

LEGISLATIVE BILL 132

Approved by the Governor April 15, 1985

Introduced by Conway, 17; Schmit, 23; L. Johnson, 15;
Chronister, 18; Vickers, 38

AN ACT relating to public health and welfare; to amend sections 71-1,107.15 to 71-1,107.21 and 71-1,107.23 to 71-1,107.29, Reissue Revised Statutes of Nebraska, 1943; to define and redefine terms; to change provisions relating to physician assistants; to create a committee; to provide duties; to harmonize provisions; to repeal the original sections; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 71-1,107.15, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,107.15. The Legislature finds:

(1) That in its concern with the geographic maldistribution of health care services in Nebraska it is essential to develop additional health manpower;

(2) That it is essential to encourage the more effective utilization of the skills of physicians by enabling them to delegate health care tasks to qualified ~~physician's~~ physician assistants when such delegation is consistent with the patient's health and welfare; and

(3) That sections 71-1,107.15 to 71-1,107.29 and section 15 of this act are established to encourage the utilization of such ~~physician's~~ physician assistants by physicians.

Sec. 2. That section 71-1,107.16, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,107.16. As used in sections 71-1,107.15 to 71-1,107.29 and section 15 of this act, unless the context otherwise requires:

(1) Approved program shall mean a program for the education of ~~physician's~~ physician assistants which the board formally approves;

(2) Board shall mean the Board of Examiners in Medicine and Surgery;

(3) Department shall mean the Department of Health of the State of Nebraska;

(4) ~~Physician's~~ Physician assistant shall mean any person who graduates from an approved a program or its equivalent as determined by the board approved by the Council on Allied Health Education and Accreditation or

its successor agency and the board, who satisfactorily completes a proficiency examination, and who the board, with the concurrence of the department, approves to perform medical services under the supervision of a physician or group of physicians approved by the board to supervise such assistant;

(5) Supervision shall mean responsible supervision and control, where the licensed physician assumes legal liability for the services that the physician's assistant renders. Except in cases of emergency, supervision shall require the easy availability or physical presence of the licensed physician for consultation and direction of the actions of the physician's assistant. The board shall further establish rules and regulations as to what constitutes responsible supervision of the physician's assistant, and the ready availability of the supervising physician for consultation and direction of the activities of the physician assistant. Contact with the supervising physician by telecommunication shall be sufficient to show ready availability if the board finds that such contact is sufficient to provide quality medical care;

(6) Trainee shall mean any person who is currently enrolled in an approved program;

(7) Proficiency examination shall mean the initial certifying examination approved by the board for the certification of physician assistants, including, but not limited to, the examination administered by the National Commission on Certification of Physician Assistants or other national organization established for such purpose that is recognized by the board;

(8) Supervising physician shall mean a (a) board-approved physician who utilizes an approved physician assistant or (b) backup physician;

(9) Backup physician shall mean a physician designated by the supervising physician to ensure supervision of the physician assistant in the supervising physician's absence. A backup physician shall be subject to the same requirements imposed upon the supervising physician when the backup physician is acting as a supervising physician; and

(10) Committee shall mean the Physician Assistant Committee created in section 71-1,107.25.

Sec. 3. That section 71-1,107.17, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,107.17. Notwithstanding any other provision of law, a ~~physician's~~ physician assistant may perform medical services when he or she renders such services under the supervision of a licensed physician or group of physicians approved by the board, in the specialty area or areas for which the ~~physician's~~ physician assistant shall be trained or experienced. Any

physician's physician assistant certified under the provisions of sections 71-1,107.15 to 71-1,107.29 and section 15 of this act to perform services may perform those services only:

(1) In the office of the supervising physician to whom the physician's assistant is assigned, where such physician maintains his or her primary practice;

(2) When the physician to whom he is assigned is present in any other office which is operated by the supervising physician with the personal presence of the supervising physician. The physician assistant may function without the personal presence of the supervising physician in an office other than where such physician maintains his or her primary practice when approved on an individual basis by the board. Any such approval shall require site visits by the supervising physician, regular reporting to the supervising physician by the physician assistant, and arrangements for supervision at all times by the supervising physician which are sufficient to provide quality medical care;

