

7357

I N S E N A T E

March 31, 2010

Introduced by Sen. YOUNG -- read twice and ordered printed, and when printed to be committed to the Committee on Health

AN ACT to amend the public health law, the education law, the vehicle and traffic law, the social services law, the workers' compensation law, the mental hygiene law and the general business law, in relation to clarifying the scope of practice of registered physician assistants

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivision 1 of section 3700 of the public health law, as  
2 amended by chapter 210 of the laws of 1975, is amended to read as  
3 follows:

4 1. Physician's assistant. The term "physician's assistant" means [a  
5 person] A DEPENDENT PRACTITIONER WORKING UNDER THE SUPERVISION OF A  
6 LICENSED PHYSICIAN RESPONSIBLE FOR THE ACTIONS OF THE PHYSICIAN ASSIST-  
7 ANT AND who is registered as a [physician's] PHYSICIAN assistant pursu-  
8 ant to section sixty-five hundred thirty-one of the education law.

9 S 2. The public health law is amended by adding two new sections 3704  
10 and 3705 to read as follows:

11 S 3704. PERFORMANCE OF MEDICAL SERVICES. 1. A PHYSICIAN'S ASSISTANT  
12 MAY PERFORM MEDICAL SERVICES, BUT ONLY WHEN UNDER THE SUPERVISION OF A  
13 PHYSICIAN AND ONLY WHEN SUCH ACTS ASSIGNED TO HIM OR HER ARE WITHIN THE  
14 SCOPE OF PRACTICE OF SUCH SUPERVISING PHYSICIAN. THE SUPERVISING PHYSI-  
15 CIAN MAY DELEGATE TO THE PHYSICIAN'S ASSISTANT ANY MEDICAL PROCEDURES OR  
16 TASKS FOR WHICH THE PHYSICIAN'S ASSISTANT IS APPROPRIATELY TRAINED AND  
17 QUALIFIED TO PERFORM AND THAT ARE PERFORMED WITHIN THE NORMAL SCOPE OF  
18 THE PHYSICIAN'S PRACTICE.

19 2. NOTHING IN THIS ARTICLE OR IN ARTICLE ONE HUNDRED THIRTY-ONE-B OF  
20 THE EDUCATION LAW SHALL BE CONSTRUED TO AUTHORIZE PHYSICIAN'S ASSISTANTS  
21 TO PERFORM THOSE SPECIFIC FUNCTIONS AND DUTIES SPECIFICALLY DELEGATED BY  
22 LAW TO THOSE PERSONS LICENSED AS ALLIED HEALTH PROFESSIONALS UNDER THIS  
23 CHAPTER OR THE EDUCATION LAW. SPECIFICALLY, PHYSICIAN'S ASSISTANTS SHALL  
24 NOT PERFORM THE PRACTICE OF RADIOLOGIC TECHNOLOGY OR THE PRACTICE OF  
25 OPTOMETRY AS THOSE PRACTICES ARE DEFINED UNDER THIS CHAPTER AND THE  
26 EDUCATION LAW.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

LBD16537-01-0

1 S 3705. STATUTORY CONSTRUCTION. EXCEPT AS SET FORTH IN ARTICLE THIR-  
2 TY-THREE OF THIS CHAPTER, PHYSICIAN'S ASSISTANTS MAY PERFORM ANY FUNC-  
3 TION, WITH APPROPRIATE PHYSICIAN SUPERVISION, IN ANY HEALTH CARE  
4 SETTING, THAT A STATUTE AUTHORIZES OR DIRECTS A PHYSICIAN TO PERFORM AND  
5 THAT IS WITHIN THE NORMAL PRACTICE OF THAT PHYSICIAN, UNLESS THE STATUTE  
6 AUTHORIZING OR DIRECTING THE PHYSICIAN TO PERFORM SUCH FUNCTION OR FUNC-  
7 TIONS EXPRESSLY STATES OTHERWISE.

8 S 3. Subdivisions 1 and 2 of section 2305 of the public health law, as  
9 amended by chapter 878 of the laws of 1980, are amended to read as  
10 follows:

11 1. No person, other than a licensed physician OR A PHYSICIAN ASSISTANT  
12 UNDER THE SUPERVISION OF A LICENSED PHYSICIAN, or, in a hospital, a  
13 staff physician, shall diagnose, treat or prescribe for a person who is  
14 infected with a sexually transmissible disease, or who has been exposed  
15 to infection with a sexually transmissible disease, or dispense or sell  
16 a drug, medicine or remedy for the treatment of such person except on  
17 prescription of a duly licensed physician OR A PHYSICIAN ASSISTANT UNDER  
18 THE SUPERVISION OF A LICENSED PHYSICIAN.

19 2. A licensed physician OR A PHYSICIAN ASSISTANT UNDER THE SUPERVISION  
20 OF A LICENSED PHYSICIAN, or in a hospital, a staff physician, may diag-  
21 nose, treat or prescribe for a person under the age of twenty-one years  
22 without the consent or knowledge of the parents or guardian of said  
23 person, where such person is infected with a sexually transmissible  
24 disease, or has been exposed to infection with a sexually transmissible  
25 disease.

