

STATE OF NEW YORK

907

2019-2020 Regular Sessions

IN SENATE

January 9, 2019

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 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 licensed 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 48 of the laws of 2012, is amended to read as
3 follows:

4 1. Physician assistant. The term "physician assistant" means a
5 ~~[person]~~ dependent practitioner working under the supervision of a
6 licensed physician responsible for the actions of the physician assist-
7 ant and who is licensed as a physician assistant pursuant to section
8 sixty-five hundred forty-one of the education law.

9 § 2. The public health law is amended by adding a new section 3704 to
10 read as follows:

11 § 3704. Performance of medical services. 1. A physician assistant may
12 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 assistant any medical procedures or
16 tasks for which the physician 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 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 assistants shall

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

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1 not perform the practice of radiologic technology or the practice of
2 optometry as those practices are defined under this chapter and the
3 education law.

4 § 3. Subdivisions 1 and 2 of section 2305 of the public health law, as
5 amended by section 35 of part E of chapter 56 of the laws of 2013, are
6 amended to read as follows:

7 1. No person, other than a licensed physician or a physician assistant
8 under the supervision of a licensed physician, or, in a hospital, a
9 staff physician, shall diagnose, treat or prescribe for a person who is
10 infected with a sexually transmitted disease, or who has been exposed to
11 infection with a sexually transmitted disease, or dispense or sell a
12 drug, medicine or remedy for the treatment of such person except on
13 prescription of a duly licensed physician or a physician assistant under
14 the supervision of a licensed physician.

15 2. A licensed physician or a physician assistant under the supervision
16 of a licensed physician, or in a hospital, a staff physician, may diag-
17 nose, treat or prescribe for a person under the age of twenty-one years
18 without the consent or knowledge of the parents or guardian of said
19 person, where such person is infected with a sexually transmitted
20 disease, or has been exposed to infection with a sexually transmitted
21 disease.

22 § 4. Subdivisions 1 and 2 of section 2308 of the public health law are
23 amended to read as follows:

24 1. Every physician or physician assistant under the supervision of
25 such physician attending pregnant women in the state shall in the case
26 of every woman so attended take or cause to be taken a sample of blood
27 of such woman at the time of first examination, and submit such sample
28 to an approved laboratory for a standard serological test for syphilis.

29 2. Every other person permitted by law to attend upon pregnant women
30 in the state but not permitted by law to take blood tests, shall cause a
31 sample of the blood of such pregnant woman to be taken promptly by a
32 duly licensed physician or a physician assistant under the supervision
33 of such physician and submitted to an approved laboratory for a standard
34 serological test for syphilis.

35 § 5. Section 2498 of the public health law, as added by chapter 237 of
36 the laws of 1990, is amended to read as follows:

37 § 2498. Provision of summary by physician. The summary shall be
38 provided by a physician, or a physician assistant under the supervision
39 of such physician, to each person under such physician's or physician
40 assistant's care, when a hysterectomy is under consideration for that
41 person.

42 § 6. Subdivision 10 of section 2500-e of the public health law, as
43 added by chapter 4 of the laws of 1990, is amended to read as follows:

44 10. If any licensed physician, physician assistant under the super-
45 vision of a licensed physician or nurse practitioner certifies that a
46 follow-up dose of hepatitis B vaccine may be detrimental to a child's
47 health, the requirements of this section shall be inapplicable until
48 such immunization is found no longer to be detrimental to such child's
49 health.

50 § 7. Section 2502 of the public health law, as amended by chapter 884
51 of the laws of 1972, is amended to read as follows:

52 § 2502. Report of certain conditions. Any nurse-midwife, nurse or
53 other person having the care of an infant within the age of two weeks
54 who neglects or omits to report immediately to the health officer or to
55 a legally qualified practitioner of medicine of the city, town or place
56 where such child is being cared for, the fact that one or both eyes of

1 such infant are [~~inflamed~~] inflamed or reddened whenever such shall be
2 the case, or who applies any remedy therefor without the advice, or
3 except by the direction of such officer or physician or a physician
4 assistant under the supervision of a physician is guilty of a misdemea-
5 nor.

