

SECOND REGULAR SESSION

HOUSE BILL NO. 2104

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE MORRIS (140).

4768H.021

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 334.037, RSMo, and to enact in lieu thereof one new section relating to assistant physicians.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 334.037, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 334.037, to read as follows:

334.037. 1. A physician may enter into collaborative practice arrangements with assistant physicians. Collaborative practice arrangements shall be in the form of written agreements, jointly agreed-upon protocols, or standing orders for the delivery of health care services. Collaborative practice arrangements, which shall be in writing, may delegate to an assistant physician the authority to administer or dispense drugs and provide treatment as long as the delivery of such health care services is within the scope of practice of the assistant physician and is consistent with that assistant physician's skill, training, and competence and the skill and training of the collaborating physician.

2. The written collaborative practice arrangement shall contain at least the following provisions:

(1) Complete names, home and business addresses, zip codes, and telephone numbers of the collaborating physician and the assistant physician;

(2) A list of all other offices or locations besides those listed in subdivision (1) of this subsection where the collaborating physician authorized the assistant physician to prescribe;

(3) A requirement that there shall be posted at every office where the assistant physician is authorized to prescribe, in collaboration with a physician, a prominently displayed disclosure

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 statement informing patients that they may be seen by an assistant physician and have the right
18 to see the collaborating physician;

19 (4) All specialty or board certifications of the collaborating physician and all
20 certifications of the assistant physician;

21 (5) The manner of collaboration between the collaborating physician and the assistant
22 physician, including how the collaborating physician and the assistant physician shall:

23 (a) Engage in collaborative practice consistent with each professional's skill, training,
24 education, and competence;

25 (b) Maintain geographic proximity; except, the collaborative practice arrangement may
26 allow for geographic proximity to be waived for a maximum of twenty-eight days per calendar
27 year for rural health clinics as defined by Pub. L. 95-210 (42 U.S.C. Section 1395x), as amended,
28 as long as the collaborative practice arrangement includes alternative plans as required in
29 paragraph (c) of this subdivision. Such exception to geographic proximity shall apply only to
30 independent rural health clinics, provider-based rural health clinics if the provider is a critical
31 access hospital as provided in 42 U.S.C. Section 1395i-4, and provider-based rural health clinics
32 if the main location of the hospital sponsor is greater than fifty miles from the clinic. The
33 collaborating physician shall maintain documentation related to such requirement and present
34 it to the state board of registration for the healing arts when requested; and

35 (c) Provide coverage during absence, incapacity, infirmity, or emergency by the
36 collaborating physician;

37 (6) A description of the assistant physician's controlled substance prescriptive authority
38 in collaboration with the physician, including a list of the controlled substances the physician
39 authorizes the assistant physician to prescribe and documentation that it is consistent with each
40 professional's education, knowledge, skill, and competence;

41 (7) A list of all other written practice agreements of the collaborating physician and the
42 assistant physician;

43 (8) The duration of the written practice agreement between the collaborating physician
44 and the assistant physician;

45 (9) A description of the time and manner of the collaborating physician's review of the
46 assistant physician's delivery of health care services. The description shall include provisions
47 that the assistant physician shall submit a minimum of ten percent of the charts documenting the
48 assistant physician's delivery of health care services to the collaborating physician for review by
49 the collaborating physician, or any other physician designated in the collaborative practice
50 arrangement, every fourteen days; and

51 (10) The collaborating physician, or any other physician designated in the collaborative
52 practice arrangement, shall review every fourteen days a minimum of twenty percent of the

53 charts in which the assistant physician prescribes controlled substances. The charts reviewed
54 under this subdivision may be counted in the number of charts required to be reviewed under
55 subdivision (9) of this subsection.

56 3. The state board of registration for the healing arts under section 334.125 shall
57 promulgate rules regulating the use of collaborative practice arrangements for assistant
58 physicians. Such rules shall specify:

59 (1) Geographic areas to be covered;

60 (2) The methods of treatment that may be covered by collaborative practice
61 arrangements;

62 (3) In conjunction with deans of medical schools and primary care residency program
63 directors in the state, the development and implementation of educational methods and programs
64 undertaken during the collaborative practice service which shall facilitate the advancement of
65 the assistant physician's medical knowledge and capabilities, and which may lead to credit
66 toward a future residency program for programs that deem such documented educational
67 achievements acceptable; and

68 (4) The requirements for review of services provided under collaborative practice
69 arrangements, including delegating authority to prescribe controlled substances.

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71 Any rules relating to dispensing or distribution of medications or devices by prescription or
72 prescription drug orders under this section shall be subject to the approval of the state board of
73 pharmacy. Any rules relating to dispensing or distribution of controlled substances by
74 prescription or prescription drug orders under this section shall be subject to the approval of the
75 department of health and senior services and the state board of pharmacy. The state board of
76 registration for the healing arts shall promulgate rules applicable to assistant physicians that shall
77 be consistent with guidelines for federally funded clinics. The rulemaking authority granted in
78 this subsection shall not extend to collaborative practice arrangements of hospital employees
79 providing inpatient care within hospitals as defined in chapter 197 or population-based public
80 health services as defined by 20 CSR 2150-5.100 as of April 30, 2008.

81 4. The state board of registration for the healing arts shall not deny, revoke, suspend, or
82 otherwise take disciplinary action against a collaborating physician for health care services
83 delegated to an assistant physician provided the provisions of this section and the rules
84 promulgated thereunder are satisfied.