26 S 4. Subdivisions 1 and 2 of section 2308 of the public health law are  
27 amended to read as follows:

28 1. Every physician OR PHYSICIAN ASSISTANT UNDER THE SUPERVISION OF  
29 SUCH PHYSICIAN attending pregnant women in the state shall in the case  
30 of every woman so attended take or cause to be taken a sample of blood  
31 of such woman at the time of first examination, and submit such sample  
32 to an approved laboratory for a standard serological test for syphilis.

33 2. Every other person permitted by law to attend upon pregnant women  
34 in the state but not permitted by law to take blood tests, shall cause a  
35 sample of the blood of such pregnant woman to be taken promptly by a  
36 duly licensed physician OR A PHYSICIAN ASSISTANT UNDER THE SUPERVISION  
37 OF SUCH PHYSICIAN and submitted to an approved laboratory for a standard  
38 serological test for syphilis.

39 S 5. Subdivision 2 of section 2308-a of the public health law, as  
40 amended by chapter 878 of the laws of 1980, is amended to read as  
41 follows:

42 2. Each physician OR PHYSICIAN ASSISTANT UNDER THE SUPERVISION OF SUCH  
43 PHYSICIAN providing gynecological, obstetrical, genito-urological,  
44 contraceptive, sterilization, or termination of pregnancy services or  
45 treatment shall offer to administer to every resident of the state of  
46 New York coming to such physician OR PHYSICIAN ASSISTANT for such  
47 services or treatment, appropriate examinations or tests for the  
48 detection of sexually transmissible diseases.

49 S 6. Section 2498 of the public health law, as added by chapter 237 of  
50 the laws of 1990, is amended to read as follows:

51 S 2498. Provision of summary by physician. The summary shall be  
52 provided by a physician, OR A PHYSICIAN ASSISTANT UNDER THE SUPERVISION  
53 OF SUCH PHYSICIAN, to each person under such physician's OR PHYSICIAN  
54 ASSISTANT'S care, when a hysterectomy is under consideration for that  
55 person.

1 S 7. Subdivision 10 of section 2500-e of the public health law, as  
2 added by chapter 4 of the laws of 1990, is amended to read as follows:

3 10. If any licensed physician, PHYSICIAN ASSISTANT UNDER THE SUPER-  
4 VISION OF A LICENSED PHYSICIAN or nurse practitioner certifies that a  
5 follow-up dose of hepatitis B vaccine may be detrimental to a child's  
6 health, the requirements of this section shall be inapplicable until  
7 such immunization is found no longer to be detrimental to such child's  
8 health.

9 S 8. Section 2502 of the public health law, as amended by chapter 884  
10 of the laws of 1972, is amended to read as follows:

11 S 2502. Report of certain conditions. Any nurse-midwife, nurse or  
12 other person having the care of an infant within the age of two weeks  
13 who neglects or omits to report immediately to the health officer or to  
14 a legally qualified practitioner of medicine of the city, town or place  
15 where such child is being cared for, the fact that one or both eyes of  
16 such infant are [inflamed] INFLAMED or reddened whenever such shall be  
17 the case, or who applies any remedy therefor without the advice, or  
18 except by the direction of such officer or physician OR A PHYSICIAN  
19 ASSISTANT UNDER THE SUPERVISION OF A PHYSICIAN is guilty of a misdemea-  
20 nor.

21 S 9. Section 2503 of the public health law, as amended by chapter 485  
22 of the laws of 1978, is amended to read as follows:

23 S 2503. Drug information to be furnished expectant mothers. The physi-  
24 cian, A PHYSICIAN ASSISTANT UNDER THE SUPERVISION OF A PHYSICIAN or  
25 nurse-midwife to be in attendance at the birth of a child shall inform  
26 the expectant mother, in advance of the birth, of the drugs that such  
27 physician, PHYSICIAN ASSISTANT UNDER THE SUPERVISION OF A PHYSICIAN or  
28 nurse-midwife expects to employ during pregnancy and of the obstetrical  
29 and other drugs that such physician, PHYSICIAN ASSISTANT UNDER THE  
30 SUPERVISION OF A PHYSICIAN or nurse-midwife expects to employ at birth  
31 and of the possible effects of such drugs on the child and mother.

32 S 10. Subdivision 4 of section 2504 of the public health law, as added  
33 by chapter 769 of the laws of 1972 and as renumbered by chapter 976 of  
34 the laws of 1984, is amended to read as follows:

35 4. Medical, dental, health and hospital services may be rendered to  
36 persons of any age without the consent of a parent or legal guardian  
37 when, in the physician's OR PHYSICIAN ASSISTANT'S UNDER THE SUPERVISION  
38 OF SUCH PHYSICIAN judgment an emergency exists and the person is in  
39 immediate need of medical attention and an attempt to secure consent  
40 would result in delay of treatment which would increase the risk to the  
41 person's life or health.

42 S 11. Subdivision 1 of section 2570 of the public health law, as  
43 amended by chapter 495 of the laws of 1955, is amended to read as  
44 follows:

45 1. Every institution in this state, operated for the express purpose  
46 of receiving or caring for dependent, neglected or destitute children or  
47 juvenile delinquents, except hospitals, shall have attached thereto a  
48 regular physician OR PHYSICIAN ASSISTANT UNDER THE SUPERVISION OF A  
49 REGULAR PHYSICIAN of its selection duly licensed under the laws of the  
50 state and in good professional standing, whose name and address shall be  
51 kept posted conspicuously within such institution.

