

## SB0027S01 compared with SB0027

~~{deleted text}~~ shows text that was in SB0027 but was deleted in SB0027S01.

inserted text shows text that was not in SB0027 but was inserted into SB0027S01.

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Senator Curtis S. Bramble proposes the following substitute bill:

### PHYSICIAN ASSISTANT ACT AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Curtis S. Bramble**

House Sponsor: James A. Dunnigan

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#### LONG TITLE

~~{Committee Note:~~

~~—————The Business and Labor Interim Committee recommended this bill.~~

~~—————Legislative Vote: 12 voting for 2 voting against 6 absent~~

~~{General Description:~~

This bill amends provisions relating to the practice of a physician assistant.

#### Highlighted Provisions:

This bill:

- ▶ amends the scope of practice for a physician assistant;
- ▶ removes the requirement that a physician assistant maintain a specific relationship with a physician or any other health care provider;
- ▶ changes the membership of the Physician Assistant Licensing Board;
- ▶ authorizes a physician assistant to be eligible for direct payment by all public and

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private payers;

- ▶ creates requirements for newly graduated physician assistants;
- ▶ permits a physician assistant to respond during a health care emergency or disaster;
- and
- ▶ makes technical and corresponding changes.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

None

### Utah Code Sections Affected:

AMENDS:

**58-70a-102**, as last amended by Laws of Utah 2017, Chapter 309

**58-70a-201**, as last amended by Laws of Utah 2010, Chapter 37

**58-70a-302**, as last amended by Laws of Utah 2020, Chapter 339

**58-70a-305**, as last amended by Laws of Utah 2019, Chapter 349

**58-70a-306**, as last amended by Laws of Utah 2020, Chapter 339

**58-70a-501**, as last amended by Laws of Utah 2017, Chapter 309

**58-70a-502**, as last amended by Laws of Utah 2014, Chapter 72

**58-70a-503**, as last amended by Laws of Utah 2020, Chapter 25

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*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **58-70a-102** is amended to read:

**58-70a-102. Definitions.**

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) "Board" means the Physician Assistant Licensing Board created in Section 58-70a-201.

~~[(2) (a) "Delegation of services agreement" means written criteria jointly developed by a physician assistant's supervising physician and substitute supervising physicians and the physician assistant, that permits a physician assistant, working under the direction or review of the supervising physician, to assist in the management of common illnesses and injuries.]~~

~~[(b) The agreement defines the working relationship and delegation of duties between~~

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the supervising physician and the physician assistant as specified by division rule and shall include:]

~~[(i) the prescribing of controlled substances;]~~

~~[(ii) the degree and means of supervision;]~~

~~[(iii) the frequency and mechanism of quality review, including the mechanism for review of patient data and documentation of the review, as determined by the supervising physician and the physician assistant;]~~

~~[(iv) procedures addressing situations outside the scope of practice of the physician assistant; and]~~

~~[(v) procedures for providing backup for the physician assistant in emergency situations;]~~

~~[(3) "Direct supervision" means the supervising physician is:]~~

~~[(a) physically present at the point of patient treatment on site where the physician assistant he is supervising is practicing; and]~~

~~[(b) immediately available for consultation with the physician assistant.]~~

(2) "Competence" means possessing the requisite cognitive, non-cognitive, and communicative abilities and qualities to perform effectively within the scope of practice of the physician assistant's practice while adhering to professional and ethical standards.

(3) "~~Physician~~Health care facility" means the same as that term is defined in Section 26-21-2.

(4) "Physician" means the same as that term is defined in Section 58-67-102.

(~~4~~)5 "Physician assistant" means an individual who is licensed to practice medicine under this chapter.

~~{~~ (5) "Physician assistant's facility" means a facility or practice described in Section 58-70a-501.5.

~~‡~~ [(4)] (6) "Practice as a physician assistant" means[:(a)] the professional activities and conduct of a physician assistant, also known as a PA, in diagnosing, treating, advising, or prescribing for any human disease, ailment, injury, infirmity, deformity, pain, or other condition[~~, dependent upon and under the supervision of a supervising physician or substitute supervising physician in accordance with a delegation of services agreement; and].~~

~~[(b) the physician assistant acts as the agent of the supervising physician or substitute~~

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~~supervising physician when acting in accordance with a delegation of services agreement.]~~

~~[(5) "Substitute supervising physician" means an individual who meets the requirements of a supervising physician under this chapter and acts as the supervising physician in the absence of the supervising physician.]~~

~~[(6) "Supervising physician" means an individual who:]~~

~~[(a) is currently licensed to practice under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;]~~

~~[(b) acts as the primary supervisor of a physician assistant and takes responsibility for the professional practice and conduct of a physician assistant in accordance with this chapter; and]~~

