



Ohio Legislative Service Commission

Bill Analysis

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H.B. 412

130th General Assembly
(As Introduced)

Reps. Gonzales, Bishoff, Hood, Terhar, Young

BILL SUMMARY

- Changes the name of the "certificate to practice" issued to a physician assistant by the State Medical Board to "license" and requires the State Medical Board to begin issuing licenses instead of certificates to practice not later than 90 days after the bill takes effect.
- Eliminates a requirement that a supervising physician submit for Board approval a physician supervisory plan as a condition of being authorized to supervise a physician assistant outside a health care facility.
- Retains a requirement that a supervision agreement be entered into by each supervising physician and physician assistant, regardless of whether the physician assistant is to practice within or outside a health care facility, but requires only that the agreement be filed with the Board rather than approved.
- Eliminates a requirement that a physician assistant receive Board approval to provide services other than those specified in the Revised Code.
- Eliminates a requirement that a physician assistant who seeks to exercise physician delegated prescriptive authority obtain a certificate to prescribe and provides that prescriptive authority may be delegated to a physician assistant as long as the physician assistant has a master's or higher degree or certain experience and a prescriber number issued by the Board.
- Allows a physician assistant to administer conscious sedation if authorized to do so by a supervising physician.

- Revises laws governing physician supervision of physician assistants, including allowing a physician to supervise up to five (rather than two) physician assistants at any one time.
- Provides that the supervising physician is professionally, as well as legally, responsible for the services provided by the physician assistant.
- Eliminates a provision specifying that the physician assistant law is not to be construed as authorizing a physician assistant to direct the care provided by a nurse unless authorized to do so by a physician supervisory plan.
- Modifies the law governing licensure of physician assistants with experience in other jurisdictions or the military.

CONTENT AND OPERATION

Physician assistants – background

Under current law, a physician assistant practices under the supervision, control, and direction of one or more physicians who are responsible for the physician assistant's performance.¹ The services a physician assistant may perform are governed by either (1) a physician supervisory plan approved by the State Medical Board for the supervising physician or (2) the policies of the health care facility in which the physician and physician assistant are practicing.²

A physician supervisory plan lists the services the physician may delegate to the physician assistant. The services permitted under a physician supervisory plan are listed in the Revised Code, but additional "special services" may be delegated with the approval of the Board.³ The services permitted under the policies of a health care facility include any of the services that are permitted under a physician supervisory plan, as well as assisting in surgery in the facility and any other services permitted by the facility's policies.⁴

Whether a physician assistant's practice is governed by a physician supervisory plan or the policies of a health care facility, each supervising physician must enter into a

¹ R.C. 4730.01.

² R.C. 4730.02 and 4730.08.

³ R.C. 4730.09(A) and 4730.16.

⁴ R.C. 4730.09(B).

supervision agreement with each physician assistant the physician supervises. The physician must submit the agreement to the Board for its approval.⁵

A physician assistant who meets certain requirements may be granted a certificate to prescribe. This certificate is maintained separately from the physician assistant's certificate to practice and grants the physician assistant authority to prescribe drugs if that authority is delegated by a supervising physician.⁶

License

The bill changes the name of the certificate to practice under which physician assistants currently practice to "license" and eliminates a provision of current law under which a certificate to practice is to be treated as a license.⁷ The State Medical Board is permitted by the bill to continue to issue certificates to practice for not longer than 90 days after the bill takes effect. Thereafter, the Board must issue licenses to physician assistants. Existing certificates to practice are to be honored until January 31 of the first even-numbered year following the bill's effective date.⁸

Physician supervisory plan

Regarding a physician assistant who practices outside a health care facility, the bill eliminates the requirement that the supervising physician have a Board-approved physician supervisory plan and that the physician assistant practice under that plan.⁹ Associated provisions of current law that are eliminated include requirements to specify circumstances when a physician assistant must refer a patient to the supervising physician and the procedures the physician assistant must follow when writing medical orders.¹⁰

Supervision agreement

The bill retains the current law requirement that each supervising physician and each physician assistant being supervised enter into a written supervision agreement.