52 S 12. Subdivision 1 of section 2573 of the public health law, as added  
53 by chapter 495 of the laws of 1955, is amended to read as follows:

54 1. The administrative officer or person in charge and the regular  
55 physician OR PHYSICIAN ASSISTANT UNDER THE SUPERVISION OF A REGULAR  
56 PHYSICIAN of every institution caring for children referred to in this

1 article shall make such reports concerning the physical condition and  
2 health of the children and the environmental sanitation of the institu-  
3 tion as may be required by the state health commissioner, local health  
4 officer or health commissioner having jurisdiction.

5 S 13. Subdivision 14 of section 3001 of the public health law, as  
6 amended by chapter 804 of the laws of 1992, is amended to read as  
7 follows:

8 14. "Qualified medical and health personnel" means physicians, PHYSI-  
9 CIAN ASSISTANTS, registered professional nurses and advanced emergency  
10 medical technicians competent in the management of patients requiring  
11 advanced life support care.

12 S 14. Subdivisions 4 and 5 of section 3602 of the public health law,  
13 as amended by chapter 600 of the laws of 2002, are amended to read as  
14 follows:

15 4. "Home health aide services" means simple health care tasks,  
16 personal hygiene services, housekeeping tasks essential to the patient's  
17 health and other related supportive services. Such services shall be  
18 prescribed by a physician OR A PHYSICIAN ASSISTANT UNDER THE SUPERVISION  
19 OF A PHYSICIAN in accordance with a plan of treatment for the patient  
20 and shall be under the supervision of a registered professional nurse  
21 from a certified home health agency or, when appropriate, from a provid-  
22 er of a long term home health care program and of the appropriate  
23 professional therapist from such agency or provider when the aide  
24 carries out simple procedures as an extension of physical, speech or  
25 occupational therapy. Such services may also be prescribed or ordered by  
26 a nurse practitioner to the extent authorized by law and consistent with  
27 the written practice agreement pursuant to subdivision three of section  
28 six thousand nine hundred two of the education law and not prohibited by  
29 federal law or regulation.

30 5. "Personal care services" means services to assist with personal  
31 hygiene, dressing, feeding and household tasks essential to the  
32 patient's health. Such services shall be prescribed by a physician OR A  
33 PHYSICIAN ASSISTANT UNDER THE SUPERVISION OF A PHYSICIAN in accordance  
34 with a plan of home care supervised by a registered professional nurse.  
35 Such services may also be prescribed or ordered by a nurse practitioner  
36 to the extent authorized by law and consistent with the written practice  
37 agreement pursuant to subdivision three of section six thousand nine  
38 hundred two of the education law and not prohibited by federal law or  
39 regulations.

40 S 15. Subdivision 4 of section 4141 of the public health law, para-  
41 graph (d) as added by chapter 413 of the laws of 2005, is amended to  
42 read as follows:

43 4. (a) The medical certificate shall be made, dated, and signed by the  
44 physician OR A PHYSICIAN ASSISTANT ACTING UNDER THE SUPERVISION OF A  
45 PHYSICIAN, if any, last in attendance on the deceased.

46 (b) Indefinite terms, denoting only symptoms of disease or conditions  
47 resulting from disease, shall not be held sufficient.

48 (c) Any certificate stating the cause of death in terms which the  
49 commissioner [shall have declared] DECLARES indefinite[,] shall be  
50 returned to the physician, A PHYSICIAN ASSISTANT ACTING UNDER THE SUPER-  
51 VISION OF A PHYSICIAN, or person making the medical certificate[,] for  
52 correction and more definite statement. A CERTIFICATE CERTIFIED TO AND  
53 SIGNED BY A PHYSICIAN ASSISTANT IN ACCORDANCE WITH THIS SECTION SHALL  
54 HAVE THE SAME FORCE AND EFFECT IN LAW AS A CERTIFICATE SIGNED BY A  
55 PHYSICIAN.

1 (d) Where a death is caused by an opioid overdose, such information  
2 shall be indicated, including any related information as the commission-  
3 er may require.

4 S 16. Section 4141-a of the public health law, as added by chapter 402  
5 of the laws of 1968, is amended to read as follows:

6 S 4141-a. Death certificate; duties of hospital administrator. When a  
7 death occurs in a hospital, except in those cases where certificates are  
8 issued by coroners or medical examiners, the person in charge of such  
9 hospital or his OR HER designated representative shall promptly present  
10 the certificate to the physician OR A PHYSICIAN ASSISTANT ACTING UNDER  
11 THE SUPERVISION OF A PHYSICIAN in attendance, or a physician OR A PHYSI-  
12 CIAN ASSISTANT ACTING UNDER THE SUPERVISION OF A PHYSICIAN acting in his  
13 OR HER behalf, who shall promptly certify to the facts of death, provide  
14 the medical information required by the certificate, sign the medical  
15 certificate of death, and thereupon return such certificate to such  
16 person, so that the seventy-two hour registration time limit prescribed  
17 in section four thousand one hundred forty of this [chapter] TITLE can  
18 be met. A CERTIFICATE CERTIFIED TO AND SIGNED BY A PHYSICIAN ASSISTANT  
19 IN ACCORDANCE WITH THIS SECTION SHALL HAVE THE SAME FORCE AND EFFECT IN  
20 LAW AS A CERTIFICATE SIGNED BY A PHYSICIAN.