~~[(c) is not an employee of the physician assistant whom the individual supervises.]~~

~~[(7) "Supervision" means the supervising physician is available for consultation with the physician assistant, either personally or by other means permitting direct verbal communication between the physician and the physician assistant.]~~

~~[(8) (7) "Unlawful conduct" means the same as that term is [as] defined in Sections 58-1-501 and 58-70a-502.~~

~~[(9) (8) "Unprofessional conduct" [is] means "unprofessional conduct":~~

~~(a) as defined in Sections 58-1-501 and 58-70a-503; and [as may be further defined by rule.]~~

~~(b) as further defined by the division by rule.~~

Section 2. Section **58-70a-201** is amended to read:

### **58-70a-201. Board.**

(1) There is created the Physician Assistant Licensing Board, which consists of seven members:

(a) [~~three~~] two licensed physicians [~~, at least two of whom are individuals who are supervising or who have supervised a physician assistant~~] who currently work or have previously worked collaboratively with a physician assistant;

(b) [~~three~~] four physician assistants, one of whom is involved in the administration of an approved physician assistant education program within the state; and

(c) one person from the general public.

(2) The board shall be appointed and serve in accordance with Section 58-1-201.

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(3) (a) The duties and responsibilities of the board are in accordance with Sections 58-1-202 and 58-1-203. [~~In addition, the~~]

(b) The board shall designate one of its members on a permanent or rotating basis to:

~~[(a)]~~ (i) assist the division in reviewing complaints concerning the unlawful or unprofessional conduct of a licensee; and

~~[(b)]~~ (ii) advise the division in [~~its~~] the division's investigation of these complaints.

(4) (a) A board member who has, under Subsection (3), reviewed a complaint or advised in its investigation may be disqualified from participating with the board when the board serves as a presiding officer in an adjudicative proceeding concerning the complaint.

(b) The board member described in Subsection (4)(a) may be disqualified:

~~[(a)]~~ (i) on the member's own motion, due to actual or perceived bias or lack of objectivity; or

~~[(b)]~~ (ii) upon challenge for cause raised on the record by any party to the adjudicative proceeding.

Section 3. Section **58-70a-302** is amended to read:

### **58-70a-302. Qualifications for licensure.**

Each applicant for licensure as a physician assistant shall:

(1) submit an application in a form prescribed by the division;

(2) pay a fee determined by the department under Section 63J-1-504;

(3) have successfully completed a physician assistant program accredited by [~~the~~]:

(a) the Accreditation Review Commission on Education for the Physician Assistant; or

(b) if prior to January 1, 2001, either the:

(i) Committee on Accreditation of Allied Health Education Programs; or

(ii) Committee on Allied Health Education and Accreditation;

(4) have passed the licensing examinations required by division rule made in collaboration with the board; and

(5) meet with the board and representatives of the division, if requested, for the purpose of evaluating the applicant's qualifications for licensure[~~; and~~].

~~[(6)(a) if the applicant desires to practice in Utah, complete a form provided by the division indicating:]~~

~~[(i) the applicant has completed a delegation of services agreement signed by the~~

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~~physician assistant and the supervising physician; and]~~

~~[(ii) the agreement is on file at the Utah practice sites; or]~~

~~[(b) complete a form provided by the division indicating the applicant is not practicing in Utah and, prior to practicing in Utah, the applicant will meet the requirements of Subsection (6)(a).]~~

Section 4. Section **58-70a-305** is amended to read:

### **58-70a-305. Exemptions from licensure.**

(1) In addition to the exemptions from licensure in Section 58-1-307,~~[the following persons]~~ an individual described in Subsection (2) may engage in acts included within the definition of practice as a physician assistant, subject to the stated circumstances and limitations, without being licensed under this chapter~~[?]~~.

~~[(1)]~~ (2) Subsection (1) applies to a student enrolled in an accredited physician assistant education program while engaged in activities as a physician assistant:

- (a) that are a part of the education program;
- (b) that are conducted at an affiliated medical facility under the direct supervision of a:
  - (i) physician associated with the program; or
  - (ii) licensed physician assistant associated with the medical faculty; and
- (c) for which the program accepts in writing the responsibility for the student~~[; and]~~.

~~[(2) a "medical assistant," as defined in Sections 58-67-102 and 58-68-102, who:]~~

~~[(a) does not diagnose, advise, independently treat, or prescribe to or on behalf of any person; and]~~

~~[(b) for whom the supervising physician accepts responsibility.]~~

Section 5. Section **58-70a-306** is amended to read:

### **58-70a-306. Temporary license.**

(1) An applicant for licensure as a physician assistant who has met all qualifications for licensure except passing an examination component as required in Section 58-70a-302, may apply for and be granted a temporary license to practice under Subsection (2).