⁵ R.C. 4730.18 and 4730.19.

⁶ R.C. 4730.41.

⁷ R.C. 1.64, 2133.211, 2305.113, 4503.44, 4730.02, 4730.03, 4730.06, 4730.08, 4730.081 (repealed), 4730.10, 4730.101, 4730.12, 4730.13, 4730.14, 4730.25, 4730.251, 4730.27, 4730.28, 4730.31, 4730.32, 4730.33, 4730.49, 4730.51, 4730.53, 4765.01, and 5123.47.

⁸ Section 3.

⁹ R.C. 4730.02, 4730.08, 4730.15 (repealed), 4730.16, and 4730.17 (repealed).

¹⁰ R.C. 4730.16(D).



The bill, however, eliminates the requirement that the agreement be submitted to and approved by the Board.¹¹

As under current law, the bill requires a supervision agreement regardless of whether the physician assistant is practicing within or outside a health care facility and requires the agreement to specify the responsibilities of supervising physician and the physician assistant. The bill requires that a supervision agreement be kept on file at each location at which the physician assistant regularly practices and made available to the Board upon request.¹²

The bill provides that a supervision agreement expires two years after it is executed or, if earlier, on execution of a new supervision agreement by the supervising physician and physician assistant. Under current law, the Board's approval of a supervision agreement expires on January 31 of each odd-numbered year and may be renewed by the Board. The bill eliminates provisions specifying the process for receiving the Board's approval of any amendments to a supervision agreement.¹³

Prescriptive authority

Under current law, a physician assistant who holds a certificate to practice and meets certain other requirements may be granted a provisional certificate to prescribe and, after completing a provisional period, a certificate to prescribe. This authorizes the physician assistant to exercise "physician-delegated prescriptive authority."¹⁴

The bill eliminates the certificate to prescribe and the provisional certificate.¹⁵ Under the bill, a physician assistant who holds a valid prescriber number issued by the Board is authorized to prescribe and personally furnish drugs and therapeutic devices in the exercise of physician-delegated prescriptive authority, similar to the eliminated certificates.¹⁶ The bill does not specify a procedure for applying for or obtaining a prescriber number from the Board.

¹¹ R.C. 4730.02, 4730.08, 4730.16, 4730.18 (repealed), 4730.19 (repealed), and 4730.20 (repealed).

¹² R.C. 4730.16.

¹³ R.C. 4730.16, 4730.18 (repealed), 4730.19 (repealed), and 4730.20 (repealed).

¹⁴ R.C. 4729.01 and 4730.44 (repealed).

¹⁵ R.C. 4730.11, 4730.12, 4730.19 (repealed), 4730.38, 4730.39, 4730.40, 4730.41, 4730.42, 4730.43, 4730.44 (repealed), 4730.45 (repealed), 4730.46 (repealed), 4730.47 (repealed), 4730.48 (repealed), 4730.49, 4730.50 (repealed), 4730.51, 4730.52 (repealed), and 4730.53.

¹⁶ R.C. 4730.43.

The bill specifies that a physician assistant's first 500 hours of physician-delegated prescriptive authority must be under the supervision of a physician.¹⁷ It does not, however, indicate how this differs from a supervising physician's regular, ongoing supervision of a physician assistant. Under current law, the first 500 hours must consist of "on-site" supervision.¹⁸

Education or experience requirements

The bill provides that a physician assistant who holds a license issued by the Board may exercise physician-delegated prescriptive authority if the physician assistant holds a master's or higher degree or had prescriptive authority or had prescriptive authority while practicing in another jurisdiction or in the military. With limited exceptions, current law requires a person who applies after January 1, 2008 for authority to practice as a physician assistant to have a master's or higher degree.