21 S 17. Subdivision (b) of section 4142 of the public health law, as  
22 amended by chapter 402 of the laws of 1968, is amended to read as  
23 follows:

24 (b) present the certificate promptly to the attending physician OR  
25 PHYSICIAN ASSISTANT UNDER THE SUPERVISION OF A PHYSICIAN, who shall  
26 forthwith certify to the facts of death, provide the medical information  
27 required by the certificate and sign the medical certificate of death,  
28 or to the coroner or medical examiner in those cases where so required  
29 by this article or, when a death occurs in a hospital, except in those  
30 cases where certificates are issued by coroners or medical examiners, to  
31 the person in charge of such hospital or his OR HER designated represen-  
32 tative, who shall obtain the medical certificate of death as prescribed  
33 in section four thousand one hundred forty-one-a of this [chapter]  
34 TITLE;

35 S 18. Paragraph (b) of subdivision 2 of section 4144 of the public  
36 health law, as amended by chapter 188 of the laws of 1997, is amended to  
37 read as follows:

38 (b) [Verbal] SPOKEN permission to remove a body of a deceased person  
39 from the county in which death occurred or the body was found to a non-  
40 adjacent county within the state of New York, as provided in subdivision  
41 one [hereof] OF THIS SECTION, shall be issued by the said registrar of  
42 vital statistics, upon request by telephone of a licensed funeral direc-  
43 tor or undertaker who holds a certificate of death signed by the attend-  
44 ing physician OR PHYSICIAN ASSISTANT UNDER THE SUPERVISION OF A PHYSI-  
45 CIAN, showing THAT the death resulted from natural causes[,] and was not  
46 a result of accidental, suicidal, homicidal or other external causes.

47 S 19. The section heading and subdivisions 2, 3 and 4 of section 4161  
48 of the public health law, the section heading and subdivision 4 as  
49 amended by chapter 402 of the laws of 1968, subdivision 2 as amended by  
50 chapter 884 of the laws of 1972, and subdivision 3 as amended by chapter  
51 388 of the laws of 1968, are amended to read as follows:

52 Fetal death certificates; form and content; physicians, PHYSICIAN  
53 ASSISTANTS, midwives, and hospital administrators.

54 2. In each case where a physician OR PHYSICIAN ASSISTANT UNDER THE  
55 SUPERVISION OF A PHYSICIAN was in attendance at[,] or after[,] a fetal  
56 death, it [shall be] IS the duty of such physician OR PHYSICIAN ASSIST-

1 ANT UNDER THE SUPERVISION OF A PHYSICIAN to certify to the birth and to  
2 the cause of death on the fetal death certificate. Where a nurse-mid-  
3 wife was in attendance at a fetal death it [shall be] IS the duty of  
4 such nurse-midwife to certify to the birth but, HE OR she shall not  
5 certify to the cause of death on the fetal death certificate.

6 3. Fetal deaths occurring without the attendance of a physician OR  
7 PHYSICIAN ASSISTANT UNDER THE SUPERVISION OF A PHYSICIAN as [defined]  
8 PROVIDED in subdivision two of this section shall be treated as deaths  
9 without medical attendance, as provided in this article.

10 4. When a fetal death occurs in a hospital, except in those cases  
11 where certificates are issued by coroners or medical examiners, the  
12 person in charge of such hospital or his OR HER designated represen-  
13 tative shall promptly present the certificate to the physician OR PHYSI-  
14 CIAN ASSISTANT UNDER THE SUPERVISION OF A PHYSICIAN in attendance, or a  
15 physician OR PHYSICIAN ASSISTANT UNDER THE SUPERVISION OF A PHYSICIAN  
16 acting in his OR HER behalf, who shall promptly certify to the facts of  
17 birth and of fetal death, provide the medical information required by  
18 the certificate, sign the medical certificate of birth and death, and  
19 thereupon return such certificate to such person, so that the seventy-  
20 two hour registration time limit prescribed in section four thousand one  
21 hundred sixty of this [chapter] TITLE can be met.

22 S 20. The section heading and subdivision 1 of section 4171 of the  
23 public health law, subdivision 1 as amended by chapter 884 of the laws  
24 of 1972, is amended to read as follows:

25 Records; duties of physicians, PHYSICIAN ASSISTANTS, and others to  
26 furnish information. 1. Physicians, PHYSICIAN ASSISTANTS UNDER THE  
27 SUPERVISION OF A PHYSICIAN, nurse-midwives, funeral directors, undertak-  
28 ers and informants, and all other persons having knowledge of the facts,  
29 are hereby required to supply, upon a form provided by the commissioner  
30 or upon the original certificate, such information as they may possess  
31 regarding any birth or death upon demand of the commissioner, in person,  
32 by mail, or through the registrar.

