



AAPA MODEL STATE LEGISLATION FOR PAs

AAPA's Model State Legislation for PAs (Model Law) was adopted by AAPA over 20 years ago to describe best practices in the regulation of the profession, achieve regulatory efficiency and promote consistency across states. AAPA adopted a substantive upgrade to the Model Law in 2015. The updates modernize PA practice and the language used to describe the profession, as well as align the Model Law with new AAPA policies, such as replacing the term "supervision" with "collaboration" and utilization of the term "PA" throughout the legislation.

This Model Law was first drafted in 1991 and revised in 1994, 1998, 2001, 2002, 2004, 2005, 2009, 2013, 2015 and 2016 to incorporate changes in program accrediting agencies and to reflect changes in PA practice. The model legislation reflects two principal concepts: that PAs should be licensed to practice medicine and that PA scope of practice should be based on the PA's skills, education and experience.

The updated model state legislation proposes an administrative process in which a PA presents his or her credentials to a state regulatory agency and receives a license in return. The license is renewable, based on meeting state requirements. The model legislation does not propose that the regulatory authority approve or register collaborating physicians. Any licensed physician or group of physicians (MD or DO) may collaborate with a PA unless the physician's ability to collaborate has been limited by disciplinary action.

The scope of PA practice under the model legislation is determined by what is within the PA's skills, education and experience. Language describing PA scope of practice being determined by physician delegation has been deleted. The model legislation authorizes PA prescriptive authority, including controlled substances in Schedules II through V, as well as limited dispensing authority.

In modernizing the model legislation language, requiring the collaborating physician to assume responsibility for care provided by the PA was removed. Rather, the PA is responsible for their professional actions. The new model also removes the concept that a PA should be considered the "agent" of a physician. In the past, rather than amending health law outside the PA practice act, PAs sought to be able to perform specific regulated medical and surgical tasks as the "agent" of a physician. Current advocacy efforts seek to have PAs specifically named in all relevant health law, removing the need for "agency" language.

It is stated quite clearly in the model legislation that a physician need not be physically present as long as the PA and physician can contact one another easily. The details of collaboration are left to the PA-physician team.

Augmenting previous language that removed the requirement that PAs practice with physician collaboration when responding to a disaster situation, the new model state legislation extends the same authorization to PAs who are participating in volunteer activities.

The new model legislation presents a list of options for regulatory models, with the preferred option being a separate and independent PA board.

Because the substantive revisions to the AAPA model legislation were adopted in May 2015, they are not yet extensively reflected in current state laws and regulations. Advocacy projects to adopt the modernized model law are underway across the country.

AAPA MODEL STATE LEGISLATION – PHYSICIAN ASSISTANTS (PAs)

DEFINITIONS

“Physician assistant” or “PA” means a healthcare professional who meets the qualifications defined in this chapter and is licensed to practice medicine under this chapter.

“Board” means the [name of state board or agency charged with PA regulation (See final section of model legislation concerning regulatory options).]

“Collaborating physician” means an MD or DO licensed by the board who collaborates with PAs.

“Collaboration” means the process in which PAs and physicians jointly contribute to the healthcare and medical treatment of patients with each collaborator performing actions he or she is licensed or otherwise authorized to perform. Collaboration shall be continuous but shall not be construed to require the physical presence of the physician at the time and place that services are rendered.

QUALIFICATIONS FOR LICENSURE

Except as otherwise provided in this chapter, an individual shall be licensed by the board before the individual may practice as a PA.

The board may grant a PA license to an applicant who:

- 1) submits an application on forms approved by the board;
- 2) pays the appropriate fee as determined by the board;
- 3) has successfully completed an educational program for PAs accredited by the Accreditation Review Commission on Education for the Physician Assistant, or prior to 2001, either by the Committee on Allied Health Education and Accreditation, or the Commission on Accreditation of Allied Health Education Programs;
- 4) has passed the Physician Assistant National Certifying Examination administered by the National Commission on Certification of Physician Assistants;
- 5) is mentally and physically able to engage safely in practice as a PA;
- 6) has no license or registration as a PA under current discipline, revocation, suspension or probation for cause resulting from the applicant’s practice as a PA, unless the board considers such condition and agrees to licensure;
- 7) is of good moral character;
- 8) submits to the board any other information the board deems necessary to evaluate the applicant’s qualifications; and
- 9) has been approved by the board.