The bill permits the Board to grant authority to exercise physician-delegated prescriptive authority to a physician assistant who obtained a license without having first obtained a master's or higher degree if the physician assistant later obtains such a degree. To be granted the authority, the physician assistant must provide evidence satisfactory to the Board of having obtained a master's or higher degree from a program accredited by the Accreditation Review Commission on Education for the Physician Assistant or a predecessor or successor organization recognized by the Board.¹⁹

Services within supervising physician's expertise

Under the bill, a physician assistant may perform any services that are authorized by the supervising physician that are part of the physician's normal course of practice and expertise.²⁰ The bill adds the following definition of "service": "a medical activity that requires training in the diagnosis, treatment, or prevention of disease."²¹

If the supervising physician gives authorization, and the services are within the physician's normal course of practice and expertise, the bill provides that a physician assistant may perform any of the following:²²

¹⁷ R.C. 4730.12(C).

¹⁸ R.C. 4730.45(B).

¹⁹ R.C. 4730.11.

²⁰ R.C. 4730.20.

²¹ R.C. 4730.01.

²² R.C. 4730.20.



- (1) Ordering diagnostic, therapeutic, and other medical services;
- (2) Prescribing physical therapy or referring a patient to physical therapy;
- (3) Ordering occupational therapy or referring a patient to an occupational therapist;
- (4) Identifying and complying with a do-not-resuscitate order;
- (5) Determining and pronouncing death;
- (6) Assisting in surgery;
- (7) If the physician assistant holds a valid prescriber number, ordering, prescribing, personally furnishing, and administering drugs and medical devices;
- (8) Any other services that are part of the supervising physician's normal course of practice and expertise.

With respect to practicing in a health care facility, the bill retains a provision of existing law specifying that the services a physician assistant may provide under the facility's policies are limited to the service the facility authorizes the physician assistant to provide for the facility. It specifies that a facility may not authorize a physician assistant to perform a service that is not authorized under the laws governing physician assistants.²³

Anesthesia

The bill adds conscious sedation to the forms of anesthesia a physician assistant may be authorized by a physician to administer, monitor, or maintain. Currently a physician assistant may be authorized to administer, monitor, or maintain local anesthesia, but no other form of anesthesia. "Conscious sedation" is defined by the bill as "a minimally depressed level of consciousness induced by the administration of pharmacologic agents in which a patient retains the ability to independently and continuously maintain an open airway and a regular breathing pattern, and to respond appropriately to physical stimulation and verbal commands."²⁴

The locations where a physician assistant may administer conscious sedation are limited by the bill to a facility's critical care unit or, with the supervision of a physician who is available if needed, within a facility's emergency department. "Critical care unit"

²³ R.C. 4730.09 (repealed) and 4730.20(D).

²⁴ R.C. 4730.201.



is defined by the bill as a hospital unit, other than an emergency department, that is devoted to providing "critical care services," as defined by the American Medical Association.

The bill retains a provision of existing law that prohibits a physician from administering, monitoring, or maintaining any other form of anesthesia, but eliminates references to "regional anesthesia" and "any systemic sedation" as forms of anesthesia a physician assistant is not authorized to administer, monitor, or maintain.

Special services

The bill eliminates provisions dealing with Board approval of "special services" that may be performed by physician assistants. Under current law, "special services" are health care services that are not listed in the Revised Code or designated by Board rule or other means as services that a physician assistant may be authorized to perform. Special services may be performed by one or more physician assistants being supervised by a physician if the Board approves the special services portion of an application for approval of a physician supervisory plan.²⁵

Supervision

Current law includes a number of provisions concerning where a physician assistant may practice and how the practice is supervised. One provision specifies that a supervising physician may authorize a physician assistant to practice in any setting within which the supervising physician routinely practices. The bill provides instead that a physician assistant may practice in any setting authorized by the supervising physician.²⁶

Another provision requires a supervising physician who is not physically present at the location where a physician assistant is practicing to be in a location that under normal conditions is not more than 60 minutes travel time from the physician assistant's location. The bill provides that the supervising physician must be a distance from the location where the physician is practicing that "reasonably allows the physician to assure proper care of patients."²⁷

Current law specifies that a physician assistant may practice only "under the supervision, control, and direction" of a physician. The bill eliminates the requirement

²⁵ R.C. 4730.01, 4730.06, 4730.09, 4730.15, and 4730.16.