33 S 21. Subdivisions 1, 3 and 5 of section 4175 of the public health  
34 law, as amended by chapter 884 of the laws of 1972, are amended to read  
35 as follows:

36 1. If, at any time after the birth, or within one year of the death,  
37 of any person within the state, a certified copy of the official record  
38 of said birth or death, with the information required to be registered  
39 by this article, [be] IS necessary for legal, judicial, or other proper  
40 purposes, and, after search by the commissioner or his OR HER represen-  
41 tatives, it [should appear] APPEARS that no such certificate of birth or  
42 death was made and filed as provided by this article, then the commis-  
43 sioner shall immediately require the physician, PHYSICIAN ASSISTANT  
44 UNDER THE SUPERVISION OF A PHYSICIAN, or nurse-midwife[,] who, being in  
45 attendance upon a birth, failed or neglected to file a certificate ther-  
46 eof, or the funeral director, undertaker, or other person who, having  
47 charge of the interment or removal of the body of a deceased person,  
48 failed or neglected to file the certificate of death, if he or she [be]  
49 IS living, to obtain and file at once with the local registrar such  
50 certificate in as complete form as the lapse of time will permit.

51 3. If the physician, PHYSICIAN ASSISTANT UNDER THE SUPERVISION OF A  
52 PHYSICIAN, nurse-midwife, funeral director, or undertaker responsible  
53 for the report[,] is deceased or cannot be located, then the person  
54 making application for the certified copy of the record may file such  
55 certificate of birth or death together with such statements subscribed

1 and affirmed by the persons making them as true under the penalties of  
2 perjury and other evidence as the commissioner may require.

3 5. The delinquent physician, PHYSICIAN ASSISTANT UNDER THE SUPERVISION  
4 OF A PHYSICIAN, nurse-midwife, funeral director, undertaker, or other  
5 person may, in the discretion of the commissioner, be prosecuted as  
6 required by this article, without bar from the statute of limitations,  
7 if he or she [shall neglect or fail] NEGLECTS OR FAILS to file promptly  
8 the certificate required by this section.

9 S 22. Subdivision 1 of section 6540 of the education law, as amended  
10 by chapter 179 of the laws of 1992, is amended to read as follows:

11 1. Physician assistant. The term "physician assistant" means [a  
12 person] A DEPENDENT PRACTITIONER WORKING UNDER THE SUPERVISION OF A  
13 LICENSED PHYSICIAN RESPONSIBLE FOR THE ACTIONS OF THE PHYSICIAN ASSIST-  
14 ANT AND who is registered as a physician assistant pursuant to this  
15 article.

16 S 23. Subdivisions 1 and 8 of section 6542 of the education law, as  
17 amended by chapter 179 of the laws of 1992, are amended to read as  
18 follows:

19 1. Notwithstanding any other provision of law, a physician assistant  
20 may perform medical services, but only when under the supervision of a  
21 physician and only when such acts and duties as are assigned to him OR  
22 HER are within the scope of practice of such supervising physician. THE  
23 SUPERVISING PHYSICIAN MAY DELEGATE TO THE PHYSICIAN ASSISTANT ANY  
24 MEDICAL PROCEDURES OR TASKS FOR WHICH THE PHYSICIAN ASSISTANT IS APPRO-  
25 PRIATELY TRAINED AND QUALIFIED TO PERFORM AND THAT ARE PERFORMED WITHIN  
26 THE NORMAL SCOPE OF THE PHYSICIAN'S PRACTICE.

27 8. Nothing in this article, or in article thirty-seven of the public  
28 health law, shall be construed to authorize physician assistants or  
29 specialist assistants to perform those specific functions and duties  
30 specifically delegated by law to those persons licensed as allied health  
31 professionals under the public health law or [the education law] THIS  
32 TITLE. SPECIFICALLY, PHYSICIAN ASSISTANTS SHALL NOT PERFORM THE PRAC-  
33 TICE OF RADIOLOGIC TECHNOLOGY OR THE PRACTICE OF OPTOMETRY AS THOSE  
34 PRACTICES ARE DEFINED UNDER THE PUBLIC HEALTH LAW AND THIS TITLE.

35 S 24. The education law is amended by adding a new section 6545-a to  
36 read as follows:

37 S 6545-A. STATUTORY CONSTRUCTION. A PHYSICIAN ASSISTANT MAY PERFORM  
38 ANY FUNCTION, WITH APPROPRIATE PHYSICIAN SUPERVISION, IN ANY HEALTH CARE  
39 SETTING, THAT A STATUTE AUTHORIZES OR DIRECTS A PHYSICIAN TO PERFORM AND  
40 THAT IS WITHIN THE NORMAL PRACTICE OF THAT PHYSICIAN, EXCEPT THOSE FUNC-  
41 TIONS AUTHORIZED OR DIRECTED BY AND IN ARTICLE THIRTY-THREE OF THE  
42 PUBLIC HEALTH LAW, UNLESS THE STATUTE AUTHORIZING OR DIRECTING THE  
43 PHYSICIAN TO PERFORM SUCH FUNCTION OR FUNCTIONS EXPRESSLY STATES OTHER-  
44 WISE.

