

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

## **An Act To Improve Access to Physician Assistant Care**

**Be it enacted by the People of the State of Maine as follows:**

**Sec. 1. 32 MRSA §2561**, as amended by PL 2013, c. 101, §1, is further amended to read:

### **§ 2561.Membership; qualifications; tenure; vacancies**

The Board of Osteopathic Licensure, as established by Title 5, section 12004-A, subsection 29, and in this chapter called the "board," consists of ~~10~~11 members appointed by the Governor. Members must be residents of this State. Six members must be graduates of a school or college of osteopathic medicine approved by the American Osteopathic Association and must be, at the time of appointment, actively engaged in the practice of the profession of osteopathic medicine in the State for a period of at least 5 years. ~~One member~~Two members must be ~~a~~ physician assistant~~assistants~~ licensed under this chapter who ~~has~~have been actively engaged in ~~that member's~~the profession of physician assistant in this State for at least 5 years preceding appointment to the board. Three members must be public members. Consumer groups may submit nominations to the Governor for the members to be appointed to represent the interest of consumers. A full term of appointment is for 5 years. Appointment of members must comply with section 60. A member of the board may be removed from office for cause by the Governor.

**Sec. 2. 32 MRSA §2594-A**, as amended by PL 2013, c. 33, §1, is repealed and the following enacted in its place:

### **§ 2594-A. Physician assistants**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

- A. "Competent" means possessing the requisite cognitive, noncognitive and communicative qualities to perform effectively within a scope of practice while adhering to professional and ethical standards.
- B. "Insurer" has the same meaning as in Title 24-A, section 4 and includes any 3rd-party payor.
- C. "Physician" means a person licensed as a physician under this chapter or chapter 48.
- D. "Physician assistant" means a person licensed under section 2594-E or 3270-E.
- E. "Practice agreement" means an agreement between a physician assistant who owns a practice and a physician that states the physician will be available to the physician assistant for collaboration or consultation.

F. "Prescription or legend drug" has the same meaning as in section 13702-A, subsection 30 and includes schedule II to schedule V drugs or other substances under the federal Controlled Substances Act of 1970, 21 United States Code, Section 812.

G. "Primary care" means regular appointments, wellness care and general health care provided by a health care professional or provider with whom the patient has initial contact for a health issue, not including an urgent care or emergency health issue, and by whom the patient may be referred to a specialist.

**2. Scope of practice.** A physician assistant may provide any medical service for which the physician assistant has been prepared by education, training and experience and is competent to perform, including, but not limited to:

A. Medical services, including, but not limited to:

(1) Obtaining a comprehensive health history and performing a physical examination;

(2) Evaluating, diagnosing and managing a health condition and providing medical treatment for that condition;

(3) Ordering, performing and diagnosing a diagnostic study or therapeutic treatment;

(4) Educating a patient on health promotion and disease prevention;

(5) Providing medical consultation upon request;

(6) Writing a medical order regarding the treatment of a health condition of a patient, including prescribing a prescription or legend drug, procedure, patient instructions or a standing order that can be exercised by another health care professional or provider when a predetermined condition has been met; and

(7) Surgical services;

B. Obtaining informed consent from a patient or other authorized individual;

C. Supervising the performance of or delegating or assigning therapeutic or diagnostic measures to other medical personnel;

D. Certifying the health or disability of a person required by a local, state or federal entity or program;

E. Authenticating a document with the physician assistant's signature, certification, stamp, verification, affidavit or endorsement if the document may be authenticated by a physician's signature, certification, stamp, verification, affidavit or endorsement;

F. Ordering or prescribing a nonpharmacological intervention as a therapeutic regimen, including durable medical equipment, nutrition, a blood or blood product or diagnostic support service, including home health care, placement in a hospice or physical or occupational therapy;

G. Services in a health care facility or program, including a hospital, nursing facility, assisted living facility or hospice; and

H. If the physician assistant is registered with the federal Department of Justice, Drug Enforcement Administration, prescribing, dispensing, ordering, administering and procuring a medical device or a prescription or legend drug, including requesting, receiving, signing for and distributing to a patient a professional sample of a prescription or legend drug.

