# STATE OF NEW YORK

9038

# IN SENATE

April 11, 2024

Introduced by Sen. MAY -- read twice and ordered printed, and when printed to be committed to the Committee on Higher Education

AN ACT to amend the education law and the public health law, in relation to amending physician assistant practice standards

**The People of the State of New York, represented in Senate and Assembly, do enact as follows:**

Section 1. Section 6542 of the education law, as amended by chapter 48 of the laws of 2012, subdivisions 3 and 5 as amended by section 1 of part T of chapter 57 of the laws of 2013, is amended to read as follows:

§ 6542. Performance of medical services. 1. Notwithstanding any other provision of law, a physician assistant may perform medical services, but only when under the supervision of a physician and only when such acts and duties as are assigned to him or her are within the scope of practice of such supervising physician **unless otherwise permitted by this section**.

2. [~~**Supervision shall be continuous but shall not be construed as necessarily requiring the physical presence of the supervising physician at the time and place where such services are performed**~~] **A physician assistant may practice without the supervision of a physician under the following circumstances:**

**(a) where the physician assistant, licensed under section sixty-five hundred forty-one of this article has practiced for more than eight thousand hours; and**

**(i) is practicing in primary care. For the purposes of this paragraph, "primary care" shall mean non-surgical care in the fields of general pediatrics, general adult medicine, general geriatric medicine, general internal medicine, obstetrics and gynecology, family medicine, or such other related areas as determined by the commissioner of health; or**

**(ii) is employed by a health system or hospital established under article twenty-eight of the public health law, and the health system or hospital determines the physician assistant meets the qualifications of the medical staff bylaws and the health system or hospital gives the physician assistant privileges; and**

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

LBD13627-01-3

(b) where a physician assistant licensed under section sixty-five hundred forty-one of this article has completed a program approved by the department of health, in consultation with the department, when such services are performed within the scope of such program.

3. [~~No physician shall employ or supervise more than four physician assistants in his or her private practice~~] Where supervision is required by this section, it shall be continuous but shall not be construed as necessarily requiring the physical presence of the supervising physician at the time and place where such services are performed.

4. Nothing in this article shall prohibit a hospital from employing physician assistants provided they [~~work under the supervision of a physician designated by the hospital and not beyond the scope of practice of such physician. The numerical limitation of subdivision three of this section shall not apply to services performed in a hospital~~] meet the qualifications of the medical staff bylaws and are given privileges and otherwise meet the requirements of this section.

5. [~~Notwithstanding any other provision of this article, nothing shall prohibit a physician employed by or rendering services to the department of corrections and community supervision under contract from supervising no more than six physician assistants in his or her practice for the department of corrections and community supervision~~] A physician assistant shall be authorized to prescribe, dispense, order, or procure items to commence or complete a course of therapy.

6. [~~Notwithstanding any other provision of law, a trainee in an approved program may perform medical services when such services are performed within the scope of such program~~] (a) A physician assistant may prescribe and order a patient specific order or non-patient specific regimen to a licensed pharmacist or registered professional nurse, pursuant to regulations promulgated by the commissioner of health, and consistent with the public health law, for:

(i) administering immunizations;

(ii) the emergency treatment of anaphylaxis;

(iii) administering purified protein derived (PPD) tests or other tests to detect or screen for tuberculosis infections;

(iv) administering tests to determine the presence of the human immunodeficiency virus;

(v) administering tests to determine the presence of the hepatitis C virus;

(vi) the urgent or emergency treatment of opioid related overdose or suspected opioid related overdose;

(vii) screening of persons at increased risk of syphilis, gonorrhea, and chlamydia;

(viii) administering electrocardiogram tests to detect signs and symptoms of acute coronary syndrome;

(ix) administering point-of-care blood glucose tests to evaluate acute mental status changes in persons with suspected hypoglycemia;

(x) administering tests and intravenous lines to persons that meet severe sepsis and septic shock criteria; and

(xi) administering tests to determine pregnancy.

(b) Nothing in this subdivision shall authorize unlicensed persons to administer immunizations, vaccines, or other drugs.

7. Where a physician assistant licensed under section sixty-five hundred forty-one of this article has completed a program approved by the department of health, in consultation with the department, when such services are performed within the scope of such program.