45 S 25. Subdivision c of section 6731 of the education law, as amended  
46 by chapter 389 of the laws of 2007, is amended to read as follows:

47 c. Such treatment shall be rendered pursuant to a referral which may  
48 be directive as to treatment by a licensed physician, A PHYSICIAN  
49 ASSISTANT UNDER THE SUPERVISION OF A LICENSED PHYSICIAN, dentist, podia-  
50 trist, nurse practitioner or licensed midwife, each acting within his or  
51 her lawful scope of practice, and in accordance with their diagnosis,  
52 except as provided in subdivision d of this section.

53 S 26. Subdivision c of section 6741 of the education law, as added by  
54 chapter 618 of the laws of 1980, is amended to read as follows:

1 c. Nothing in this article is intended to affect the overall medical  
2 direction by a licensed physician OR A PHYSICIAN ASSISTANT UNDER THE  
3 SUPERVISION OF A LICENSED PHYSICIAN, of a physical therapist assistant.

4 S 27. Subdivision 3 of section 6807 of the education law, as added by  
5 chapter 573 of the laws of 1999, is amended to read as follows:

6 3. A pharmacist may dispense drugs and devices to a registered profes-  
7 sional nurse, and a registered professional nurse may possess and admin-  
8 ister, drugs and devices, pursuant to a non-patient specific regimen  
9 prescribed or ordered by a licensed physician, A PHYSICIAN ASSISTANT  
10 UNDER THE SUPERVISION OF A LICENSED PHYSICIAN or certified nurse practi-  
11 tioner, pursuant to regulations promulgated by the commissioner and the  
12 public health law.

13 S 28. Subdivision 5 of section 6909 of the education law, as added by  
14 chapter 573 of the laws of 1999, is amended to read as follows:

15 5. A registered professional nurse may execute a non-patient specific  
16 regimen prescribed or ordered by a licensed physician, A PHYSICIAN  
17 ASSISTANT UNDER THE SUPERVISION OF A LICENSED PHYSICIAN or certified  
18 nurse practitioner, pursuant to regulations promulgated by the commis-  
19 sioner.

20 S 29. Section 6957 of the education law, as amended by chapter 328 of  
21 the laws of 1992, is amended to read as follows:

22 S 6957. Exempt persons. Nothing in this article shall be construed to  
23 affect, prevent or in any manner expand or limit any duty or responsi-  
24 bility of a licensed physician OR A PHYSICIAN ASSISTANT UNDER THE SUPER-  
25 VISION OF A LICENSED PHYSICIAN, from practicing midwifery or affect or  
26 prevent a medical student, PHYSICIAN ASSISTANT STUDENT or midwifery  
27 student in clinical practice under the supervision of a licensed physi-  
28 cian or board certified obstetrician/gynecologist or licensed midwife  
29 practicing [pursuant to the provisions of section twenty-five hundred  
30 sixty of the public health law] in pursuance of an educational program  
31 registered by the department from engaging in such practice.

32 S 30. Section 7901 of the education law, as amended by chapter 146 of  
33 the laws of 1993, is amended to read as follows:

34 S 7901. Definition. The practice of the profession of occupational  
35 therapy is defined as the functional evaluation of the client and the  
36 planning and utilization of a program of purposeful activities to devel-  
37 op or maintain adaptive skills, designed to achieve maximal physical and  
38 mental functioning of the patient in his or her daily life tasks. Such  
39 treatment program shall be rendered on the prescription or referral of a  
40 physician, A PHYSICIAN ASSISTANT UNDER THE SUPERVISION OF A LICENSED  
41 PHYSICIAN or nurse practitioner. However, nothing contained in this  
42 article shall be construed to permit any licensee hereunder to practice  
43 medicine or psychology, including psychotherapy.

44 S 31. Subparagraph 1 of paragraph (a) of subdivision 4 of section 1194  
45 of the vehicle and traffic law, as amended by chapter 406 of the laws of  
46 1988, is amended to read as follows:

47 (1) At the request of a police officer, the following persons may  
48 withdraw blood for the purpose of determining the alcoholic or drug  
49 content therein: (i) a physician, a registered professional nurse or a  
50 registered [physician's] PHYSICIAN assistant; or (ii) under the super-  
51 vision and at the direction of a physician OR A PHYSICIAN ASSISTANT  
52 UNDER THE SUPERVISION OF A LICENSED PHYSICIAN: a medical laboratory  
53 technician or medical technologist as classified by civil service; a  
54 phlebotomist; an advanced emergency medical technician as certified by  
55 the department of health; or a medical laboratory technician or medical  
56 technologist employed by a clinical laboratory approved under title five

1 of article five of the public health law. This limitation shall not  
2 apply to the taking of a urine, saliva or breath specimen.

3 S 32. Subdivision 7 of section 461-c of the social services law, as  
4 added by chapter 601 of the laws of 1981, is amended to read as follows:

5 7. (a) At the time of the admission to an adult care facility, other  
6 than a shelter for adults, a resident shall submit to the facility a  
7 written report from a physician OR A PHYSICIAN ASSISTANT UNDER THE  
8 SUPERVISION OF A LICENSED PHYSICIAN, which report shall state:

9 (i) that the physician OR PHYSICIAN ASSISTANT UNDER THE SUPERVISION OF  
10 A LICENSED PHYSICIAN has physically examined the resident within one  
11 month and the date of such examination;

12 (ii) that the resident is not in need of acute or long term medical or  
13 nursing care which would require placement in a hospital or residential  
14 health care facility; and

15 (iii) that the resident is not otherwise medically or mentally  
16 unsuited for care in the facility.

