

CHAPTER 78**(SB 78)**

AN ACT relating to physician assistants.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 311.840 is amended to read as follows:

As used in KRS 311.840 to 311.862:

- (1) "Board" means the Kentucky Board of Medical Licensure;
- (2) "Complaint" means a formal administrative pleading that sets forth charges against a physician assistant and commences a formal disciplinary proceeding;
- (3) "Physician assistant" means a person *licensed under KRS 311.840 to 311.862* who:
 - (a) Has graduated from a physician assistant or surgeon assistant program accredited by the Accreditation Review Commission on Education for Physician Assistants or its predecessor or successor agencies and has passed the certifying examination administered by the National Commission on Certification of Physician Assistants or its predecessor or successor agencies; or
 - (b) Possesses a current physician assistant certificate issued by the board prior to July 15, 2002;
- (4) "Supervising physician" means a physician licensed by the board who supervises one (1) or more physician assistants;
- (5) "Supervising physician in anesthesia" means a physician licensed by the board who has completed postgraduate training in anesthesiology at an anesthesiology program accredited by the Accreditation Council for Graduate Medical Education or its equivalent; and
- (6) "Supervision" means overseeing the activities of and accepting of responsibility for the medical services rendered by a physician assistant. Each team of physicians and physician assistants shall ensure that the delegation of medical tasks is appropriate to the physician assistant's level of training and experience, that the identifications of and access to the supervising physician are clearly defined, and that a process for evaluation of the physician assistant's performance is established.

Section 2. KRS 311.842 is amended to read as follows:

- (1) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A relating to the ~~licensing~~~~[certification]~~ and regulation, including temporary ~~licensing~~~~[certification]~~, of physician assistants.
- (2) The board shall establish a nine (9) member Physician Assistant Advisory Committee that shall review and make recommendations to the board regarding all matters relating to physician assistants that come before the board, including but not limited to:
 - (a) Applications for physician assistant ~~licensing~~~~[certification]~~;
 - (b) ~~Licensing~~~~[Certification]~~ renewal requirements;
 - (c) Approval of supervising physicians;
 - (d) Disciplinary actions; and
 - (e) Promulgation and revision of administrative regulations.
- (3) Members of the Physician Assistant Advisory Committee shall be appointed by the board for four (4) year terms and shall consist of:
 - (a) Five (5) practicing physician assistants;
 - (b) Two (2) supervising physicians;
 - (c) One (1) member of the board; and
 - (d) One (1) citizen at large.

- (4) The chairperson of the committee shall be elected by a majority vote of the committee members and shall be responsible for presiding over meetings that shall be held on a regular basis.
- (5) Members shall receive reimbursement for expenditures relating to attendance at committee meetings consistent with state policies for reimbursement of travel expenses for state employees.
- (6) Nothing in this chapter shall be construed to require certification of a physician assistant student enrolled in a physician assistant or surgeon assistant program accredited by the Accreditation Review Commission on Education for Physician Assistants or its successor agencies or of a physician assistant employed in the service of the federal government while performing duties relating to that employment.

Section 3. KRS 311.844 is amended to read as follows:

- (1) To be **licensed**~~certified~~ by the board as a physician assistant, an applicant shall:
 - (a) Submit a completed application form with the required fee;
 - (b) Be of good character and reputation;
 - (c) Be a graduate of an approved program; and
 - (d) Have passed an examination approved by the board within three (3) attempts.
- (2) A physician assistant who is authorized to practice in another state and who is in good standing may apply for **licensure**~~certification~~ by endorsement from the state of his or her credentialing if that state has standards substantially equivalent to those of this Commonwealth.
- (3) A physician assistant's **license**~~certification~~ shall be renewed upon fulfillment of the following requirements:
 - (a) The holder shall be of good character and reputation;
 - (b) The holder shall provide evidence of completion during the previous two (2) years of a minimum of one hundred (100) hours of continuing education approved by the American Medical Association, the American Osteopathic Association, the American Academy of Family Physicians, the American Academy of Physician Assistants, or by another entity approved by the board;
 - (c) The holder shall provide evidence of completion of a continuing education course on the human immunodeficiency virus and acquired immunodeficiency syndrome in the previous ten (10) years that meets the requirements of KRS 214.610; and
 - (d) The holder shall provide proof of current certification with the National Commission on Certification of Physician Assistants.

