An Act

ENROLLED SENATE
BILL NO. 1915

By: David, Kidd and Bergstrom of the Senate

and

Pfeiffer and Brewer of the House

An Act relating to professions and occupations; amending 59 O.S. 2011, Sections 519.2, as amended by Section 1, Chapter 163, O.S.L. 2015, 519.6, as amended by Section 3, Chapter 163, O.S.L. 2015, 519.7, 519.8, as amended by Section 7, Chapter 428, O.S.L. 2019, and 519.11, as amended by Section 5, Chapter 163, O.S.L. 2015 (59 O.S. Supp. 2019, Sections 519.2, 519.6, 519.8 and 519.11), which relate to physician assistants; modifying definitions; modifying provisions related to services by physician assistants; requiring filing of certain agreements with State Board of Medical Licensure and Supervision; providing for multiple practice agreements; requiring good standing; imposing duties on State Board of Medical Licensure and Supervision; prescribing report and contents thereof; modifying provisions related to administrative rules; providing for status of physician assistants; prescribing requirements related to payment for services; prescribing requirements related to medical billing; prohibiting certain practices or requirements by insurance company or third-party payer; authorizing rendition of certain medical care; providing for immunity for certain liability; providing exception; providing for construction of Physician Assistants Act; and providing for codification.

SUBJECT: Physician assistants

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 59 O.S. 2011, Section 519.2, as amended by Section 1, Chapter 163, O.S.L. 2015 (59 O.S. Supp. 2019, Section 519.2), is amended to read as follows:

Section 519.2. As used in the Physician Assistant Act:

1. "Board" means the State Board of Medical Licensure and Supervision;

2. "Committee" means the Physician Assistant Committee;

3. "Practice of medicine" means services which require training in the diagnosis, treatment and prevention of disease, including the use and administration of drugs, and which are performed by physician assistants so long as such services are within the physician assistants' skill, form a component of the physician's scope of practice, and are provided with physician supervision, including authenticating ~~with the~~ by signature any form that may be authenticated by the ~~supervising~~ delegating physician's signature with prior delegation by the physician~~.~~

~~Nothing in the Physician Assistant Act shall be construed to permit physician assistants to provide health care services independent of physician supervision~~;

4. "Patient care setting" means and includes, but is not limited to, a physician's office, clinic, hospital, nursing home, extended care facility, patient's home, ambulatory surgical center, hospice facility or any other setting authorized by the ~~supervising~~ delegating physician;

5. "Physician assistant" means a health care professional, qualified by academic and clinical education and licensed by the State Board of Medical Licensure and Supervision, to practice medicine with physician supervision;

6. "~~Supervising~~ Delegating physician" means an individual holding a license in good standing as a physician from the State Board of Medical Licensure and Supervision or the State Board of Osteopathic Examiners, who supervises physician assistants and delegates decision making pursuant to the practice agreement;

7. "Supervision" means overseeing or delegating the activities of~~, and accepting responsibility for,~~ the medical services rendered by a physician assistant through a practice agreement between a medical doctor or osteopathic physician performing procedures or directly or indirectly involved with the treatment of a patient, and the physician assistant working jointly toward a common goal of providing services. Delegation shall be defined by the practice agreement. The ~~constant~~ physical presence of the ~~supervising~~ delegating physician is not required as long as the ~~supervising~~ delegating physician and physician assistant are or can be easily in contact with each other by telecommunication. At all times a physician assistant shall be considered an agent of the delegating physician;

8. "Telecommunication" means the use of electronic technologies to transmit words, sounds or images for interpersonal communication, clinical care (telemedicine) and review of electronic health records; and

9. ~~"Application to practice" means a written description that defines the scope of practice and the terms of supervision of a physician assistant in a medical practice~~ "Practice agreement" means a written agreement between a physician assistant and the delegating physician concerning the scope of practice of the physician assistant to only be determined by the delegating physician and the physician assistant based on the education, training, skills and experience of the physician assistant. The agreement shall involve the joint formulation, discussion and agreement on the methods of supervision and collaboration for diagnosis, consultation and treatment of medical conditions.

SECTION 2. AMENDATORY 59 O.S. 2011, Section 519.6, as amended by Section 3, Chapter 163, O.S.L. 2015 (59 O.S. Supp. 2019, Section 519.6), is amended to read as follows:

Section 519.6. A. No health care services may be performed by a physician assistant unless a current ~~application to practice, jointly filed by the supervising physician and physician assistant,~~ license is on file with and approved by the State Board of Medical Licensure and Supervision. ~~The application shall include a description of the physician's practice, methods of supervising and utilizing the physician assistant, and names of alternate supervising physicians who will supervise the physician assistant in the absence of the primary supervising physician~~ All practice agreements and any amendments shall be filed with the State Board of Medical Licensure and Supervision within ten (10) business days of being executed. Practice agreements may be filed electronically. The State Board of Medical Licensure and Supervision shall not charge a fee for filing or amendments of practice agreements.