17 (b) For the purpose of creating an accessible and available record and  
18 assuring that a resident is properly placed in such a facility, the  
19 physician's OR PHYSICIAN ASSISTANT'S report shall also contain the resi-  
20 dent's significant medical history and current conditions, the  
21 prescribed medication regimen, and recommendations for diet, the assist-  
22 ance needed in the activities of daily living and where appropriate,  
23 recommendations for exercise, recreation and frequency of medical exam-  
24 inations.

25 (c) Such resident shall thereafter be examined by a physician OR A  
26 PHYSICIAN ASSISTANT UNDER THE SUPERVISION OF A LICENSED PHYSICIAN at  
27 least annually and shall submit an annual written report from his OR HER  
28 physician OR PHYSICIAN ASSISTANT in conformity with the provisions of  
29 this subdivision.

30 S 33. Paragraphs (a), (b) and (c) of subdivision 1 of section 13-b of  
31 the workers' compensation law, as amended by chapter 473 of the laws of  
32 2000, are amended to read as follows:

33 (a) Any physician licensed to practice medicine in the state of New  
34 York OR A PHYSICIAN ASSISTANT UNDER THE DIRECT SUPERVISION OF SUCH A  
35 LICENSED PHYSICIAN may render emergency medical care under this chapter  
36 without authorization by the chair under this section; and

37 (b) A licensed physician who is a member of a constituted medical  
38 staff of any hospital OR A PHYSICIAN ASSISTANT UNDER THE DIRECT SUPER-  
39 VISION OF SUCH A LICENSED PHYSICIAN, may render medical care under this  
40 chapter while an injured employee remains a patient in such hospital;  
41 and

42 (c) CONSISTENT WITH ARTICLE THIRTY-SEVEN OF THE PUBLIC HEALTH LAW AND  
43 ARTICLE ONE HUNDRED THIRTY-ONE-B OF THE EDUCATION LAW, MEDICAL CARE MAY  
44 BE RENDERED BY A PHYSICIAN ASSISTANT UNDER THE DIRECT SUPERVISION OF A  
45 LICENSED AUTHORIZED PHYSICIAN. Under the active and personal supervision  
46 of an authorized physician medical care may be rendered by a registered  
47 nurse or other person trained in laboratory or diagnostic techniques  
48 within the scope of such person's specialized training and qualifica-  
49 tions. This supervision shall be evidenced by signed records of  
50 instructions for treatment and signed records of the patient's condition  
51 and progress. Reports of such treatment and supervision shall be made by  
52 such physician to the chair on such forms and at such times as the chair  
53 may require.

54 S 34. Paragraph (d) of subdivision 3 of section 13-c of the workers'  
55 compensation law, as added by chapter 828 of the laws of 1975, subpara-  
56 graph (ii) as amended and subparagraph (iii) as added by chapter 803 of

1 the laws of 1983, and subparagraph (iv) as added and subparagraph (v) as  
2 renumbered by chapter 649 of the laws of 1985, is amended to read as  
3 follows:

4 (d) (i) A physician rendering medical care at a medical center author-  
5 ized, OR A PHYSICIAN ASSISTANT UNDER THE DIRECT SUPERVISION OF SUCH A  
6 PHYSICIAN, hereunder must be authorized to render such care pursuant to  
7 this chapter and he OR SHE shall limit his OR HER professional activ-  
8 ities hereunder to such medical care as his OR HER experience and train-  
9 ing qualify him OR HER to render.

10 (ii) When para-medical, laboratory or X-ray services or other medical  
11 care is required it shall be rendered, under the active and personal  
12 supervision of an authorized physician, by a registered nurse or other  
13 person trained in laboratory or diagnostic techniques within the scope  
14 of such person's specialized training and qualifications. This super-  
15 vision shall be evidenced by signed records of instructions for treat-  
16 ment and signed records of the patient's condition and progress. Reports  
17 of such treatment and supervision shall be made by such physician to the  
18 chairman on such forms and at such times as the chairman may require.

19 (iii) When physical therapy care is required it shall be rendered by a  
20 duly licensed physical therapist upon the referral which may be direc-  
21 tive as to treatment of an authorized physician, PHYSICIAN ASSISTANT  
22 UNDER THE DIRECT SUPERVISION OF SUCH PHYSICIAN or podiatrist within the  
23 scope of such physical therapist's specialized training and qualifica-  
24 tions as defined in article one hundred thirty-six of the education law.  
25 Reports of such treatment and records of instruction for treatment, if  
26 any, shall be maintained by the physical therapist and referring profes-  
27 sional and submitted to the chairman on such forms and at such times as  
28 the chairman may require.

29 (iv) When occupational therapy care is required it shall be rendered  
30 by a duly licensed and registered occupational therapist upon the  
31 prescription or referral of an authorized physician OR PHYSICIAN ASSIST-  
32 ANT UNDER THE DIRECT SUPERVISION OF SUCH PHYSICIAN within the scope of  
33 such occupational therapist's specialized training and qualifications as  
34 defined in article one hundred fifty-six of the education law. Reports  
35 of such treatment and records of instruction for treatment, if any,  
36 shall be maintained by the occupational therapist and referring profes-  
37 sional and submitted to the chairman on such forms and at such times as  
38 the chairman may require.

