



Board of Physicians

Wes Moore, Governor · Aruna Miller, Lt. Governor · Damean W.E. Freas, D.O., Chair

2023 SESSION POSITION PAPER

BILL NO.: HB 727 – Physician Assistants – Revisions
COMMITTEE: Health and Government Operations
POSITION: Letter of Support with Amendments

TITLE: Physician Assistants – Revisions (Physician Assistant Modernization Act)

POSITION & RATIONALE:

The Maryland Board of Physicians (the Board) is respectfully submitting this letter of support with amendments for House Bill (HB) 727 – Physician Assistants – Revisions (Physician Assistant Modernization Act). HB 727 would expand the scope of practice for physician assistants and remove the supervisory relationship between a physician and a physician assistant, replacing it with a collaboration registration.

Currently in Maryland, physician assistants work as physician extenders, providing vital medical services under the supervision of a licensed physician. Physician assistants are required to operate within a delegation agreement, which includes a description of the medical acts being delegated to the physician assistant as well as supervision mechanisms that are reasonable and appropriate to the practice setting. The performance of advanced duties, defined as medical acts that require additional training beyond the core physician assistant education program, requires review by the Physician Assistant Advisory Committee (the PAAC), an advisory committee to the Board, and approval by the Board. Information regarding the delegation agreement, supervising physician and prescriptive authority are published on the physician assistant and supervising physician’s practitioner profiles, where any member of the public may review them.

HB 727 would remove the delegation agreement process altogether and replace it with a collaboration registration, fundamentally altering a physician assistant from a physician extender to a provider who merely collaborates and consults with a physician as needed. HB 727 would also remove any distinction between core duties taught during a physician assistant’s required education and advanced duties that are learned on the job and subject to approval by the Board. The collaboration registration proposed in HB 727 would require no approval of advanced duties by the Board or review by the PAAC and would not require that the physician assistant demonstrate that they possess the education, training or experience to perform these advanced duties.

While HB 727 limits medical acts performed by a physician assistant to those consistent with their education, training and experience, there is no verification of these vital criteria or delegation required. Under HB 727, a physician assistant would be permitted to perform any medical task that a physician could perform, without prior approval by the Board or their collaborating physician. HB 727 would also explicitly expand the scope of practice for all physician assistants to include the authority to prescribe and dispense controlled dangerous substances, prescription drugs and medical devices.

The Board understands the importance of updating its requirements to match current practice standards, and welcomes the opportunity to streamline its delegation agreement process and remove potentially burdensome requirements. However, the changes proposed in HB 727 would represent a radical departure from current practice, and would remove an important piece of patient protection and transparency in Maryland.

In addition to this core concern, the Board has also identified several other areas of HB 727 that are potentially problematic:

- By exempting physician assistants from the permitting requirements found under Health Occupations Article § 12-102, HB 727 would entirely remove the requirement that a physician assistant first obtains a dispensing permit before dispensing prescription drugs and devices. This would allow all physician assistants to directly dispense prescription drugs and devices without ever obtaining a dispensing permit from the Board, resulting in both broader authority and less oversight than physicians and other health occupations.
- The definition of a collaboration agreement found on page 6, lines 10 through 19, allows a collaboration agreement to be made between a physician assistant and a “health care facility or organization that employs, contracts with, or credentials physicians.” The Board does not license or regulate facilities, and many qualifying organizations are not regulated by the State of Maryland at all. The Board is concerned that it would have no authority to enforce requirements with a facility or organization listed on a collaboration agreement.
- There is currently no requirement that the acts performed by a physician assistant under HB 727 must be within the scope of practice of any of the physicians on the collaboration registration. Currently a physician may only delegate duties within their scope of practice to a physician assistant.
- HB 727 removes the continuing education requirements previously set by the legislature for physician assistants who wish to perform x-ray procedures.
- On page 9, lines 21 through 24, HB 727 extends the reporting requirement for a terminated agreement from 10 days to 30 days. As physician assistants are only able to practice under their delegation agreement, it is vital that the Board is notified as soon as possible when such an agreement is terminated.
- On page 9, line 32, and page 11, lines 2 and 11, HB 727 makes significant changes to the hospital or employer reporting requirements for adverse actions. Currently, a hospital or related institution must report to the Board any action that might be grounds for reprimand under the Maryland Medical Practice Act within 10 days, and employers and facilities must report the termination of employment within 5 days of termination. These reports often involve extremely serious violations, such as performing medical acts while intoxicated, and it is absolutely necessary that the Board begin an investigation as quickly as possible. HB 727 would extend the reporting timeline for hospitals from 10 days to 30 days and extend the notification of termination from 5 days to 14 days. HB 727 would also change the standard for reported actions from “reason to know” to “actual knowledge,” which represents a significantly higher legal barrier and would drastically reduce the reports received. These changes would put physician assistants out of line with every other profession regulated under the Maryland Medical Practice Act and would weaken an essential piece of public protection.
- On page 14, lines 25 through 32, HB 727 establishes a “mentoring” process for new physician assistants. However, this mentoring process is never defined, and a physician assistant would still have the full authority to perform any medical act during the period they are being mentored.
- On page 18, lines 24 through 31, HB 727 removes the ability for the Board to terminate an existing agreement. This would limit the Board to pursuing disciplinary action even in cases where the collaboration agreement was demonstrated to be inappropriate or insufficient. The physician assistant would be permitted to continue operating under the current agreement in such cases while an investigation was conducted and discipline was considered.
- On page 27, lines 18 through 20, HB 727 states that a collaboration registration must be available for inspection at the primary place of business of the licensee. However, there is currently no standard set for notifying the Board of changes to the collaboration registration or penalties for failure to notify the Board in a timely fashion. The Board currently is required to maintain active practitioner profiles for reasons of public transparency. These profiles are also used as primary sources for purposes of credentialing. In order to keep these profiles adequately updated, it is vital that any changes to agreements or registrations must be reported to the Board within 5 business days

of the change, with civil penalties for failure to report (as is done for failure to report changes to name or address).

- On page 29, lines 22 through 27, HB 727 grants immunity to liability for physician assistants performing services during a disaster. This immunity would be unique to physician assistants, and the Board is unclear with regard to its provenance.

Despite these concerns, the Board does agree with the overall intent of modernizing the current standards for physician assistants and establishing a regulatory process that is more in alignment with current standards. To that end, the Board proposes the following:

- **Remove the advanced duty approval process for physician assistants employed in hospitals, ambulatory surgical centers and other licensed facilities.**

As hospitals and other facilities regulated by the state perform their own credentialing, the Board believes that the current requirement for approval of delegation agreements containing advanced duties is duplicative and unnecessary. Removing this step will streamline the process for physician assistants who are employed by these facilities while maintaining the current approval process for physician assistants working in private practice settings where there is less regulatory oversight and where they are not receiving independent credentialing.

- **Automatically approve delegation agreements containing advanced duties for physician assistants who have been previously approved for these duties.**

Currently, a delegation agreement containing advanced duties must be reviewed by the PAAC and approved by the Board even if the physician assistant was previously approved to perform these duties. This creates obstacles for physician assistants who change jobs after they have already demonstrated that they possess the education, training and experience to perform these duties. While the Board has developed regulations to create temporary practice letters allowing such physician assistants to temporarily practice while waiting for their advanced duties to be approved, the Board believes physician assistants should be able to “carry” their advanced duties even when changing delegation agreements, provided any duties they perform are within the scope of practice of the delegating physician.

- **Expand the number of physician assistants a physician may supervise at any given time.**

Currently, a physician may supervise no more than four physician assistants at a given time. Expanding this number would better reflect the collaborative team approach that HB 727 attempts to create. The Board believes that a physician could adequately supervise as many as eight physician assistants.

Thank you for your consideration. For more information, please contact Matthew Dudzic, Manager of Policy and Legislation, Maryland Board of Physicians, 410-764-5042.

Sincerely,



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Chair, Maryland Board of Physicians

The opinion of the Board expressed in this document does not necessarily reflect that of the Maryland Department of Health or the Administration.