85 5. Within thirty days of any change and on each renewal, the state board of registration
86 for the healing arts shall require every physician to identify whether the physician is engaged in
87 any collaborative practice arrangement, including collaborative practice arrangements delegating
88 the authority to prescribe controlled substances, and also report to the board the name of each

89 assistant physician with whom the physician has entered into such arrangement. The board may
90 make such information available to the public. The board shall track the reported information
91 and may routinely conduct random reviews of such arrangements to ensure that arrangements
92 are carried out for compliance under this chapter.

93 6. A collaborating physician shall not enter into a collaborative practice arrangement
94 with more than six full-time equivalent assistant physicians, full-time equivalent physician
95 assistants, or full-time equivalent advance practice registered nurses, or any combination thereof.
96 Such limitation shall not apply to collaborative arrangements of hospital employees providing
97 inpatient care service in hospitals as defined in chapter 197 or population-based public health
98 services as defined by 20 CSR 2150-5.100 as of April 30, 2008, or to a certified registered nurse
99 anesthetist providing anesthesia services under the supervision of an anesthesiologist or other
100 physician, dentist, or podiatrist who is immediately available if needed as set out in subsection
101 7 of section 334.104.

102 7. The collaborating physician shall determine and document the completion of at least
103 a one-month period of time during which the assistant physician shall practice with the
104 collaborating physician continuously present before practicing in a setting where the
105 collaborating physician is not continuously present. No rule or regulation shall require the
106 collaborating physician to review more than ten percent of the assistant physician's patient charts
107 or records during such one-month period. Such limitation shall not apply to collaborative
108 arrangements of providers of population-based public health services as defined by 20 CSR
109 2150-5.100 as of April 30, 2008.

110 8. No agreement made under this section shall supersede current hospital licensing
111 regulations governing hospital medication orders under protocols or standing orders for the
112 purpose of delivering inpatient or emergency care within a hospital as defined in section 197.020
113 if such protocols or standing orders have been approved by the hospital's medical staff and
114 pharmaceutical therapeutics committee.

115 9. No contract or other agreement shall require a physician to act as a collaborating
116 physician for an assistant physician against the physician's will. A physician shall have the right
117 to refuse to act as a collaborating physician, without penalty, for a particular assistant physician.
118 No contract or other agreement shall limit the collaborating physician's ultimate authority over
119 any protocols or standing orders or in the delegation of the physician's authority to any assistant
120 physician, but such requirement shall not authorize a physician in implementing such protocols,
121 standing orders, or delegation to violate applicable standards for safe medical practice
122 established by a hospital's medical staff.

123 10. No contract or other agreement shall require any assistant physician to serve as a
124 collaborating assistant physician for any collaborating physician against the assistant physician's

125 will. An assistant physician shall have the right to refuse to collaborate, without penalty, with
126 a particular physician.

127 11. All collaborating physicians and assistant physicians in collaborative practice
128 arrangements shall wear identification badges while acting within the scope of their collaborative
129 practice arrangement. The identification badges shall prominently display the licensure status
130 of such collaborating physicians and assistant physicians.

131 12. (1) An assistant physician with a certificate of controlled substance prescriptive
132 authority as provided in this section may prescribe any controlled substance listed in Schedule
133 III, IV, or V of section 195.017, and may have restricted authority in Schedule II, when delegated
134 the authority to prescribe controlled substances in a collaborative practice arrangement.
135 Prescriptions for Schedule II medications prescribed by an assistant physician who has a
136 certificate of controlled substance prescriptive authority are restricted to only those medications
137 containing hydrocodone. Such authority shall be filed with the state board of registration for the
138 healing arts. The collaborating physician shall maintain the right to limit a specific scheduled
139 drug or scheduled drug category that the assistant physician is permitted to prescribe. Any
140 limitations shall be listed in the collaborative practice arrangement. Assistant physicians shall
141 not prescribe controlled substances for themselves or members of their families. Schedule III
142 controlled substances and Schedule II - hydrocodone prescriptions shall be limited to a five-day
143 supply without refill, except that buprenorphine may be prescribed for up to a thirty-day supply
144 without refill for patients receiving medication-assisted treatment for substance use disorders
145 under the direction of the collaborating physician. Assistant physicians who are authorized to
146 prescribe controlled substances under this section shall register with the federal Drug
147 Enforcement Administration and the state bureau of narcotics and dangerous drugs, and shall
148 include the Drug Enforcement Administration registration number on prescriptions for controlled
149 substances.

150 (2) The collaborating physician shall be responsible to determine and document the
151 completion of at least one hundred twenty hours in a four-month period by the assistant physician
152 during which the assistant physician shall practice with the collaborating physician on-site prior
153 to prescribing controlled substances when the collaborating physician is not on-site. Such
154 limitation shall not apply to assistant physicians of population-based public health services as
155 defined in 20 CSR 2150-5.100 as of April 30, 2009, or assistant physicians providing opioid
156 addiction treatment. **A collaborating physician may engage additional qualified physicians
157 to supervise the assistant physician while the assistant physician performs the one hundred
158 twenty hours required under this subdivision. Once the assistant physician has completed
159 the one hundred twenty hours required under this subdivision, the assistant physician shall
160 not be required to repeat such requirement if he or she changes collaborating physicians.**

161 (3) An assistant physician shall receive a certificate of controlled substance prescriptive
162 authority from the state board of registration for the healing arts upon verification of licensure
163 under section 334.036.

164 13. Nothing in this section or section 334.036 shall be construed to limit the authority
165 of hospitals or hospital medical staff to make employment or medical staff credentialing or
166 privileging decisions.

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