6 § 8. Section 2503 of the public health law, as amended by chapter 485
7 of the laws of 1978, is amended to read as follows:

8 § 2503. Drug information to be furnished expectant mothers. The physi-
9 cian, a physician assistant under the supervision of a physician or
10 nurse-midwife to be in attendance at the birth of a child shall inform
11 the expectant mother, in advance of the birth, of the drugs that such
12 physician, physician assistant under the supervision of a physician or
13 nurse-midwife expects to employ during pregnancy and of the obstetrical
14 and other drugs that such physician, physician assistant under the
15 supervision of a physician or nurse-midwife expects to employ at birth
16 and of the possible effects of such drugs on the child and mother.

17 § 9. Subdivision 4 of section 2504 of the public health law, as added
18 by chapter 769 of the laws of 1972 and as renumbered by chapter 976 of
19 the laws of 1984, is amended to read as follows:

20 4. Medical, dental, health and hospital services may be rendered to
21 persons of any age without the consent of a parent or legal guardian
22 when, in the physician's or physician assistant's under the supervision
23 of such physician judgment an emergency exists and the person is in
24 immediate need of medical attention and an attempt to secure consent
25 would result in delay of treatment which would increase the risk to the
26 person's life or health.

27 § 10. Subdivision 1 of section 2570 of the public health law, as
28 amended by chapter 495 of the laws of 1955, is amended to read as
29 follows:

30 1. Every institution in this state, operated for the express purpose
31 of receiving or caring for dependent, neglected or destitute children or
32 juvenile delinquents, except hospitals, shall have attached thereto a
33 regular physician or physician assistant under the supervision of a
34 regular physician of its selection duly licensed under the laws of the
35 state and in good professional standing, whose name and address shall be
36 kept posted conspicuously within such institution.

37 § 11. Subdivision 1 of section 2573 of the public health law, as added
38 by chapter 495 of the laws of 1955, is amended to read as follows:

39 1. The administrative officer or person in charge and the regular
40 physician or physician assistant under the supervision of a regular
41 physician of every institution caring for children referred to in this
42 article shall make such reports concerning the physical condition and
43 health of the children and the environmental sanitation of the institu-
44 tion as may be required by the state health commissioner, local health
45 officer or health commissioner having jurisdiction.

46 § 12. Subdivision 14 of section 3001 of the public health law, as
47 amended by chapter 804 of the laws of 1992, is amended to read as
48 follows:

49 14. "Qualified medical and health personnel" means physicians, physi-
50 cian assistants, registered professional nurses and advanced emergency
51 medical technicians competent in the management of patients requiring
52 advanced life support care.

53 § 13. Subdivisions 4 and 5 of section 3602 of the public health law,
54 as amended by chapter 376 of the laws of 2015, are amended to read as
55 follows:

1 4. "Home health aide services" means simple health care tasks,
2 personal hygiene services, housekeeping tasks essential to the patient's
3 health and other related supportive services. Such services shall be
4 prescribed by a physician or a physician assistant under the supervision
5 of a physician in accordance with a plan of treatment for the patient
6 and shall be under the supervision of a registered professional nurse
7 from a certified home health agency or, when appropriate, from a provid-
8 er of a long term home health care program and of the appropriate
9 professional therapist from such agency or provider when the aide
10 carries out simple procedures as an extension of physical, speech or
11 occupational therapy. Such services may also be prescribed or ordered by
12 a nurse practitioner to the extent authorized by law and consistent with
13 subdivision three of section six thousand nine hundred two of the educa-
14 tion law and not prohibited by federal law or regulation.

15 5. "Personal care services" means services to assist with personal
16 hygiene, dressing, feeding and household tasks essential to the
17 patient's health. Such services shall be prescribed by a physician or a
18 physician assistant under the supervision of a physician in accordance
19 with a plan of home care supervised by a registered professional nurse.
20 Such services may also be prescribed or ordered by a nurse practitioner
21 to the extent authorized by law and consistent with subdivision three of
22 section six thousand nine hundred two of the education law and not
23 prohibited by federal law or regulations.

24 § 14. Subdivision 4 of section 4141 of the public health law, as
25 amended by chapter 153 of the laws of 2011, is amended to read as
26 follows:

27 4. (a) The medical certificate shall be made, dated, and signed by the
28 physician, the physician assistant acting under the supervision of a
29 physician, or nurse practitioner, if any, last in attendance on the
30 deceased.

