommendation regarding a supervising
2 physician's request to delegate medical acts as described in a delegation agreement,
3 the Board:

4 (1) May approve ~~or, for good cause, modify or disapprove the Committee's~~
5 ~~recommendation; and~~

6 ~~(2) Shall notify the supervising physician and physician assistant in~~
7 ~~writing of the reasons for a Board decision to modify or disapprove the physician's~~
8 ~~request to delegate medical acts as described in THE DELEGATION AGREEMENT; OR~~

9 (2) (I) IF THE PHYSICIAN ASSISTANT DOES NOT MEET THE
10 APPLICABLE EDUCATION, TRAINING, AND EXPERIENCE REQUIREMENTS TO
11 PERFORM THE SPECIFIED DELEGATED ACTS, MAY MODIFY OR DISAPPROVE THE
12 DELEGATION AGREEMENT; AND

13 (II) IF THE BOARD TAKES AN ACTION UNDER ITEM (I) OF THIS ITEM:

14 1. SHALL NOTIFY THE SUPERVISING PHYSICIAN AND THE
15 PHYSICIAN ASSISTANT IN WRITING OF THE PARTICULAR ELEMENTS OF THE
16 PROPOSED DELEGATION AGREEMENT THAT WERE THE CAUSE FOR THE
17 MODIFICATION OR DISAPPROVAL; AND

18 2. MAY NOT RESTRICT THE SUBMISSION OF AN AMENDMENT
19 TO the delegation agreement.

20 (g) If the Board determines that a supervising physician or physician
21 assistant is practicing in a manner inconsistent with the requirements of this title or
22 Title 14 of this article, the Board on its own initiative or on the recommendation of the
23 Committee may demand modification of the practice, withdraw the approval of the
24 delegation agreement, or take other disciplinary action under § 14-404 or § 15-314 of
25 this article.

26 (h) (1) A delegation agreement approved under this subtitle may be
27 reviewed as a component of the certificate renewal process established under §
28 15-307 of this subtitle.

29 (2) A delegation agreement shall expire when a physician assistant's
30 certificate expires.

31 (i) The Board may not authorize a physician to delegate medical acts under a
32 delegation agreement to more than two physician assistants AT ANY ONE TIME,
33 ~~EXCEPT in a nonhospital setting~~ EXCEPT IN A HOSPITAL, CORRECTIONAL FACILITY,
34 DETENTION CENTER, OR PUBLIC HEALTH FACILITY.

35 (j) A person may not coerce another person to enter into a delegation
36 agreement under this subtitle.

37 (K) A PHYSICIAN MAY SUPERVISE A PHYSICIAN ASSISTANT:

1 (1) IN ACCORDANCE WITH A DELEGATION AGREEMENT APPROVED BY
2 THE BOARD UNDER THIS SUBTITLE; OR

3 (2) AS AN ALTERNATE SUPERVISING PHYSICIAN IF:

4 (I) THE ALTERNATE SUPERVISING PHYSICIAN SUPERVISES IN
5 ACCORDANCE WITH A DELEGATION AGREEMENT FILED WITH THE BOARD;

6 (II) THE ALTERNATE SUPERVISING PHYSICIAN SUPERVISES NO
7 MORE THAN FOUR PHYSICIAN ASSISTANTS AT ANY ONE TIME, EXCEPT IN A
8 HOSPITAL, CORRECTIONAL FACILITY, DETENTION CENTER, OR PUBLIC HEALTH
9 FACILITY; AND

10 (III) THE PHYSICIAN ASSISTANT PERFORMS ONLY THOSE MEDICAL
11 ACTS THAT:

12 1. HAVE BEEN DELEGATED UNDER THE DELEGATION
13 AGREEMENT FILED WITH THE BOARD; AND

14 2. ARE WITHIN THE SCOPE OF PRACTICE OF THE
15 ALTERNATE SUPERVISING PHYSICIAN.

16 (L) INDIVIDUAL MEMBERS OF THE BOARD ARE NOT CIVILLY LIABLE FOR
17 ACTIONS REGARDING THE APPROVAL, MODIFICATION, OR DISAPPROVAL OF A
18 DELEGATION AGREEMENT DESCRIBED IN THIS SECTION.

19 [15-302.1.

20 (a) A physician may delegate the authority to write medication orders under
21 an approved delegation agreement if:

22 (1) The supervising physician and the physician assistant include in the
23 delegation agreement:

24 (i) A statement of whether controlled dangerous substances,
25 noncontrolled substances, or nonprescription medications may be ordered by the
26 physician assistant;

27 (ii) Evidence of:

28 1. Certification by the National Commission on the
29 Certification of Physician Assistants, Inc. within the previous 2 years; or

30 2. Successful completion of 8 category 1 hours in
31 pharmacology education within the previous 2 years; and

32 (iii) Attestation that the physician assistant will comply with:

33 1. State and federal laws governing the prescribing of
34 medications; and

1 correctional facility, or detention center, or if the physician assistant no longer
2 provides care in a setting where medication order writing has been authorized;

3 (3) In a hospital, correctional facility, or detention center, the authority
4 of a physician assistant to write medication orders complies with the following
5 limitations:

6 (i) A physician assistant may write medication orders only for
7 Schedule II, Schedule III, Schedule IV, and Schedule V medications, noncontrolled
8 substances, and nonprescription medications; and

9 (ii) Medication orders must be administered on-site;

10 (4) In a public health facility, the authority of a physician assistant to
11 write medication orders complies with the following limitations:

12 (i) A physician assistant may not write medication orders for
13 controlled dangerous substances; and

14 (ii) A physician assistant may write a medication order for the
15 treatment of:

16 1. Human immunodeficiency virus (HIV) or an infectious
17 disease other than a sexually transmitted disease only after a patient is evaluated by
18 a physician and if the medication order is written in accordance with protocols
19 established by the Department; and

20 2. A sexually transmitted disease only after the physician
21 assistant determines, based on diagnostic parameters, that a patient has a sexually
22 transmitted disease and if the medication order is written in accordance with
23 protocols;

24 (5) In a hospital, correctional facility, or detention center, each
25 medication order is countersigned by a supervising physician within 48 hours;

26 (6) In a public health facility, each medication order is countersigned by
27 a supervising physician within 72 hours;

28 (7) The supervising physician:

29 (i) Attests that the physician assistant has been credentialed by
30 the hospital, public health facility, correctional facility, or detention center to write
31 medication orders for controlled dangerous substances, noncontrolled substances, or
32 nonprescription medications; and

33 (ii) Notifies the Board if the physician assistant's authority to write
34 medication orders has been restricted or removed by the supervising physician,
35 revoked by disciplinary measures of a hospital, public health facility, correctional
36 facility, or detention center, or if the physician assistant no longer provides care in a
37 setting where medication order writing has been authorized; and

1 (8) In an emergency room, a physician assistant discusses a patient's
2 treatment plan, including medication orders, with a supervising physician prior to
3 patient discharge.

4 (b) The Board shall adopt regulations to carry out the provisions of this
5 section.

6 (c) A physician assistant who has been approved by the Board to write
7 medication orders may not write medication orders for controlled dangerous
8 substances in accordance with this section unless the physician assistant has a valid:

9 (1) State controlled dangerous substances registration; and

10 (2) Federal Drug Enforcement Agency (DEA) registration unless the
11 registration is waived by the DEA.]

12 15-302.3.

13 (a) On a quarterly basis, the Board shall provide to the Board of Pharmacy a
14 list of physician assistants whose delegation agreements include the delegation of
15 authority to [write medication orders or to] exercise prescriptive authority.

16 (b) The list required under subsection (a) of this section shall specify whether
17 each physician assistant has been delegated the authority to prescribe controlled
18 dangerous substances, prescription drugs, or medical devices.

19 (c) If a supervising physician who has delegated authority to [write
20 medication orders or to] exercise prescriptive authority to a physician assistant
21 subsequently restricts or removes the delegation, the supervising physician shall
22 notify the Board of the restriction or removal within 5 business days.

23 15-310.

24 (E) (1) (I) THE BOARD SHALL ASSESS EACH APPLICANT FOR A
25 CERTIFICATE OR THE RENEWAL OF A CERTIFICATE TO PRACTICE AS A PHYSICIAN
26 ASSISTANT A FEE SET BY THE BOARD.

27 (II) THE FEE SHALL BE SUFFICIENT TO FUND THE ACTIVITIES OF
28 THE FACULTY IN CONDUCTING A PHYSICIAN ASSISTANT REHABILITATION PROGRAM.

29 (III) THE FEE SHALL BE SET BY THE SECRETARY EACH YEAR AFTER
30 THE SUBMISSION BY THE FACULTY TO THE BOARD OF THE ANNUAL BUDGET FOR
31 THE PHYSICIAN ASSISTANT REHABILITATION PROGRAM.

32 (2) AS PROVIDED UNDER § 2-1220 OF THE STATE GOVERNMENT ARTICLE,
33 THE LEGISLATIVE AUDITOR, EVERY 2 YEARS, SHALL AUDIT THE ACCOUNTS AND
34 TRANSACTIONS OF THE FACULTY IN CONDUCTING THE PHYSICIAN ASSISTANT
35 REHABILITATION PROGRAM.

1 15-403.

2 (A) A person who violates § 15-401 or § 15-402 of this subtitle:

3 (1) Is guilty of a misdemeanor and on conviction is subject to a fine not
4 exceeding \$5,000 or imprisonment not exceeding 5 years or both; and

5 (2) Shall lose certification as a physician assistant under this title.

6 (B) (1) IN ADDITION TO THE PENALTIES UNDER SUBSECTION (A) OF THIS
7 SECTION, A PERSON WHO VIOLATES § 15-401 OF THIS SUBTITLE MAY BE SUBJECT TO
8 A CIVIL PENALTY ASSESSED BY THE BOARD IN AN AMOUNT NOT EXCEEDING \$5,000.

9 (2) THE BOARD SHALL PAY ANY CIVIL PENALTY COLLECTED UNDER
10 THIS SUBSECTION INTO THE STATE BOARD OF PHYSICIAN QUALITY ASSURANCE
11 FUND.

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
13 October 1, 2001.