**3. Dispensing drugs.** Except for distributing a professional sample of a prescription or legend drug under subsection 2, paragraph H, a physician assistant who dispenses a prescription or legend drug pursuant to subsection 2, paragraph H:

A. Shall comply with all relevant federal regulations and state rules; and

B. May only dispense the prescription or legend drug when:

(1) A pharmacy service is not reasonably available;

(2) Dispensing the drug is in the best interests of the patient; or

(3) An emergency exists.

**4. Consultation or collaboration.** A physician assistant shall, as indicated by a patient's condition, the education, competencies and experience of the physician assistant and the standards of care, consult with, collaborate with or refer the patient to an appropriate physician or other health care professional. The level of consultation or collaboration under this subsection is determined by the practice setting, including a physician employer, physician group practice, private practice or the credentialing and privileging systems of a health care facility. A physician must be accessible to the physician assistant at all times for consultation. Consultation or collaboration may be achieved electronically or through telecommunication.

**5. Practice agreement.** A physician assistant who owns a part or all of a medical practice that does not include a physician as a partner shall enter into and maintain a practice agreement with at least one physician. Consultation under the practice agreement may occur through electronic means and

does not require the physical presence of the physician at the time or place that the medical services are provided. The practice agreement must be kept on file at the main location of the physician assistant's practice and be made available to the board or the board's representative upon request.

**6. Primary care provider.** Notwithstanding any other provision of law to the contrary, a physician assistant may be considered a primary care provider if the physician assistant is practicing in a medical specialty required for a physician to be a primary care provider.

**7. Immunity providing medical services during an emergency or disaster.** A physician assistant or person with a current compatible license from another jurisdiction or credentialed as a physician assistant by a federal employer that provides voluntary and gratuitous medical services during a state, county or municipal disaster under Title 37-B, chapter 13 or other emergency requiring medical services is not liable for civil damages for any personal injuries that may result from acts or omissions that may constitute ordinary negligence. This subsection does not apply to:

- A. Medical services provided in the ordinary course of the physician assistant's scope of practice or employment;
- B. An emergency that occurs in the physician assistant's practice or place of employment; or
- C. Acts or omissions that constitute gross, willful or wanton negligence.

**8. Payment for services; insurer requirements.** Payment by an insurer for a medical service within the physician assistant's scope of practice provided by a physician assistant to an enrollee of a plan of the insurer must be made when ordered or performed in the same manner as if the service were ordered or performed by a physician and be based on the service provided, not the health professional or provider who performed the service. An insurer shall authorize a competent physician assistant to bill the insurer and receive direct payment for a medically necessary service the physician assistant provides to a client of the insurer and identify the physician assistant as the medical service provider in the billing and claims process for payment of the service. An insurer may not impose on a physician assistant a practice, education or collaboration requirement that is inconsistent with or more restrictive than required by state law or board or agency rules.

**Sec. 3. 32 MRSA §2594-E**, as amended by PL 2017, c. 288, Pt. A, §33, is further amended to read:

### **§ 2594-E. Licensure of physician assistants**

**1. License required.** A physician assistant may not render medical services ~~under the supervision of an osteopathic physician or an allopathic physician pursuant to a plan of supervision until the physician assistant has applied for and obtained from either the Board of Osteopathic Licensure or the Board of Licensure in Medicine:~~

- A. A license, which must be renewed biennially with the board that issued the initial license; and,
- B. A certificate of registration.

~~Applications~~An application for licensure and certificate of registration as a physician assistant must be made to the board that licenses the physician assistant's primary supervising physician at the time the applications for initial licensure and certificate of registration are filed. A physician assistant who applies for licensure without a designated primary supervising physician may submit the applications submitted to either the Board of Osteopathic Licensure or the Board of Licensure in Medicine. A license granted by either the Board of Osteopathic Licensure or the Board of Licensure in Medicine authorizes the physician assistant to render medical services under the supervision of an osteopathic or allopathic physician regardless of which board issued the license to the physician assistant section 2594-A or 3270-A.