The board may also grant a license to an applicant who does not meet the educational requirement specified in subsection three, but who passed the Physician Assistant National

Certifying Examination administered by the National Commission on Certification of Physician Assistants prior to 1986.

TEMPORARY LICENSE

A temporary license may be granted to an applicant who meets all the qualifications for licensure but is awaiting the next scheduled meeting of the board.

INACTIVE LICENSE

Any PA who notifies the board in writing on forms prescribed by the board may elect to change the status of his or her license to inactive. A PA with an inactive license shall be excused from payment of renewal fees and shall not practice as a PA. Any licensee who engages in practice while his or her license is lapsed or on inactive status shall be considered to be practicing without a license, which shall be grounds for discipline under section _____ of this Act. A PA requesting restoration from inactive status shall be required to pay the current renewal fee and shall be required to meet the criteria for renewal as specified in section _____ of this Act.

RENEWAL

Each person who holds a license as a PA in this state will, upon notification from the board, renew said license by:

- 1) submitting the appropriate fee as determined by the board;
- 2) completing the appropriate forms; and
- 3) meeting any other requirements set forth by the board.

EXEMPTION FROM LICENSURE

Nothing herein shall be construed to require licensure under this Act of:

- 1) a PA student enrolled in a PA educational program accredited by the Accreditation Review Commission on Education for the Physician Assistant; or
- 2) a PA employed in the service of the federal government while performing duties incident to that employment unless licensure is required by the federal employer.

SCOPE OF PRACTICE

PAs practice medicine in collaboration with physicians. PAs may provide any medical service that is within the PA's skills, education and training. This includes the ordering, prescribing, dispensing and administration of drugs and medical devices.

PAs may pronounce death and may authenticate with their signature any form that may be authenticated by a physician's signature.

PRESCRIPTIVE AUTHORITY

A PA may prescribe, dispense, order, administer and procure drugs and medical devices.

Prescribing and dispensing of drugs may include Schedule II through V substances as described in [the state controlled drug act] and all legend drugs.

All dispensing activities of PAs shall:

- 1) comply with appropriate federal and state regulations; and
- 2) occur when pharmacy services are not reasonably available, or when it is in the best interest of the patient, or when it is an emergency.

PAs may request, receive and sign for professional samples. PAs may distribute professional samples to patients.

PAs authorized to prescribe and/or dispense controlled substances must register with the federal Drug Enforcement Administration [and any applicable state controlled substance regulatory authority].

COLLABORATION

Collaboration shall be continuous, but shall not be construed to require the physical presence of the physician at the time and place that services are rendered. It is the obligation of each team of physician(s) and PA(s) to ensure that the PA's scope of practice is identified and appropriate to the PA's skill, education and training, and that the relationship with, and access to, the collaborating physician(s) is defined.

COLLABORATING PHYSICIAN

A physician who collaborates with a PA must:

- 1) be licensed in this state;
- 2) be free from any restriction on his or her ability to collaborate with a PA that has been imposed by board disciplinary action.

A physician collaborating with a PA practicing in a federal jurisdiction is not required to meet the licensing requirements under this section, but must meet the licensing requirements of the federal agency.

EXCLUSIONS OF LIMITATIONS ON EMPLOYMENT

Nothing herein shall be construed to limit the employment arrangement of a PA licensed under this Act.

VIOLATIONS

The board may, following the exercise of due process, discipline any PA who:

- 1) fraudulently or deceptively obtains or attempts to obtain a license;
- 2) fraudulently or deceptively uses a license;
- 3) violates any provision of this chapter or any regulations adopted by the board pertaining to this chapter, or any other laws or regulations governing licensed health professionals or any stipulation or agreement of the board;
- 4) is convicted of a felony;
- 5) is a habitual user of intoxicants or drugs to such an extent that he or she is unable to safely practice as a PA;
- 6) has been adjudicated as mentally incompetent;
- 7) is physically or mentally unable to engage safely in practice as a PA;
- 8) is negligent in practice as a PA or demonstrates professional incompetence;

- 9) violates patient confidentiality, except as required by law;
- 10) engages in conduct likely to deceive, defraud or harm the public;
- 11) engages in unprofessional or immoral conduct;
- 12) prescribes, sells, administers, distributes, orders or gives away any drug classified as a controlled substance for other than medically accepted therapeutic purposes;
- 13) has committed an act of moral turpitude;
- 14) is disciplined or has been disciplined by another state or jurisdiction based upon acts or conduct similar to acts or conduct that would constitute grounds for disciplinary action as defined in this section;
- 15) fails to cooperate with an investigation conducted by the board;
- 16) represents himself or herself as a physician.