(2) (a) The applicant shall submit to the division evidence of completion of a physician assistant program as defined in Subsection 58-70a-302(3).

(b) (i) The temporary license shall be issued for a period not to exceed 120 days to allow the applicant to pass the Physician Assistant National Certifying Examination.

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(ii) The temporary license may not be renewed or extended.

~~[(c) A physician assistant holding a temporary license may work only under the direct supervision of an approved supervising or substitute supervising physician in accordance with a delegation of services agreement, and all patient charts shall be reviewed and countersigned by the supervising or substitute supervising physician.]~~

(c) A temporary license holder shall work under the direct supervision of:

(i) a physician;

(ii) a physician assistant; or

(iii) an individual licensed to engage in the practice of advanced practice registered nursing as defined in Section 58-31b-102.

Section 6. Section **58-70a-501** is amended to read:

### **58-70a-501. Scope of practice.**

(1) (a) A physician assistant may provide any medical services that are not specifically prohibited under this chapter or rules adopted under this chapter, and that are~~[-(a)-]~~ within the physician assistant's skills and scope of competence~~[;]~~.

~~[(b) within the usual scope of practice of the physician assistant's supervising physician; and]~~

~~[(c) provided under the supervision of a supervising physician and in accordance with a delegation of services agreement.]~~

(b) A physician assistant shall consult, collaborate with, and refer to appropriate members of the health care team:

(i) as indicated by the patient's condition;

(ii) based on the physician assistant's education, experience, and competencies; and

(iii) the applicable standard of care.

(c) The degree of collaboration under Subsection (1)(b) shall be determined at the physician assistant's practice, including decisions made by the physician assistant's:

(i) employer;

(ii) group;

(iii) hospital service; or

(iv) health care facility credentialing and privileging system.

(d) The services provided by a physician assistant includes, but is not limited to:

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- (i) obtaining a comprehensive health history;
- (ii) performing a physical examination;
- (iii) evaluating, diagnosing, managing, and providing medical treatment;
- (iv) ordering, performing, and interpreting diagnostic studies and therapeutic

procedures;

- (v) educating a patient on health promotion and disease prevention;
- (vi) providing a consultation upon request; and
- (vii) writing medical orders.

(e) A physician assistant may, within the physician assistant's scope of practice:

(i) provide a service in any health care facility or program including:

- (A) a hospital;
- (B) a nursing care facility;
- (C) an assisted living facility; and
- (D) hospice;

(ii) obtain informed consent;

(iii) supervise, delegate, and assign therapeutic and diagnostic measures;

(iv) certify the health or disability of a patient for any local, state, or federal program;

and

(v) authenticate through a signature, certification, stamp, verification, affidavit, or endorsement any document that may be authenticated by a physician.

(f) A physician assistant is responsible for the care that the physician assistant provides.

(g) An insurer as defined in Section 31A-1-301 may not:

(i) solely on the basis that a physician assistant is licensed as a physician assistant:

(A) prohibit the physician assistant from billing and receiving direct payment for a medically necessary service that the physician assistant provides to the insurer's enrollee;

(B) deny a claim for a medically necessary service that the physician assistant provides to the insurer's enrollee; or

(C) prohibit a physician assistant from being listed as the provider in the billing and claims process for payment of the service; or

(ii) impose a practice, education, or collaboration requirement on a physician assistant



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that is inconsistent with or more restrictive than the requirements in this title.

(h) (i) A physician assistant may provide health care services as a volunteer for a charitable organization or at a public or private event, including a religious event, youth camp, community event, or health fair, if the physician assistant:

(A) receives no compensation for such services; and

(B) provides the health care services in a manner that is consistent with the physician assistant's education, experience, and competence.

(ii) Notwithstanding Subsection (2), a physician assistant who is providing volunteer health services under this Subsection (1)(h) may not issue a prescription to a patient for a controlled substance.

(2) (a) A physician assistant~~[, in accordance with a delegation of services agreement,]~~ may prescribe or administer an appropriate controlled substance if~~[-(a)-]~~ the physician assistant holds a Utah controlled substance license and a DEA registration~~[, and]~~.

~~[(b) the prescription or administration of the controlled substance is within the prescriptive practice of the supervising physician and also within the delegated prescribing stated in the delegation of services agreement.]~~

(b) A physician assistant may prescribe, dispense, order, administer, and procure a drug or medical device.

(c) A physician assistant may plan and initiate a therapeutic regimen that may include ordering and prescribing:

(i) non-pharmacological interventions, including durable medical equipment, nutrition, blood, and blood products; and

(ii) diagnostic support services, including home health care, hospice, physical therapy, and occupational therapy.