**2. Qualification for licensure.** The board may issue to an individual a license to practice as a physician assistant under the following conditions:

A. A license may be issued to an individual who:

- (1) Graduated from a physician assistant program approved by the board;
- (2) Passed a physician assistant national certifying examination administered by the National Commission on Certification of Physician Assistants or its successor organization;
- (3) Demonstrates current clinical competency;
- (4) Does not have a license or certificate of registration that is the subject of disciplinary action such as probation, restriction, suspension, revocation or surrender;
- (5) Completes an application approved by the board; and
- (6) Pays an application fee of up to ~~\$250~~\$300; and
- ~~(7) Passes an examination approved by the board.~~

B. No grounds exist as set forth in section 2591-A to deny the application.

**3. Certificate of registration.** ~~A physician assistant may not render medical services until issued a certificate of registration by the board. The board may issue a certificate of registration to a physician assistant under the following requirements:~~

A. The physician assistant shall:

- ~~(1) Submit an application on forms approved by the board. The application must include:~~

~~(a) A written statement by the proposed supervising physician taking responsibility for all medical activities of the physician assistant; and~~

~~(b) A written statement by the physician assistant and proposed supervising physician that a written plan of supervision has been established; and~~

~~(2) Pays an application fee of up to \$50.~~

~~B. A proposed supervising physician must hold an active license to practice medicine in the State and be in good standing.~~

**4. Delegation by physician assistant.** A physician assistant may delegate medical acts to a medical assistant or another person employed by the physician assistant or by an employer of the physician assistant as long as that delegation is permitted in the plan of supervision established by the physician assistant and the supervising physician.

**5. Rules.** The Board of Osteopathic Licensure is authorized to adopt rules regarding the ~~training and licensure~~ and practice of physician assistants and the ~~agency relationship between the physician assistant and the supervising physician.~~ These rules, which must be adopted jointly with the Board of Licensure in Medicine, may pertain to, but are not limited to, the following matters:

~~A. Information to be contained in the application for a license and certificate of registration;~~

~~B. Information that is required on the application for a certificate of registration filed by the proposed supervising physician;~~

~~C. Training and education~~Education requirements and ~~scope of permissible clinical medical procedures~~ offer the physician assistant and the manner and methods by which the supervising physician must supervise the physician assistant's medical services;

~~D. Scope of practice for physician assistants, including prescribing of controlled drugs;~~

~~E. Requirements for written plans of supervision;~~

~~F. Requirements for a physician assistant to notify the board regarding certain circumstances, including but not limited to any change in address, any change in the identity or address of the physician assistant's employer or in the physician assistant's employment status, any change in the identity or address of the supervising physician, the permanent departure of the physician assistant from the State, any criminal convictions of the physician assistant and any discipline by other jurisdictions of the physician assistant;~~

~~G. Issuance of temporary physician assistant licenses and temporary registration of physician assistants;~~

H. Appointment of an advisory committee for continuing review of the physician assistant ~~program~~ and rules. The physician assistant ~~member~~members of the board pursuant to section 2561 must be a ~~member~~members of the advisory committee;

I. Continuing education requirements as a precondition to continued licensure or licensure renewal;

J. Fees for the application for an initial physician assistant license, which may not exceed ~~\$250~~\$300; and

K. Fees for an initial certificate of registration, which may not exceed \$100;

L. Fees for transfer of the certificate of registration by a physician assistant from one supervising physician to another, which may not exceed \$50; and

M. Fees for the biennial renewal of a physician assistant license in an amount not to exceed \$250.

**Sec. 4. 32 MRSA §3263, first ¶**, as amended by PL 2013, c. 101, §5, is further amended to read:

The Board of Licensure in Medicine, as established by Title 5, section 12004-A, subsection 24, and in this chapter called the "board," consists of ~~10~~11 individuals who are residents of this State, appointed by the Governor. Three individuals must be representatives of the public. Six individuals must be graduates of a legally chartered medical college or university having authority to confer degrees in medicine and must have been actively engaged in the practice of their profession in this State for a continuous period of 5 years preceding their appointments to the board. ~~One individual~~Two individuals must be ~~a~~ physician assistant~~assistant~~assistants licensed under this chapter who ~~has~~have been actively engaged in the practice of ~~that individual's~~the profession of physician assistant in this State for a continuous period of 5 years preceding appointment to the board. A full-term appointment is for 6 years. Appointment of members must comply with Title 10, section 8009. A member of the board may be removed from office for cause by the Governor.