DISCIPLINARY AUTHORITY

The board, upon finding that a PA has committed any offense described in section _____, may:

- 1) refuse to grant a license;
- 2) administer a public or private reprimand;
- 3) revoke, suspend, limit or otherwise restrict a license;
- 4) require a PA to submit to the care or counseling or treatment of a health professional designated by the board;
- 5) impose corrective measures;
- 6) impose a civil penalty or fine;
- 7) suspend enforcement of its finding thereof and place the PA on probation with the right to vacate the probationary order for noncompliance; or
- 8) restore or reissue, at its discretion, a license, and remove any disciplinary or corrective measure that it may have imposed.

IMPAIRED PA PROGRAM

The board shall establish and administer a program for the rehabilitation of PAs whose competency is impaired due to the abuse of drugs or alcohol. The board may designate a state agency or private corporation to perform duties under this section. The program shall be similar to that available to other health professionals licensed in this state.

TITLE AND PRACTICE PROTECTION

Any person not licensed under this Act is guilty of a [felony or misdemeanor] and is subject to penalties applicable to the unlicensed practice of medicine if he or she:

- 1) holds himself or herself out as a PA;
- 2) uses any combination or abbreviation of the term “physician assistant” to indicate or imply that he or she is a PA; or
- 3) acts as a PA without being licensed by the board.

A person who meets the qualifications for licensure under this chapter but does not possess a current license may use the title “physician assistant” or “PA” but may not act or practice as a PA unless licensed under this chapter.

An unlicensed physician shall not be permitted to use the title of “physician assistant,” “PA” “PA-C,” or to practice as a PA unless he or she fulfills the requirements of this [Act].

IDENTIFICATION REQUIREMENTS

PAs licensed under this Act shall keep their license available for inspection at their primary place of practice and shall, when engaged in their professional activities, identify themselves as a “physician assistant,” “PA” or “PA-C.”

PARTICIPATION IN DISASTER AND EMERGENCY CARE, VOLUNTEERING

A PA licensed in this state or licensed or authorized to practice in any other U.S. jurisdiction or who is credentialed as a PA by a federal employer who is responding to a need for medical care created by an emergency or a state or local disaster (not to be defined as an emergency situation that occurs in the place of one’s employment) may render such care that they are able to provide without collaboration, as it is defined in this section of law or with such collaboration as is available.

Any physician who collaborates with a PA providing medical care in response to such an emergency or state or local disaster shall not be required to meet the requirements set forth in this section of law for a collaborating physician.

No PA licensed in this state or licensed or authorized to practice in other states of the United States who voluntarily and gratuitously, and other than in the ordinary course of employment or practice, renders emergency medical assistance shall be liable for civil damages for any personal injuries that result from acts or omissions by those persons in rendering emergency care, which may constitute ordinary negligence. The immunity granted by this section shall not apply to acts or omissions constituting gross, willful or wanton negligence, or when the medical assistance is rendered at any hospital, physician’s office or other healthcare delivery entity where those services are normally rendered. No physician who collaborates with a PA voluntarily and gratuitously providing emergency care as described in this subsection shall be liable for civil damages for any personal injuries that result from acts or omissions by the PA rendering emergency care.

A PA licensed in this state, or licensed or authorized to practice in any other U.S. jurisdiction, or who is credentialed by a federal employer or meets the licensure requirements of their requisite federal agency as a PA may volunteer to render such care that they are able to provide at a children’s summer camp or for a public or community event without a collaborating physician as it is defined in this section of law or with such collaborating physicians as may be available. Such care must be rendered without compensation or remuneration. It is the obligation of the PA to assure adequate and appropriate professional liability coverage.

RULE-MAKING AUTHORITY

The board shall promulgate, in accordance with the provisions of the [state] Administrative Procedures Act, all rules that are reasonable and necessary for the performance of the various duties imposed upon the board by the provisions of this Act, including but not limited to:

- 1) setting licensure fees; and
- 2) establishing renewal dates.

PRIMARY CARE PROVIDER

A PA licensed by the state shall be included in the definition of primary care provider for all programs, when the PA is practicing in the medical specialties required for a physician to be a primary care provider.

COVERAGE OF SERVICES

Payment for services within the PA's scope of practice shall be made when provided by a PA, if the same service would have been covered if provided by a physician. Payment for services shall be based on the service provided and not on the health professional who delivered the service.