B. A physician assistant may have practice agreements with multiple allopathic or osteopathic physicians. Each physician shall be in good standing with the State Board of Medical Licensure and Supervision or the State Board of Osteopathic Examiners.

C. The ~~supervising~~ delegating physician need not be physically present nor be specifically consulted before each delegated patient care service is performed by a physician assistant, so long as the ~~supervising~~ delegating physician and physician assistant are or can be easily in contact with one another by means of telecommunication. In all patient care settings, the ~~supervising~~ delegating physician shall provide appropriate methods of ~~supervising the~~ participating in health care services provided by the physician assistant including:

a. being responsible for the formulation or approval of all orders and protocols, whether standing orders, direct orders or any other orders or protocols, which direct the delivery of health care services provided by a physician assistant, and periodically reviewing such orders and protocols,

b. regularly reviewing the health care services provided by the physician assistant and any problems or complications encountered,

c. being available physically or through telemedicine or direct telecommunications for consultation, assistance with medical emergencies or patient referral,

d. reviewing a sample of outpatient medical records. Such reviews shall take place at ~~the practice~~ a site ~~as determined by the supervising~~ agreed upon between the delegating physician and ~~with approval of the State Board of Medical Licensure and Supervision~~ physician assistant in the practice agreement which may also occur using electronic or virtual conferencing, and

e. that it remains clear that the physician assistant is an agent of the ~~supervising~~ delegating physician; but, in no event shall the ~~supervising~~ delegating physician be an employee of the physician assistant.

~~C.~~ D. In patients with newly diagnosed complex illnesses, the physician assistant shall contact the ~~supervising~~ delegating physician within forty-eight (48) hours of the physician assistant's initial examination or treatment and schedule the patient for appropriate evaluation by the ~~supervising~~ delegating physician as directed by the physician. The ~~supervising~~ delegating physician shall determine which conditions qualify as complex illnesses based on the clinical setting and the skill and experience of the physician assistant.

~~D.~~ E. 1. A physician assistant under the direction of a ~~supervising~~ delegating physician may prescribe written and oral prescriptions and orders. The physician assistant may prescribe drugs, including controlled medications in Schedules II through V pursuant to Section 2-312 of Title 63 of the Oklahoma Statutes, and medical supplies and services as delegated by the ~~supervising~~ delegating physician and as approved by the State Board of Medical Licensure and Supervision after consultation with the State Board of Pharmacy on the Physician Assistant Drug Formulary.

2. A physician assistant may write an order for a Schedule II drug for immediate or ongoing administration on site. Prescriptions and orders for Schedule II drugs written by a physician assistant must be included on a written protocol determined by the ~~supervising~~

delegating physician and approved by the medical staff committee of the facility or by direct verbal order of the ~~supervising~~ delegating physician. Physician assistants may not dispense drugs, but may request, receive, and sign for professional samples and may distribute professional samples to patients.

~~E.~~ F. A physician assistant may perform health care services in patient care settings as authorized by the ~~supervising~~ delegating physician.

~~F.~~ G. Each physician assistant licensed under the Physician Assistant Act shall keep his or her license available for inspection at the primary place of business and shall, when engaged in professional activities, identify himself or herself as a physician assistant.

H. A physician assistant shall be bound by the provisions contained in Sections 725.1 through 725.5 of Title 59 of the Oklahoma Statutes.

SECTION 3. AMENDATORY 59 O.S. 2011, Section 519.7, is amended to read as follows:

Section 519.7. A. The Secretary of the State Board of Medical Licensure and Supervision is authorized to grant temporary approval of a license ~~and application to practice~~ to any ~~physician and~~ physician assistant who ~~have jointly~~ has filed a license ~~and application to practice~~ which meets the requirements set forth by the Board. Such temporary licensure approval ~~to practice~~ shall be reviewed at the next regularly scheduled meeting of the Board. The temporary approval may be approved, extended or rejected by the Board. If rejected, the temporary approval shall expire immediately.