8. Nothing in this article, or in article thirty-seven of the public health law, shall be construed to authorize physician assistants to perform those specific functions and duties specifically delegated by law to those persons licensed as allied health professionals under the public health law or this chapter.

§ 2. Subdivision 1 of section 3701 of the public health law, as amended by chapter 48 of the laws of 2012, is amended to read as follows:

1. to promulgate regulations defining and restricting the duties [~~which may be assigned to~~] of physician assistants [~~by their supervising physician, the degree of supervision required and the manner in which such duties may be performed~~] consistent with section sixty-five hundred forty-two of the education law;

§ 3. Subdivisions 1 and 3 of section 3702 of the public health law, as amended by chapter 48 of the laws of 2012, are amended to read as follows:

1. Inpatient medical orders. A licensed physician assistant employed or extended privileges by a hospital may, if permissible under the bylaws, rules and regulations of the hospital, write medical orders, including those for controlled substances and durable medical equipment, for inpatients [~~under the care of the physician responsible for his or her supervision. Countersignature of such orders may be required if deemed necessary and appropriate by the supervising physician or the hospital, but in no event shall countersignature be required prior to execution~~].

3. Prescriptions for controlled substances. A licensed physician assistant, in good faith and acting within his or her lawful scope of practice, and to the extent assigned by his or her supervising physician, as applicable pursuant to section sixty-five hundred forty-two of the education law, may prescribe controlled substances as a practitioner under article thirty-three of this chapter, to patients under the care of such physician responsible for his or her supervision. The commissioner, in consultation with the commissioner of education, may promulgate such regulations as are necessary to carry out the purposes of this section.

§ 4. Section 3703 of the public health law, as amended by chapter 48 of the laws of 2012, is amended to read as follows:

§ 3703. Statutory construction. A physician assistant may perform any function in conjunction with a medical service lawfully performed by the physician assistant, in any health care setting, that a statute authorizes or directs a physician to perform and that is appropriate to the education, training and experience of the licensed physician assistant and within the ordinary practice of the supervising physician, as applicable pursuant to section sixty-five hundred forty-two of the education law. This section shall not be construed to increase or decrease the lawful scope of practice of a physician assistant under the education law.

§ 5. Paragraph a of subdivision 2 of section 902 of the education law, as amended by chapter 376 of the laws of 2015, is amended to read as follows:

a. The board of education, and the trustee or board of trustees of each school district, shall employ, at a compensation to be agreed upon by the parties, a qualified physician, a physician assistant, or a nurse practitioner to the extent authorized by the nurse practice act and consistent with subdivision three of section six thousand nine hundred two of this chapter, to perform the duties of the director of school

health services, including any duties conferred on the school physician or school medical inspector under any provision of law, to perform and coordinate the provision of health services in the public schools and to provide health appraisals of students attending the public schools in the city or district. The physicians**, physicians assistants,** or nurse practitioners so employed shall be duly licensed pursuant to applicable law.

§ 6. Subdivision 5 of section 6810 of the education law, as added by chapter 881 of the laws of 1972, is amended to read as follows:

5. Records of all prescriptions filled or refilled shall be maintained for a period of at least five years and upon request made available for inspection and copying by a representative of the department. Such records shall indicate date of filling or refilling, [~~doctor's~~] **prescriber's** name, patient's name and address and the name or initials of the pharmacist who prepared, compounded, or dispensed the prescription. Records of prescriptions for controlled substances shall be maintained pursuant to requirements of article thirty-three of the public health law.

§ 7. Subdivision 27 of section 3302 of the public health law, as amended by chapter 92 of the laws of 2021, is amended to read as follows:

27. "Practitioner" means:

A physician, **physician assistant,** dentist, podiatrist, veterinarian, scientific investigator, or other person licensed, or otherwise permitted to dispense, administer or conduct research with respect to a controlled substance in the course of a licensed professional practice or research licensed pursuant to this article. Such person shall be deemed a "practitioner" only as to such substances, or conduct relating to such substances, as is permitted by [~~his~~] **their** license, permit or otherwise permitted by law.

§ 8. This act shall take effect on the one hundred twentieth day after it shall have become a law. Effective immediately, the department of education and the department of health are authorized to promulgate, amend and/or repeal any rule or regulation necessary for the implementation of section one of this act on or before such effective date.