(3) A physician assistant with less than ~~{2}~~4,000 hours of post-graduate clinical practice experience shall practice under written policies and procedures established at a practice level that ~~{ describe }~~:

(a) describe how collaboration will occur under ~~{ Subsection }~~ Subsections (1) ~~{,}~~ (b) and (c);

(b) describe methods for evaluating the physician assistant's competency, knowledge, and skills~~{.~~

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~~(4); and~~

(c) provide a copy of the written policies and procedures and documentation of compliance with this Subsection (3) to the board upon the board's request.

(4) (a) This Subsection (4) applies to a physician assistant who:

(i) has less than 10,000 hours of practice experience; and

(ii) does not practice at:

(A) a licensed health care facility;

(B) a facility with a credentialing and privileging system; or

(C) a physician-owned office, facility, or practice.

(b) A physician assistant described in Subsection (4)(a) shall enter into a written collaborative agreement with:

(i) a physician; or

(ii) a licensed physician assistant with more than 10,000 hours of practice experience in the same specialty as the physician assistant;

(c) The collaborative practice agreement described in Subsection (4)(b) shall:

(i) describe how collaboration under Subsection (1)(b) will occur;

(ii) be kept on file at the physician assistant's practice location; and

(iii) be provided by the physician assistant to the board upon the board's request.

(5) Notwithstanding any other provision of state law, a physician assistant may provide mental health care and mental health therapy and treatment in a non-psychiatric practice setting if the services are consistent with:

(a) customary and accepted practices in similar practice settings; and

(b) applicable standards of care.

~~[(3)] ~~(5)~~ (6) A physician assistant ~~[shall]~~, while practicing as a physician assistant~~[(5)]~~:~~

(a) shall wear an identification badge showing the physician assistant's license classification as a physician assistant~~[(5)]~~; and

~~[(4)] ~~(6)~~ A physician assistant may not:]~~

~~[(a) independently charge or bill a patient, or others on behalf of the patient, for services rendered;]~~

~~[(b)] ~~(a)~~ may not ~~(c)~~ identify himself or herself to any person in connection with activities allowed under this chapter other than as a physician assistant~~[(5)]~~ or PA.~~

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~~[(c) (b)] use the title {} "doctor" {} "doctor of osteopathic medicine," "medical doctor," or "physician," or by any knowing act or omission lead or permit anyone to believe the physician assistant is a physician.]~~

Section 7. Section **58-70a-502** is amended to read:

### **58-70a-502. Unlawful conduct.**

~~["Unlawful conduct" includes engaging in practice as a licensed physician assistant while not under the supervision of a supervising physician or substitute supervising physician.]~~

Reserved.

Section 8. Section **58-70a-503** is amended to read:

### **58-70a-503. Unprofessional conduct.**

(1) "Unprofessional conduct" includes:

(a) violation of a patient confidence to any person who does not have a legal right and a professional need to know the information concerning the patient;

(b) knowingly prescribing, selling, giving away, or directly or indirectly administering, or offering to prescribe, sell, furnish, give away, or administer any prescription drug except for a legitimate medical purpose upon a proper diagnosis indicating use of that drug in the amounts prescribed or provided;

(c) prescribing prescription drugs for oneself or administering prescription drugs to oneself, except those that have been legally prescribed for the physician assistant by a licensed practitioner and that are used in accordance with the prescription order for the condition diagnosed;

~~[(d) failure to maintain at the practice site a delegation of services agreement that accurately reflects current practices;]~~

~~[(e) failure to make the delegation of services agreement available to the division for review upon request;]~~

~~[(f) in a practice that has physician assistant ownership interests, failure to allow the supervising physician the independent final decision making authority on patient treatment decisions, as set forth in the delegation of services agreement or as defined by rule;]~~

~~[(g) (d) violating the dispensing requirements of Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable; [or] and~~

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~~[(h)]~~ (e) falsely making an entry in, or altering, a medical record with the intent to conceal:

(i) a wrongful or negligent act or omission of an individual licensed under this chapter or an individual under the direction or control of an individual licensed under this chapter; or

(ii) conduct described in Subsections (1)(a) through ~~[(g)]~~ (d) or Subsection 58-1-501(1).

(2) (a) "Unprofessional conduct" does not include, in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act, when registered as a qualified medical provider, as that term is defined in Section 26-61a-102, recommending the use of medical cannabis.

~~[(3)]~~ (b) Notwithstanding Subsection (2)(a), the division, in consultation with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define unprofessional conduct for a physician assistant described in Subsection (2)(a).