Nothing in this section shall prevent a health insurance entity or payer from instituting measures designed to improve quality and control costs, including paying different reimbursement amounts, if payment differentials are made based on objective clinical outcomes data and not on the provider of the service.

OPTIONS FOR ADDITIONAL LANGUAGE

REGULATORY OPTIONS

PAs should be involved in regulating the profession. How this occurs is dependent on the structure the state has created for regulatory agencies. The following options are listed in order of preference.

I. Regulation by a PA Board

To administer this Act, there is hereby established a Board of PA Examiners. The board shall consist of five members appointed by the governor, each of whom shall be residents of this state. [Note: Options for board membership include:

All members of the board shall be PAs who meet the criteria for licensure as established by this Act,

or

Four members shall be PAs who meet the criteria for licensure as established by this Act, and one shall be a licensed physician experienced with PA practice.

or

Four members shall be PAs who meet the criteria for licensure as established by this Act, and one shall be a public member.

Initial appointments shall be made as follows:

- 1) two members shall be appointed for terms of four years;

- 2) one member shall be appointed for a term of three years;
- 3) one member shall be appointed for a term of two years; and
- 4) one member shall be appointed for a term of one year.

Each regular appointment thereafter shall be for a term of four years. Any vacant term shall be filled by the governor for the balance of the unexpired term. No member shall serve more than two consecutive four-year terms, and each member shall serve on the board until his or her successor is appointed.

While engaged in the business of the board, each member shall receive a per diem of \$_____ and shall also receive compensation for actual expenses paid in accordance with [other state regulations].

The board shall elect a chair and a secretary from among its members at the first meeting of each fiscal year. The board shall meet on a regular basis. A board meeting may be called, upon reasonable notice, at the discretion of the chair and shall be called at any time, upon reasonable notice, by a petition of three board members to the chair.

Powers and duties of the board shall include the following:

- 1) promulgation of all rules reasonable and necessary to implement the provisions of this Act;
- 2) review and approval or rejection of applications for licensure;
- 3) review and approval or rejection of applications for renewal of licensure;
- 4) issuance of all licenses;
- 5) denial, suspension, revocation or other discipline of a licensee;
- 6) determination of the amount and collection of all fees.

II. Regulation by the Medical Board

The state board of medical examiners shall administer the provisions of this Act under such procedures, as it considers advisable, and may adopt rules that are reasonable and necessary to implement the provisions of this Act. To assist in the administration of this Act, the governor shall appoint a licensed PA to the board of medical examiners for a term of _____ years [etc., in accordance with existing law]. The PA member will serve as a regular member of the board with all responsibilities, rights and privileges.

III. Regulation by a Medical Board With a PA Advisory Committee

There is hereby created a PA committee, which shall review and make recommendations to the board regarding all matters relating to PAs that come before the board. Such matters shall include, but not be limited to:

- 1) regulations required to implement this Act;
- 2) applications for licensure;
- 3) disciplinary proceedings;
- 4) renewal requirements; and
- 5) any other issues pertaining to the regulation and practice of PAs in this state.

Committee Membership

The committee shall consist of three PAs, one physician experienced in practicing with PAs and one member of the board. All committee members must be residents of this state and hold a license in good standing in their respective disciplines.

The chair of the committee shall be elected by a majority vote of the committee members.

Committee members shall receive reimbursement for time and travel expenditures [consistent with usual state practices].

Appointments

The PA and physician members of the committee shall be appointed by the governor. The board of medical examiners shall designate one member to serve on the board. All appointments shall be made within 60 days of the effective date of this Act. All appointments shall be for four-year terms, at staggered intervals. Members shall serve no more than two consecutive terms. Reappointments of the PA and physician members of the committee shall be made by the governor.

Meetings

The committee shall meet on a regular basis. A committee meeting may be called, upon reasonable notice, at the discretion of the chair and shall be called at any time, upon reasonable notice, by petition of three committee members to the chair.

REENTRY TO CLINICAL PRACTICE

The board may make special provisions for licensure of an applicant who has been clinically inactive for greater than 24 months. These provisions shall be contained in an individual reentry plan that is agreed to by the board or its representative and the applicant for licensure. Similar provisions may be required of applicants for license renewal who have been clinically inactive for greater than 24 months. PAs who have been full-time employees of accredited PA educational programs will not be considered to have been clinically inactive for the purpose of licensure or license renewal.

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