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

33 (c) Any certificate stating the cause of death in terms which the
34 commissioner declares indefinite shall be returned to the physician, the
35 physician assistant acting under the supervision of a physician, nurse
36 practitioner, or person making the medical certificate for correction
37 and more definite statement. A certificate certified to and signed by a
38 physician assistant in accordance with this section shall have the same
39 force and effect in the law as a certificate signed by a physician.

40 (d) Where a death is caused by an opioid overdose, such information
41 shall be indicated, including any related information as the commis-
42 sioner may require.

43 § 15. Section 4141-a of the public health law, as amended by chapter
44 352 of the laws of 2013, is amended to read as follows:

45 § 4141-a. Death certificate; duties of hospital administrator. When a
46 death occurs in a hospital, except in those cases where certificates are
47 issued by coroners or medical examiners, the person in charge of such
48 hospital or his or her designated representative shall promptly present
49 the certificate to the physician, the physician assistant acting under
50 the supervision of a physician, or nurse practitioner in attendance, or
51 a physician, physician assistant acting under the supervision of a
52 physician, or nurse practitioner acting in his or her behalf, who shall
53 promptly certify to the facts of death, provide the medical information
54 required by the certificate, sign the medical certificate of death, and
55 thereupon return such certificate to such person, so that the seventy-
56 two hour registration time limit prescribed in section four thousand one

1 hundred forty of this title can be met; provided, however that commenc-
2 ing on or after the implementation date under section forty-one hundred
3 forty-eight of this title, information and signatures required by this
4 section shall be obtained and made in accordance with section forty-one
5 hundred forty-eight of this title. A certificate certified to and
6 signed by a physician assistant in accordance with this section shall
7 have the same force and effect in law as a certificate signed by a
8 physician.

9 § 16. Subdivision (b) of section 4142 of the public health law, as
10 amended by chapter 153 of the laws of 2011, is amended to read as
11 follows:

12 (b) present the certificate promptly to the attending physician,
13 physician assistant under the supervision of a physician, or nurse prac-
14 titioner, who shall forthwith certify to the facts of death, provide the
15 medical information required by the certificate and sign the medical
16 certificate of death, or to the coroner or medical examiner in those
17 cases where so required by this article or, when a death occurs in a
18 hospital, except in those cases where certificates are issued by coron-
19 ers or medical examiners, to the person in charge of such hospital or
20 his or her designated representative, who shall obtain the medical
21 certificate of death as prescribed in section four thousand one hundred
22 forty-one-a of this title;

23 § 17. The section heading and subdivisions 2, 3 and 4 of section 4161
24 of the public health law, the section heading and subdivisions 2 and 3
25 as amended by chapter 153 of the laws of 2011 and subdivision 4 as
26 amended by chapter 352 of the laws of 2013, are amended to read as
27 follows:

28 Fetal death certificates; form and content; physicians, physician
29 assistants, nurse practitioners, midwives, and hospital administrators.

30 2. In each case where a physician, physician assistant under the
31 supervision of a physician, or nurse practitioner was in attendance at
32 or after a fetal death, it is the duty of such physician, physician
33 assistant under the supervision of a physician, or nurse practitioner to
34 certify to the birth and to the cause of death on the fetal death
35 certificate. Where a nurse-midwife was in attendance at a fetal death it
36 is the duty of such nurse-midwife to certify to the birth but, he or she
37 shall not certify to the cause of death on the fetal death certificate.

38 3. Fetal deaths occurring without the attendance of a physician,
39 physician assistant under the supervision of a physician, or nurse prac-
40 titioner as provided in subdivision two of this section shall be treated
41 as deaths without medical attendance, as provided in this article.

42 4. When a fetal death occurs in a hospital, except in those cases
43 where certificates are issued by coroners or medical examiners, the
44 person in charge of such hospital or his or her designated represen-
45 tative shall promptly present the certificate to the physician, physi-
46 cian assistant under the supervision of a physician, or nurse practi-
47 tioner in attendance, or a physician, physician assistant under the
48 supervision of a physician, or nurse practitioner acting in his or her
49 behalf, who shall promptly certify to the facts of birth and of fetal
50 death, provide the medical information required by the certificate, sign
51 the medical certificate of birth and death, and thereupon return such
52 certificate to such person, so that the seventy-two hour registration
53 time limit prescribed in section four thousand one hundred sixty of this
54 title can be met; provided, however that commencing on or after the
55 implementation date under section forty-one hundred forty-eight of this
56 article, information and signatures required by this subdivision shall

1 be obtained and made in accordance with section forty-one hundred
2 forty-eight of this article.