**Sec. 5. 32 MRSA §3270-A**, as amended by PL 2013, c. 33, §2, is repealed and the following enacted in its place:

### **§ 3270-A. Physician assistants**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Competent" means possessing the requisite cognitive, noncognitive and communicative qualities to perform effectively within a scope of practice while adhering to professional and ethical standards.

B. "Insurer" has the same meaning as in Title 24-A, section 4 and includes any 3rd-party payor.

C. "Physician" means a person licensed as a physician under this chapter or chapter 36.

D. "Physician assistant" means a person licensed under section 2594-E or 3270-E.

E. "Practice agreement" means an agreement between a physician assistant who owns a practice and a physician that states the physician will be available to the physician assistant for collaboration or consultation.

F. "Prescription or legend drug" has the same meaning as in section 13702-A, subsection 30 and includes schedule II to schedule V drugs or other substances under the federal Controlled Substances Act of 1970, 21 United States Code, Section 812.

G. "Primary care" means regular appointments, wellness care and general health care provided by a health care professional or provider with whom the patient has initial contact for a health issue, not including an urgent care or emergency health issue, and by whom the patient may be referred to a specialist.

**2. Scope of practice.** A physician assistant may provide any medical service for which the physician assistant has been prepared by education, training and experience and is competent to perform, including, but not limited to:

A. Medical services, including, but not limited to:

(1) Obtaining a comprehensive health history and performing a physical examination;

(2) Evaluating, diagnosing and managing a health condition and providing medical treatment for that condition;

(3) Ordering, performing and diagnosing a diagnostic study or therapeutic treatment;

(4) Educating a patient on health promotion and disease prevention;

(5) Providing medical consultation upon request;

(6) Writing a medical order regarding the treatment of a health condition of a patient, including prescribing a prescription or legend drug, procedure, patient instructions or a standing order that can be exercised by another health care professional or provider when a predetermined condition has been met; and

(7) Surgical services;

B. Obtaining informed consent from a patient or other authorized individual;

C. Supervising the performance of or delegating or assigning therapeutic or diagnostic measures to other medical personnel;

D. Certifying the health or disability of a person required by a local, state or federal entity or program;

E. Authenticating a document with the physician assistant's signature, certification, stamp, verification, affidavit or endorsement if the document may be authenticated by a physician's signature, certification, stamp, verification, affidavit or endorsement;

F. Ordering or prescribing a nonpharmacological intervention as a therapeutic regimen, including durable medical equipment, nutrition, a blood or blood product or diagnostic support service, including home health care, placement in a hospice or physical or occupational therapy;

G. Services in a health care facility or program, including a hospital, nursing facility, assisted living facility or hospice; and

H. If the physician assistant is registered with the federal Department of Justice, Drug Enforcement Administration, prescribing, dispensing, ordering, administering and procuring a medical device or a prescription or legend drug, including requesting, receiving, signing for and distributing to a patient a professional sample of a prescription or legend drug.

**3. Dispensing drugs.** Except for distributing a professional sample of a prescription or legend drug under subsection 2, paragraph H, a physician assistant who dispenses a prescription or legend drug pursuant to subsection 2, paragraph H:

A. Shall comply with all relevant federal regulations and state rules; and

B. May only dispense the prescription or legend drug when:

(1) A pharmacy service is not reasonably available;

(2) Dispensing the drug is in the best interests of the patient; or

(3) An emergency exists.

**4. Consultation or collaboration.** A physician assistant shall, as indicated by a patient's condition, the education, competencies and experience of the physician assistant and the standards of care, consult with, collaborate with or refer the patient to an appropriate physician or other health care professional. The level of consultation or collaboration under this subsection is determined by the practice setting, including a physician employer, physician group practice, private practice or the credentialing and privileging systems of a health care facility. A physician must be accessible to the physician assistant at all times for consultation. Consultation or collaboration may be achieved electronically or through telecommunication.