B. The State Board of Medical Licensure and Supervision shall collect the following data and publish a report compiling such data on an annual basis:

1. Whether the physician assistant practices at the same location as the delegating physician;

2. The type of facility in which the physician assistant practices;

3. Number of physicians the physician assistant has a practice agreement with;

4. Number of physician assistants physicians have a practice agreement with;

5. Number of years a physician assistant has been practicing; and

6. Number of licensed physician assistants in Oklahoma.

SECTION 4. AMENDATORY 59 O.S. 2011, Section 519.8, as amended by Section 7, Chapter 428, O.S.L. 2019 (59 O.S. Supp. 2019, Section 519.8), is amended to read as follows:

Section 519.8. A. Licenses issued to physician assistants shall be renewed annually on a date determined by the State Board of Medical Licensure and Supervision. Each application for renewal shall document that the physician assistant has earned at least twenty (20) hours of continuing medical education during the preceding calendar year. Such continuing medical education shall include not less than one (1) hour of education in pain management or one (1) hour of education in opioid use or addiction.

B. The Board shall promulgate, in the manner established by its rules, fees for the following:

1. Initial licensure;

2. License renewal;

3. Late license renewal; and

4. ~~Application to practice; and~~

~~5.~~ Disciplinary hearing.

SECTION 5. AMENDATORY 59 O.S. 2011, Section 519.11, as amended by Section 5, Chapter 163, O.S.L. 2015 (59 O.S. Supp. 2019, Section 519.11), is amended to read as follows:

Section 519.11. A. Nothing in the Physician Assistant Act shall be construed to prevent or restrict the practice, services or activities of any persons of other licensed professions or personnel supervised by licensed professions in this state from performing work incidental to the practice of their profession or occupation, if that person does not represent himself as a physician assistant.

B. Nothing stated in the Physician Assistant Act shall prevent any hospital from requiring the physician assistant ~~and/or the supervising~~ or the delegating physician to meet and maintain certain staff appointment and ~~credentialling~~ credentialing qualifications for the privilege of practicing as, or utilizing, a physician assistant in the hospital.

C. Nothing in the Physician Assistant Act shall be construed to permit a physician assistant to practice medicine or prescribe drugs and medical supplies in this state except when such actions are performed under the supervision and at the direction of a physician or physicians approved by the State Board of Medical Licensure and Supervision.

D. Nothing herein shall be construed to require licensure under ~~this act~~ the Physician Assistant Act of a physician assistant student enrolled in a physician assistant educational program accredited by the Accreditation Review Commission on Education for the Physician Assistant.

E. Notwithstanding any other provision of law, no one who is not a physician licensed to practice medicine in ~~the state of Oklahoma~~ this state may perform acts restricted to such physicians pursuant to the provisions of Section 1-731 of Title 63 of the Oklahoma Statutes. This paragraph is inseverable.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 521.1 of Title 59, unless there is created a duplication in numbering, reads as follows:

Notwithstanding any other provision of law or regulation, a physician assistant shall be considered to be a primary care provider when the physician assistant is practicing in the medical specialties required for a physician to be a primary care provider.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 521.2 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. Payment for services within the physician assistant's scope of practice by a health insurance plan shall be made when ordered or performed by the physician assistant, if the same service would have been covered if ordered or performed by a physician. An in-network physician assistant shall be authorized to bill for and receive direct payment for the medically necessary services the physician assistant delivers.

B. To ensure accountability and transparency for patients, payers and the health care system, an in-network physician assistant shall be identified as the rendering professional in the billing and claims process when the physician assistant delivers medical or surgical services to patients.

C. No insurance company or third-party payer shall impose a practice, education, or collaboration requirement that is inconsistent with or more restrictive than existing physician assistant state laws or regulations.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 521.3 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. A physician assistant licensed in this state or licensed or authorized to practice in any other U.S. jurisdiction or who is credentialed as a physician assistant by a federal employer who is responding to a need for medical care created by an emergency or a state or local disaster may render such care that the physician assistant is able to provide.

B. A physician assistant so responding who voluntarily and gratuitously, and other than in the ordinary course of employment or practice, renders emergency medical assistance shall not be liable

for civil damages for any personal injuries that result from acts or omissions which may constitute ordinary negligence. The immunity granted by this section shall not apply to acts or omissions constituting gross, willful or wanton negligence.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 521.4 of Title 59, unless there is created a duplication in numbering, reads as follows:

Nothing in the Physician Assistant Act shall be construed to permit a physician assistant to:

1. Provide health care services independent of physician supervision; or

2. Maintain or operate an independent practice without a practice agreement between a physician assistant and a delegating physician.

Passed the Senate the 15th day of May, 2020.

Stephanie L Bice
Presiding Officer of the Senate

Passed the House of Representatives the 14th day of May, 2020.

Presiding Officer of the House of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 15th day of May, 2020, at 1:51 o'clock a. M.

By: Summer Curry

Approved by the Governor of the State of Oklahoma this 21st day of May, 2020, at 9:25 o'clock a. M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 21st day of May, 2020, at 12:45 o'clock P. M.

By: Michael Rogers