(3) In a hospital, with the approval of the governing board of such hospital, where the supervising physician to whom he is assigned is a member of the staff and the physician assistant is subject to the rules and regulations of the hospital. Such rules and regulations may include, but not be limited to, reasonable requirements that physician assistants and the supervising physician maintain professional liability insurance with such coverage and limits as may be established by the hospital governing board, upon the recommendation of the medical staff; or

(4) On calls outside such office, on the direct order of the offices, when authorized by the supervising physician to whom he is assigned and with the approval of the governing board of any affected hospital.

The provisions of this section may be further clarified by rules and regulations of the board.

Sec. 4. That section 71-1,107.18, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,107.18. Notwithstanding any other provision of law, a trainee may perform medical services when he or she renders such services within the scope of an approved program.

Sec. 5. That section 71-1,107.19, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,107.19. (1) The board shall issue certificates of approval for programs for the education and training of physician's assistants which meet board standards. Such educational programs may include provision for continuing educational requirements established by the board to persons who are graduates of

physician assistant programs approved by the board and have satisfactorily completed a proficiency examination.

(2) The board shall issue temporary certificates to persons who have successfully completed an approved program for the education and training of physician assistants but have not yet passed a proficiency examination. Any temporary certificate issued pursuant to this subsection shall be issued for a period not to exceed one year and under such conditions as the board determines, with the approval of the department. The temporary certificate may be extended by the board, with the approval of the department, upon a showing of good cause.

(3) ~~(2)~~ The board may recognize groups of specialty classifications of training for ~~physician's~~ physician assistants. These classifications shall reflect the training and experience of the ~~physician's~~ physician assistant. The ~~physician's~~ physician assistant may receive training in one or more such classifications which shall be shown on the certificate issued.

(4) Physician assistants approved by the board prior to the effective date of this act shall not be required to complete the proficiency examination.

Sec. 6. That section 71-1,107.20, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,107.20. (1) The board shall formulate guidelines for the consideration of applications by a licensed physician or physicians to supervise ~~physician's~~ physician assistants. Any application made by a physician or physicians shall include all of the following:

(a) The qualifications, including related experience, of the ~~physician's~~ physician assistant intended to be employed;

(b) The professional background and specialty of the physician or physicians; and

(c) A description by the physician of his or her, or physicians of their, practice and the way in which the assistant or assistants shall be utilized.

(2) The board, with the concurrence of the department, shall approve an application by a licensed physician to supervise a ~~physician's~~ physician assistant when the board is satisfied that the proposed assistant is a graduate of an approved program, has satisfactorily completed a proficiency examination, and ~~is its equivalent~~ as determined by the board, is fully qualified to perform medical services under the responsible supervision of a licensed physician. The ~~7~~ and the public shall be adequately protected by the arrangement proposed in the application.

(3) The board shall certify no more than two ~~physician's~~ physician assistants for any practicing physician.

Sec. 7. That section 71-1,107.21, Reissue

Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,107.21. Any person who has not been approved by the board, with the concurrence of the department, and who holds himself or herself out as a physician's physician assistant, or who uses any other term to indicate or imply that he or she is a physician's physician assistant, shall be guilty of a Class IV felony.

Sec. 8. That section 71-1,107.23, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,107.23. The board, with the concurrence of the department, may limit, deny, suspend, or revoke the certificate of approval to supervise a physician's physician assistant held by any physician when it finds that the provisions of sections 71-1,107.15 to 71-1,107.29 and section 15 of this act or any of the rules and regulations adopted by the board thereunder are not being complied with. In cases of failure to pay the required fees, denial shall be automatic. Any limitation, denial, suspension, or revocation shall be subject to review pursuant to the provisions of Chapter 84, article 9.