**5. Practice agreement.** A physician assistant who owns a part or all of a medical practice that does not include a physician as a partner shall enter into and maintain a practice agreement with at least one physician. Consultation under the practice agreement may occur through electronic means and does not require the physical presence of the physician at the time or place that the medical services are provided. The practice agreement must be kept on file at the main location of the physician assistant's practice and be made available to the board or the board's representative upon request.

**6. Primary care provider.** Notwithstanding any other provision of law to the contrary, a physician assistant may be considered a primary care provider if the physician assistant is practicing in a medical specialty required for a physician to be a primary care provider.

**7. Immunity providing medical services during an emergency or disaster.** A physician assistant or person with a current compatible license from another jurisdiction or credentialed as a physician assistant by a federal employer that provides voluntary and gratuitous medical services during a state, county or municipal disaster under Title 37-B, chapter 13 or other emergency requiring medical services is not liable for civil damages for any personal injuries that may result from acts or omissions that may constitute ordinary negligence. This subsection does not apply to:

- A. Medical services provided in the ordinary course of the physician assistant's scope of practice or employment;
- B. An emergency that occurs in the physician assistant's practice or place of employment; or
- C. Acts or omissions that constitute gross, willful or wanton negligence.

**8. Payment for services; insurer requirements.** Payment by an insurer for a medical service within the physician assistant's scope of practice provided by a physician assistant to an enrollee of a plan of the insurer must be made when ordered or performed in the same manner as if the service were ordered or performed by a physician and be based on the service provided, not the health professional or provider who performed the service. An insurer shall authorize a competent physician assistant to bill the insurer and receive direct payment for a medically necessary service the physician assistant provides to a client of the insurer and identify the physician assistant as the medical service provider in the billing and claims process for payment of the service. An insurer may not impose on a physician assistant a practice, education or collaboration requirement that is inconsistent with or more restrictive than required by state law or board or agency rules.

**Sec. 6. 32 MRSA §3270-E**, as amended by PL 2017, c. 288, Pt. A, §34, is further amended to read:

### **§ 3270-E. Licensure of physician assistants**

**1. License required.** A physician assistant may not render medical services under the supervision of an osteopathic physician or an allopathic physician pursuant to a plan of supervision until the physician assistant has applied for and obtained from either the Board of Licensure in Medicine or the Board of Osteopathic Licensure:

- A. A license, which must be renewed biennially with the board that issued the initial license; ~~and,~~
- B. ~~A certificate of registration.~~

~~Applications~~An application for licensure and ~~certificate of registration~~ as a physician assistant must be made to the board that licenses the physician assistant's primary supervising physician at the time the applications for initial licensure and certificate of registration are filed. A physician assistant who applies for licensure without a designated primary supervising physician may submit the ~~applications~~submitted to either the Board of Osteopathic Licensure or the Board of Licensure in Medicine. A license granted by either the Board of Osteopathic Licensure or the Board of Licensure in Medicine authorizes the physician assistant to render medical services under the supervision of an allopathic or osteopathic physician regardless of which board issued the license to the physician assistant section 2594-A or 3270-A.

**2. Qualification for licensure.** The board may issue to an individual a license to practice as a physician assistant under the following conditions:

A. A license may be issued to an individual who:

- (1) Graduated from a physician assistant program approved by the board;
- (2) Passed a physician assistant national certifying examination administered by the National Commission on Certification of Physician Assistants or its successor organization;
- (3) Demonstrates current clinical competency;
- (4) Does not have a license or certificate of registration that is the subject of disciplinary action such as probation, restriction, suspension, revocation or surrender;
- (5) Completes an application approved by the board; and
- (6) Pays an application fee of up to ~~\$250~~\$300; and
- (7) ~~Passes an examination approved by the board; and~~

B. No grounds exist as set forth in section 3282-A to deny the application.

**3. Certificate of registration.** ~~A physician assistant may not render medical services until issued a certificate of registration by the board. The board may issue a certificate of registration to a physician assistant under the following requirements:~~