3 § 18. The section heading and subdivision 1 of section 4171 of the
4 public health law, as amended by chapter 153 of the laws of 2011, are
5 amended to read as follows:

6 Records; duties of physicians, physician assistants, nurse practition-
7 ers, and others to furnish information.

8 1. Physicians, physician assistants under the supervision of a physi-
9 cian, nurse practitioners, nurse-midwives, funeral directors, undertak-
10 ers and informants, and all other persons having knowledge of the facts,
11 are hereby required to supply, upon a form provided by the commissioner
12 or upon the original certificate, such information as they may possess
13 regarding any birth or death upon demand of the commissioner, in person,
14 by mail, or through the registrar.

15 § 19. Subdivisions 1, 3 and 5 of section 4175 of the public health
16 law, as amended by chapter 153 of the laws of 2011, are amended to read
17 as follows:

18 1. If, at any time after the birth, or within one year of the death,
19 of any person within the state, a certified copy of the official record
20 of said birth or death, with the information required to be registered
21 by this article, is necessary for legal, judicial, or other proper
22 purposes, and, after search by the commissioner or his or her represen-
23 tatives, it appears that no such certificate of birth or death was made
24 and filed as provided by this article, then the commissioner shall imme-
25 diately require the physician, physician assistant under the supervision
26 of a physician, nurse practitioner, or nurse-midwife who, being in
27 attendance upon a birth, failed or neglected to file a certificate ther-
28 eof, or the funeral director, undertaker, or other person who, having
29 charge of the interment or removal of the body of a deceased person,
30 failed or neglected to file the certificate of death, if he or she is
31 living, to obtain and file at once with the local registrar such certif-
32 icate in as complete form as the lapse of time will permit.

33 3. If the physician, physician assistant under the supervision of a
34 physician, nurse practitioner, nurse-midwife, funeral director, or
35 undertaker responsible for the report is deceased or cannot be located,
36 then the person making application for the certified copy of the record
37 may file such certificate of birth or death together with such state-
38 ments subscribed and affirmed by the persons making them as true under
39 the penalties of perjury and other evidence as the commissioner may
40 require.

41 5. The delinquent physician, physician assistant under the supervision
42 of a physician, nurse practitioner, nurse-midwife, funeral director,
43 undertaker, or other person may, in the discretion of the commissioner,
44 be prosecuted as required by this article, without bar from the statute
45 of limitations, if he or she neglects or fails to file promptly the
46 certificate required by this section.

47 § 20. Subdivision 1 of section 6540 of the education law, as amended
48 by chapter 48 of the laws of 2012, is amended to read as follows:

49 1. Physician assistant. The term "physician assistant" means a
50 ~~[person]~~ dependent practitioner working under the supervision of a
51 licensed physician responsible for the actions of the physician assist-
52 ant and who is licensed as a physician assistant pursuant to this arti-
53 cle.

54 § 21. Subdivisions 1 and 7 of section 6542 of the education law, as
55 amended by chapter 48 of the laws of 2012, are amended to read as
56 follows:

1 1. Notwithstanding any other provision of law, a physician assistant
2 may perform medical services, but only when under the supervision of a
3 physician and only when such acts and duties as are assigned to him or
4 her are within the scope of practice of such supervising physician. The
5 supervising physician may delegate to the physician assistant any
6 medical procedures or tasks for which the physician assistant is appro-
7 priately trained and qualified to perform and that are performed within
8 the normal scope of the physician's practice.

9 7. Nothing in this article, or in article thirty-seven of the public
10 health law, shall be construed to authorize physician assistants to
11 perform those specific functions and duties specifically delegated by
12 law to those persons licensed as allied health professionals under the
13 public health law or this ~~[chapter]~~ title. Specifically, physician
14 assistants shall not perform the practice of radiologic technology or
15 the practice of optometry as those practices are defined under the
16 public health law and this title.

17 § 22. The education law is amended by adding a new section 6545-a to
18 read as follows:

19 § 6545-a. Statutory construction. A physician assistant may perform
20 any function, with appropriate physician supervision, in any health care
21 setting, that a statute authorizes or directs a physician to perform and
22 that is within the normal practice of that physician, except those func-
23 tions authorized or directed by and in article thirty-three of the
24 public health law, unless the statute authorizing or directing the
25 physician to perform such function or functions expressly states other-
26 wise.