39 (v) The physician rendering the medical care hereunder shall be in  
40 charge of the care unless, in his OR HER judgment, it is necessary to  
41 refer the case to a specially trained and qualified physician, which  
42 physician shall then assume complete responsibility for and supervision  
43 of any further medical care rendered.

44 S 35. Subdivisions (d), (e) and (f) of section 33.04 of the mental  
45 hygiene law, subdivisions (d) and (f) as added by chapter 779 of the  
46 laws of 1977, such section as renumbered and subdivision (e) as amended  
47 by chapter 334 of the laws of 1980, are amended to read as follows:

48 (d) Restraint shall be effected only by written order of a physician  
49 OR A PHYSICIAN ASSISTANT UNDER THE SUPERVISION OF SUCH PHYSICIAN after a  
50 personal examination of the patient except in an emergency situation, as  
51 provided by subdivision (e) of this section. The order shall set forth  
52 the facts justifying the restraint and shall specify the nature of the  
53 restraint and any conditions for maintaining the restraint. The order  
54 shall also set forth the time of expiration of the authorization, with  
55 such order to apply for a period of no more than four hours, provided,  
56 however, that any such order imposing restraint after nine o'clock p.m.

1 may extend until nine o'clock a.m. of the next day. A full record of  
2 restraint, including all signed orders of physicians, shall be kept in  
3 the patient's file and shall be subject to inspection by authorized  
4 persons.

5 (e) If an emergency situation exists in which the patient is engaging  
6 in activity that presents an immediate danger to himself, HERSELF or  
7 others and a physician OR A PHYSICIAN ASSISTANT UNDER THE SUPERVISION OF  
8 SUCH PHYSICIAN is not immediately available, restraint may be effected  
9 only to the extent necessary to prevent the patient from injuring  
10 himself or others at the direction of the senior member of the staff who  
11 is present. The senior staff member shall cause a physician OR A PHYSI-  
12 CIAN ASSISTANT UNDER THE SUPERVISION OF SUCH PHYSICIAN to be immediately  
13 summoned and shall record the time of the call and the person contacted.  
14 Pending the arrival of a physician OR A PHYSICIAN ASSISTANT UNDER THE  
15 SUPERVISION OF SUCH PHYSICIAN, the patient shall be kept under constant  
16 supervision. If a physician OR A PHYSICIAN ASSISTANT UNDER THE SUPER-  
17 VISION OF SUCH PHYSICIAN does not arrive within thirty minutes of being  
18 summoned, the senior staff member shall record any such delay in the  
19 patient's clinical record and also place into the patient's clinical  
20 record a written description of the facts justifying the emergency  
21 restraint which shall specify the nature of the restraint and any condi-  
22 tions for maintaining the restraint until the arrival of a physician OR  
23 A PHYSICIAN ASSISTANT UNDER THE SUPERVISION OF SUCH PHYSICIAN, the  
24 reasons why less restrictive forms of restraint were not used, and a  
25 description of the steps taken to assure that the patient's needs,  
26 comfort and safety were properly cared for. Such physician OR A PHYSI-  
27 CIAN ASSISTANT UNDER THE SUPERVISION OF SUCH PHYSICIAN shall place in  
28 the clinical record an explanation for any such delay.

29 (f) During the time that a patient is in restraint, he OR SHE shall be  
30 monitored to see that his OR HER physical needs, comfort, and safety are  
31 properly cared for. An assessment of the patient's condition shall be  
32 made at least once every thirty minutes or at more frequent intervals as  
33 directed by a physician OR A PHYSICIAN ASSISTANT UNDER THE SUPERVISION  
34 OF SUCH PHYSICIAN. The assessment shall be recorded and placed in the  
35 patient's file. A patient in restraint shall be released from restraint  
36 at least every two hours, except when asleep. If at any time a patient  
37 upon being released from restraint makes no overt gestures that would  
38 threaten serious harm or injury to himself, HERSELF or others, restraint  
39 shall not be reimposed and a physician shall be immediately notified.  
40 Restraint shall not be reimposed in such situation unless in the physi-  
41 cian's OR A PHYSICIAN ASSISTANT'S UNDER THE SUPERVISION OF SUCH PHYSI-  
42 CIAN professional judgment release would be harmful to the patient or  
43 others.

44 S 36. Paragraph e of subdivision 1 of section 406 of the general busi-  
45 ness law, as amended by chapter 600 of the laws of 2002, is amended to  
46 read as follows:

47 e. Each application shall be accompanied by a certificate of a duly  
48 licensed physician, A PHYSICIAN ASSISTANT UNDER THE SUPERVISION OF SUCH  
49 A PHYSICIAN or nurse practitioner to the extent authorized by law and  
50 consistent with the written practice agreement pursuant to subdivision  
51 three of section six thousand nine hundred two of the education law on a  
52 form prescribed by the secretary, showing freedom from any infectious or  
53 communicable disease which certificate shall have been issued within  
54 thirty days prior to the date of the filing of the application.

55 S 37. This act shall take effect immediately.