A. ~~The physician assistant shall:~~

(1) ~~Submit an application on forms approved by the board. The application must include:~~

~~(a) A written statement by the proposed supervising physician taking responsibility for all medical activities of the physician assistant; and~~

~~(b) A written statement by the physician assistant and proposed supervising physician that a written plan of supervision has been established; and~~

(2) ~~Pays an application fee of up to \$50.~~

~~B. A proposed supervising physician must hold an active license to practice medicine in the State and be in good standing.~~

**4. Delegation by physician assistant.** A physician assistant may delegate medical acts to a medical assistant or another person employed by the physician assistant or by an employer of the physician assistant ~~as long as that delegation is permitted in the plan of supervision established by the physician assistant and the supervising physician.~~

**5. Rules.** The Board of Licensure in Medicine is authorized to adopt rules regarding the ~~training and licensure and practice of physician assistants and the agency relationship between the physician assistant and the supervising physician.~~ These rules, which must be adopted jointly with the Board of Osteopathic Licensure, may pertain to, but are not limited to, the following matters:

~~A. Information to be contained in the application for a license and certificate of registration;~~

~~B. Information that is required on the application for a certificate of registration filed by the proposed supervising physician;~~

~~C. Training and education~~Education requirements ~~and scope of permissible clinical medical procedures offor~~ the physician assistant ~~and the manner and methods by which the supervising physician must supervise the physician assistant's medical services;~~

~~D. Scope of practice for physician assistants, including prescribing of controlled drugs;~~

~~E. Requirements for written plans of supervision;~~

~~F. Requirements for a physician assistant to notify the board regarding certain circumstances, including but not limited to any change in address, any change in the identity or address of the physician assistant's employer or in the physician assistant's employment status, any change in the identity or address of the supervising physician, the permanent departure of the physician assistant from the State, any criminal convictions of the physician assistant and any discipline by other jurisdictions of the physician assistant;~~

~~G. Issuance of temporary physician assistant licenses and temporary registration of physician assistants;~~

H. Appointment of an advisory committee for continuing review of the physician assistant ~~program~~ and rules. The physician assistant ~~member~~members of the board pursuant to section ~~2561~~3263 must be a ~~member~~members of the advisory committee;

I. Continuing education requirements as a precondition to continued licensure or licensure renewal;

J. Fees for the application for an initial physician assistant license, which may not exceed ~~\$250~~\$300; and

~~K. Fees for an initial certificate of registration, which may not exceed \$100;~~

~~L. Fees for transfer of the certificate of registration by a physician assistant from one supervising physician to another, which may not exceed \$50; and~~

M. Fees for the biennial renewal of a physician assistant license in an amount not to exceed \$250.

**Sec. 7. 34-B MRSA §3801, sub-§4-B**, as enacted by PL 2009, c. 651, §5, is amended to read:

**4-B. Medical practitioner.** "Medical practitioner" or "practitioner" means a licensed physician, ~~registered~~licensed physician assistant, certified psychiatric clinical nurse specialist, certified nurse practitioner or licensed clinical psychologist.

**Sec. 8. Transition.** The license of a physician assistant under the Maine Revised Statutes, Title 32, section 2594-E or section 3270-E that is current and not the subject of disciplinary action on the effective date of this Act remains valid.

## SUMMARY

This bill makes the following changes to the laws governing the licensing and scope of practice of physician assistants.

1. It increases the membership of the Board of Osteopathic Licensure and the Board of Licensure in Medicine from 10 to 11 members by changing the number of members on each board who are physician assistants from 1 member to 2 members.

2. It establishes provisions for the scope of practice, insurance coverage of services and immunity from liability for providing volunteer medical services during emergencies or disasters and clarifies that physician assistants are primary care providers when practicing in a medical specialty required for a physician to be a primary care provider.

3. It removes registration and physician supervisory requirements.

4. It establishes requirements for physician assistant collaboration and consultation with physicians and other health care professionals.

5. It changes the initial licensing fee from \$250 to \$300.

6. It provides a transition provision for physician assistant licenses that are current and not subject to disciplinary action.