27 § 23. Subdivision c of section 6731 of the education law, as amended
28 by chapter 389 of the laws of 2007, is amended to read as follows:

29 c. Such treatment shall be rendered pursuant to a referral which may
30 be directive as to treatment by a licensed physician, a physician
31 assistant under the supervision of a licensed physician, dentist, podia-
32 trist, nurse practitioner or licensed midwife, each acting within his or
33 her lawful scope of practice, and in accordance with their diagnosis,
34 except as provided in subdivision d of this section.

35 § 24. Subdivision c of section 6741 of the education law, as added by
36 chapter 618 of the laws of 1980, is amended to read as follows:

37 c. Nothing in this article is intended to affect the overall medical
38 direction by a licensed physician or a physician assistant under the
39 supervision of a licensed physician, of a physical therapist assistant.

40 § 25. Subdivision 3 of section 6807 of the education law, as added by
41 chapter 573 of the laws of 1999, is amended to read as follows:

42 3. A pharmacist may dispense drugs and devices to a registered profes-
43 sional nurse, and a registered professional nurse may possess and admin-
44 ister, drugs and devices, pursuant to a non-patient specific regimen
45 prescribed or ordered by a licensed physician, a physician assistant
46 under the supervision of a licensed physician or certified nurse practi-
47 tioner, pursuant to regulations promulgated by the commissioner and the
48 public health law.

49 § 26. Subdivision 5 of section 6909 of the education law, as added by
50 chapter 573 of the laws of 1999, is amended to read as follows:

51 5. A registered professional nurse may execute a non-patient specific
52 regimen prescribed or ordered by a licensed physician, a physician
53 assistant under the supervision of a licensed physician or certified
54 nurse practitioner, pursuant to regulations promulgated by the commis-
55 sioner.

§ 27. Section 6957 of the education law, as amended by chapter 328 of the laws of 1992, is amended to read as follows:

§ 6957. Exempt persons. Nothing in this article shall be construed to affect, prevent or in any manner expand or limit any duty or responsibility of a licensed physician or a physician assistant under the supervision of a licensed physician, from practicing midwifery or affect or prevent a medical student, physician assistant student or midwifery student in clinical practice under the supervision of a licensed physician or board certified obstetrician/gynecologist or licensed midwife practicing [~~pursuant to the provisions of section twenty five hundred sixty of the public health law~~] in pursuance of an educational program registered by the department from engaging in such practice.

§ 28. Section 7901 of the education law, as amended by chapter 460 of the laws of 2011, is amended to read as follows:

§ 7901. Definition. The practice of the profession of occupational therapy is defined as the functional evaluation of the client, the planning and utilization of a program of purposeful activities, the development and utilization of a treatment program, and/or consultation with the client, family, caregiver or organization in order to restore, develop or maintain adaptive skills, and/or performance abilities designed to achieve maximal physical, cognitive and mental functioning of the client associated with his or her activities of daily living and daily life tasks. A treatment program designed to restore function, shall be rendered on the prescription or referral of a physician, physician assistant under the supervision of a licensed physician, nurse practitioner or other health care provider acting within his or her scope of practice pursuant to this title. However, nothing contained in this article shall be construed to permit any licensee hereunder to practice medicine or psychology, including psychotherapy or to otherwise expand such licensee's scope of practice beyond what is authorized by this chapter.

§ 29. Subdivision 7 of section 461-c of the social services law, as amended by chapter 168 of the laws of 2011, is amended to read as follows:

7. (a) At the time of the admission to an adult care facility, other than a shelter for adults, a resident shall submit to the facility a written report from a physician, a physician assistant under the supervision of a licensed physician, or a nurse practitioner, which report shall state:

(i) that the physician, physician assistant under the supervision of a licensed physician, or nurse practitioner has physically examined the resident within one month and the date of such examination;

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

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

(b) For the purpose of creating an accessible and available record and assuring that a resident is properly placed in such a facility, the report shall also contain the resident's significant medical history and current conditions, the prescribed medication regimen, and recommendations for diet, the assistance needed in the activities of daily living and where appropriate, recommendations for exercise, recreation and frequency of medical examinations.