²⁶ R.C. 4730.21(D).

²⁷ R.C. 4730.21(A)(1)(b).

that a physician exercise "control and direction"; the physician must still provide supervision. Additionally, under the bill a physician assistant no longer practices "under" a physician's supervision, but rather "with" that supervision.²⁸

The bill increases the number of physician assistants who may be supervised at any one time by a supervising physician. Currently, not more than two may be supervised at one time. Under the bill, not more than five may be supervised.

The bill eliminates provisions of current law that do the following:

(1) Prohibit a supervising physician from authorizing a physician assistant to perform a service unless the service is authorized under the physician supervisory plan approved for that physician or the policies of the health care facility in which the physician and physician assistant are practicing;

(2) Require the supervising physician to regularly review the condition of the patients treated by a physician assistant;

(3) Require a physician assistant who writes a medical order to clearly identify the physician under whose supervision the physician assistant is authorized to write the order;

(4) Make records of the quality assurance activities of the physician and physician assistant available to any health care professional working with the supervising physician and the physician assistant.²⁹

Current law provides that in a disaster or emergency the physician who supervises a physician assistant pursuant to a physician supervisory plan is not required to meet the supervision requirements that would otherwise apply. The bill changes this to the physician who supervises a physician assistant under a supervision agreement.³⁰

Liability

Under current law, a physician assistant's supervising physician assumes legal liability for the services provided by the physician assistant.³¹ The bill adds a requirement that a supervision agreement clearly state that the supervising physician is

²⁸ R.C. 4730.08(A)(1).

²⁹ R.C. 4730.21.

³⁰ R.C. 4730.04.

³¹ R.C. 4730.22.



professionally and legally responsible for services provided by the physician assistant.³² It also expressly provides that the supervising physician is professionally responsible for the services performed by the physician assistant and that the physician assistant acts as the agent of the supervising physician when performing authorized services.³³ The significance of these changes is not apparent.

Delegation and orders

The bill eliminates a provision of current law specifying that the physician assistant law is not to be construed as authorizing a physician assistant to independently order or direct the execution of procedures or techniques by a registered nurse or licensed practical nurse in the care and treatment of a person in any setting, except to the extent that the physician assistant is authorized to do so by a physician supervisory plan or the policies of a health care facility.³⁴

The bill adds a provision that permits a physician assistant to delegate a task the physician assistant is authorized to perform to a medical assistant, a nurse aide who has successfully completed a training and competency evaluation program approved by the Director of Health, or other personnel.³⁵ The bill does not define the other personnel who may perform these delegated tasks.

Other jurisdictions

The bill permits the Board to issue a license to a person who holds a current license from another jurisdiction and has been in active practice in any jurisdiction throughout the preceding three-year period. Under current law, the physician assistant must have received the license from another jurisdiction prior to January 1, 2008.

The bill also permits the Board to issue a license to an applicant who has at least three years experience practicing as a physician assistant while in active duty in the United States Public Health Service Commissioned Corps, as long as the applicant holds a degree from a program accredited by the Accreditation Review Commission on Education for the Physician Assistant. Currently this provision applies only to applicants whose experience is with the Armed Forces of the United States.

³² R.C. 4730.16.

³³ R.C. 4730.20(B).

³⁴ R.C. 4730.03.

³⁵ R.C. 4730.20(C).

The bill specifies that a license issued on the basis of licensure by another jurisdiction or experience in the Armed Forces or the Public Health Service does not authorize the license holder to exercise physician-delegated prescriptive authority unless the license holder has a master's or higher degree.³⁶

HISTORY

ACTION	DATE
Introduced	01-21-14

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³⁶ R.C. 4730.11.