Sec. 9. That section 71-1,107.24, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,107.24. The board shall adopt rules and regulations necessary for the administration of the physician's physician assistant utilization. Such program, and such rules and regulations shall be adopted in accordance with Chapter 84, article 9. The board shall adopt such rules and regulations as shall be necessary to insure both the continued competency of physician's assistants and the proper utilization of them by physicians or groups of physicians. Rules and regulations shall be adopted to assure that every physician's physician assistant performs his or her services under the responsible supervision and control of a physician or group of physicians. The board shall adopt all rules and regulations required and authorized by the provisions of sections 71-1,107.15 to 71-1,107.29 and section 15 of this act only with the approval of the department.

Sec. 10. That section 71-1,107.25, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,107.25. in developing criteria for program approval and approval of applications to utilize physician's assistants and in preparing its report to the legislature, the board shall consult with and seek the advice of professional medical organizations and appropriate specialty representatives. There is hereby created the Physician Assistant Committee which shall review and make recommendations to the board regarding all matters relating to physician assistants that come before

the board. Such matters shall include, but not be limited to, (1) applications for certification, (2) physician assistant education, (3) scope of practice, (4) proceedings arising pursuant to section 71-1,107.23, (5) certification requirements, and (6) continuing medical education. The committee shall be directly responsible to the board. The committee shall be appointed within sixty days of the effective date of this act by the Board of Health and shall be composed of two physician assistants, one supervising physician, one member of the board, and one layperson. The chairperson of the committee shall be elected by a majority vote of the committee members. All appointments shall be for four-year terms, at staggered intervals. Members shall serve no more than two consecutive terms. Reappointments shall be made by the Board of Health. The committee shall meet on a regular basis and committee members shall receive reimbursement for time and travel expenditures on the same basis as provided in sections 84-306.01 to 84-306.05 for state employees.

Sec. 11. That section 71-1,107.26, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,107.26. (1) A fee in an amount established by the board of ~~fifty dollars~~ shall accompany the annual application to the board by a physician or group of physicians for authorization to supervise a ~~physician's~~ physician assistant.

(2) Upon approval by the board of an application for certification of a ~~physician's~~ physician assistant, the applicant shall be charged a fee of ~~twenty-five dollars~~ in an amount established by the board, and a fee in an amount established by the board of ~~fifteen dollars~~ shall accompany each yearly application for renewal of the ~~physician's~~ physician assistant certificate.

(3) All fees shall be expended for the benefit of the profession of medicine and surgery, and otherwise used as provided in section 71-162, and for the purpose of administering and enforcing the provisions of sections 71-1,107.15 to 71-1,107.29 and section 15 of this act.

Sec. 12. That section 71-1,107.27, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,107.27. Nothing in sections 71-1,107.15 to 71-1,107.29 and section 15 of this act shall be construed as authorizing any ~~physician's~~ physician assistant to engage in any of the health professions licensed by the department pursuant to the provisions of Chapter 71, article 1, without having the proper license therefor.

Sec. 13. That section 71-1,107.28, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,107.28. Any physician or physician groups

utilizing ~~physician's~~ physician assistants shall be liable for any negligent acts or omissions of ~~physician's~~ physician assistants while acting under their supervision and control.

Sec. 14. That section 71-1,107.29, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,107.29. Any ~~physician's~~ physician assistant who is certified and who renders services under the supervision and control of a licensed physician as provided by sections 71-1,107.15 to 71-1,107.29 and section 15 of this act shall not be construed to be engaged in the unauthorized practice of medicine.

Sec. 15. A physician assistant shall not prescribe medications except as an agent of the supervising physician. A physician assistant may prescribe medications, except Schedule II controlled substances, in the name of the supervising physician if the authority has been assigned by the supervising physician. The prescription container label shall bear the name of the supervising physician and may also bear the name of the physician assistant.

Sec. 16. That original sections 71-1,107.15 to 71-1,107.21 and 71-1,107.23 to 71-1,107.29, Reissue Revised Statutes of Nebraska, 1943, are repealed.

Sec. 17. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.