(c) Such resident shall thereafter be examined by a physician, a physician assistant under the supervision of a licensed physician, or a

1 nurse practitioner, at least annually and shall submit an annual written
2 report in conformity with the provisions of this subdivision.

3 (d) Following a resident's stay in a hospital or residential health
4 care facility, upon return to the adult care facility, the adult care
5 facility shall not be required to obtain the report in paragraph (a) of
6 this subdivision, and instead shall obtain a statement from the
7 discharging facility which shall:

8 (i) state that the resident is appropriate to return to the facility;
9 and

10 (ii) include the reason for the resident's stay, the treatment plan to
11 be followed, and any new or changed orders, including medications.

12 The statement shall be completed by a physician, a physician assistant
13 under the supervision of a licensed physician, or a nurse practitioner.

14 (e) Nothing required in this section shall require the use of an iden-
15 tical form in adult care facilities and assisted living residences,
16 either upon admission or return.

17 § 30. Paragraphs (a), (b) and (c) of subdivision 1 of section 13-b of
18 the workers' compensation law, as amended by chapter 473 of the laws of
19 2000, are amended to read as follows:

20 (a) Any physician licensed to practice medicine in the state of New
21 York or a physician assistant under the direct supervision of such a
22 licensed physician may render emergency medical care under this chapter
23 without authorization by the chair under this section; and

24 (b) A licensed physician who is a member of a constituted medical
25 staff of any hospital or a physician assistant under the direct super-
26 vision of such a licensed physician, may render medical care under this
27 chapter while an injured employee remains a patient in such hospital;
28 and

29 (c) Consistent with article thirty-seven of the public health law and
30 article one hundred thirty-one-B of the education law, medical care may
31 be rendered by a physician assistant under the direct supervision of a
32 licensed authorized physician. Under the active and personal supervision
33 of an authorized physician medical care may be rendered by a registered
34 nurse or other person trained in laboratory or diagnostic techniques
35 within the scope of such person's specialized training and qualifica-
36 tions. This supervision shall be evidenced by signed records of
37 instructions for treatment and signed records of the patient's condition
38 and progress. Reports of such treatment and supervision shall be made by
39 such physician to the chair on such forms and at such times as the chair
40 may require.

41 § 31. Paragraph (d) of subdivision 3 of section 13-c of the workers'
42 compensation law, as added by chapter 828 of the laws of 1975, subpara-
43 graph (ii) as amended and subparagraph (iii) as added by chapter 803 of
44 the laws of 1983, and subparagraph (iv) as added and subparagraph (v) as
45 renumbered by chapter 649 of the laws of 1985, is amended to read as
46 follows:

47 (d) (i) A physician rendering medical care at a medical center author-
48 ized, or a physician assistant under the direct supervision of such a
49 physician, hereunder must be authorized to render such care pursuant to
50 this chapter and he or she shall limit his or her professional activ-
51 ities hereunder to such medical care as his or her experience and train-
52 ing qualify him or her to render.

53 (ii) When para-medical, laboratory or X-ray services or other medical
54 care is required it shall be rendered, under the active and personal
55 supervision of an authorized physician, by a registered nurse or other
56 person trained in laboratory or diagnostic techniques within the scope

1 of such person's specialized training and qualifications. This super-
2 vision shall be evidenced by signed records of instructions for treat-
3 ment and signed records of the patient's condition and progress. Reports
4 of such treatment and supervision shall be made by such physician to the
5 chairman on such forms and at such times as the chairman may require.

6 (iii) When physical therapy care is required it shall be rendered by a
7 duly licensed physical therapist upon the referral which may be direc-
8 tive as to treatment of an authorized physician, physician assistant
9 under the direct supervision of such physician or podiatrist within the
10 scope of such physical therapist's specialized training and qualifica-
11 tions as defined in article one hundred thirty-six of the education law.
12 Reports of such treatment and records of instruction for treatment, if
13 any, shall be maintained by the physical therapist and referring profes-
14 sional and submitted to the chairman on such forms and at such times as
15 the chairman may require.

16 (iv) When occupational therapy care is required it shall be rendered
17 by a duly licensed and registered occupational therapist upon the
18 prescription or referral of an authorized physician or physician assist-
19 ant under the direct supervision of such physician within the scope of
20 such occupational therapist's specialized training and qualifications as
21 defined in article one hundred fifty-six of the education law. Reports
22 of such treatment and records of instruction for treatment, if any,
23 shall be maintained by the occupational therapist and referring profes-
24 sional and submitted to the chairman on such forms and at such times as
25 the chairman may require.

26 (v) The physician rendering the medical care hereunder shall be in
27 charge of the care unless, in his or her judgment, it is necessary to
28 refer the case to a specially trained and qualified physician, which
29 physician shall then assume complete responsibility for and supervision
30 of any further medical care rendered.

31 § 32. Subdivisions (d), (e) and (f) of section 33.04 of the mental
32 hygiene law, subdivisions (d) and (f) as added by chapter 779 of the
33 laws of 1977, such section as renumbered and subdivision (e) as amended
34 by chapter 334 of the laws of 1980, are amended to read as follows:

35 (d) Restraint shall be effected only by written order of a physician
36 or a physician assistant under the supervision of such physician after a
37 personal examination of the patient except in an emergency situation, as
38 provided by subdivision (e) of this section. The order shall set forth
39 the facts justifying the restraint and shall specify the nature of the
40 restraint and any conditions for maintaining the restraint. The order
41 shall also set forth the time of expiration of the authorization, with
42 such order to apply for a period of no more than four hours, provided,
43 however, that any such order imposing restraint after nine o'clock p.m.
44 may extend until nine o'clock a.m. of the next day. A full record of
45 restraint, including all signed orders of physicians, shall be kept in
46 the patient's file and shall be subject to inspection by authorized
47 persons.

48 (e) If an emergency situation exists in which the patient is engaging
49 in activity that presents an immediate danger to himself, herself or
50 others and a physician or a physician assistant under the supervision of
51 such physician is not immediately available, restraint may be effected
52 only to the extent necessary to prevent the patient from injuring
53 himself or others at the direction of the senior member of the staff who
54 is present. The senior staff member shall cause a physician or a physi-
55 cian assistant under the supervision of such physician to be immediately
56 summoned and shall record the time of the call and the person contacted.

1 Pending the arrival of a physician or a physician assistant under the
2 supervision of such physician, the patient shall be kept under constant
3 supervision. If a physician or a physician assistant under the super-
4 vision of such physician does not arrive within thirty minutes of being
5 summoned, the senior staff member shall record any such delay in the
6 patient's clinical record and also place into the patient's clinical
7 record a written description of the facts justifying the emergency
8 restraint which shall specify the nature of the restraint and any condi-
9 tions for maintaining the restraint until the arrival of a physician or
10 a physician assistant under the supervision of such physician, the
11 reasons why less restrictive forms of restraint were not used, and a
12 description of the steps taken to assure that the patient's needs,
13 comfort and safety were properly cared for. Such physician or a physi-
14 cian assistant under the supervision of such physician shall place in
15 the clinical record an explanation for any such delay.

16 (f) During the time that a patient is in restraint, he or she shall be
17 monitored to see that his or her physical needs, comfort, and safety are
18 properly cared for. An assessment of the patient's condition shall be
19 made at least once every thirty minutes or at more frequent intervals as
20 directed by a physician or a physician assistant under the supervision
21 of such physician. The assessment shall be recorded and placed in the
22 patient's file. A patient in restraint shall be released from restraint
23 at least every two hours, except when asleep. If at any time a patient
24 upon being released from restraint makes no overt gestures that would
25 threaten serious harm or injury to himself, herself or others, restraint
26 shall not be reimposed and a physician shall be immediately notified.
27 Restraint shall not be reimposed in such situation unless in the physi-
28 cian's or a physician assistant's under the supervision of such physi-
29 cian professional judgment release would be harmful to the patient or
30 others.

31 § 33. Paragraph e of subdivision 1 of section 406 of the general busi-
32 ness law, as amended by chapter 376 of the laws of 2015, is amended to
33 read as follows:

34 e. Each application shall be accompanied by a certificate of a duly
35 licensed physician, a physician assistant under the supervision of such
36 a physician or nurse practitioner to the extent authorized by law and
37 consistent with subdivision three of section six thousand nine hundred
38 two of the education law on a form prescribed by the secretary, showing
39 freedom from any infectious or communicable disease which certificate
40 shall have been issued within thirty days prior to the date of the
41 filing of the application.

42 § 34. This act shall take effect immediately.