Section 4. KRS 311.845 is amended to read as follows:

- (1) Whenever, in the opinion of the executive director, based upon verified information contained in the application, an applicant for a **license**~~certificate~~ to practice as a physician assistant is eligible therefor under subsections (1) and (2) of KRS 311.844, the executive director may issue to the applicant, on behalf of the board, a temporary **license**~~certificate~~ which shall entitle the holder to practice as a physician assistant for a maximum of six (6) months from the date of issuance unless the temporary **license**~~certificate~~ is canceled by the executive director, who may cancel it at any time, without a hearing, for reasons deemed sufficient with appropriate consultation with the president, and who shall cancel it immediately upon direction by the board or upon the board's denial of the holder's application for a regular **license**~~certificate~~. The temporary **license**~~certificate~~ shall not be renewable.
- (2) The executive director shall present to the board the application for **licensure**~~certification~~ made by the holder of the temporary **license**~~certificate~~. If the board issues a regular **license**~~certificate~~ to the holder of a temporary **license**~~certificate~~, the fee paid in connection with the temporary **license**~~certificate~~ shall be applied to the regular **license**~~certificate~~ fee.
- (3) If the executive director cancels a temporary **license**~~certificate~~, he *or she* shall promptly notify, by United States certified mail, the holder of the temporary **license**~~certificate~~ at the last known address on file with the board. The temporary **license**~~certificate~~ shall be terminated and of no further force or effect three (3) days after the date the notice was sent by certified mail.

Section 5. KRS 311.846 is amended to read as follows:

- (1) The examination of the National Commission on Certification of Physician Assistants for ~~licensure~~~~[certification]~~ as a physician assistant shall be approved by the board .
- (2) Educational and training programs approved by the board shall include physician assistant programs that are accredited by the Accreditation Review Commission on Education for Physician Assistants or its predecessor or successor agencies.
- (3) Training programs for the provision of general or regional anesthesia shall be accredited by the Committee on Allied Health Education and Accreditation or the Commission on Accreditation of Allied Health Education Programs.
- (4) A trainee enrolled in an approved program shall be supervised and the training program shall be responsible for the services provided by the trainee. A trainee shall have the same scope of practice as a physician assistant and shall not be considered to be practicing without authorization while enrolled in a training program.

Section 6. KRS 311.848 is amended to read as follows:

- (1) As used in this section, "medical emergency" means a real and substantial threat to public health or the health of an individual as determined by the executive director of the board that requires additional professional resources.
- (2) In a medical emergency, the board may approve an additional physician assistant for a supervising physician practicing in this Commonwealth for a period not to exceed thirty (30) days who:
 - (a) Submits satisfactorily completed forms to the board; and
 - (b) Is ~~licensed~~~~[credentialed]~~ and in good standing in this Commonwealth.
- (3) In a medical emergency, the board may issue an emergency permit to a physician assistant who:
 - (a) Is credentialed and in good standing in another state or Canadian province;
 - (b) Submits satisfactorily completed forms to the board; and
 - (c) Based on verifiable information, meets the requirements for ~~licensure~~~~[regular certification]~~ under KRS 311.844.
- (4) An emergency permit:
 - (a) Shall be valid for a period of time not to exceed thirty (30) days;
 - (b) Shall not be renewed or reissued and shall be immediately canceled if a medical emergency no longer exists;
 - (c) May be canceled by the executive director upon reasonable cause without a prior hearing; and
 - (d) Shall not authorize a physician assistant to practice beyond a specified geographical area, beyond the scope of practice encompassed by the medical emergency, or without the supervision of a supervising physician.

Section 7. KRS 311.850 is amended to read as follows:

- (1) The board may revoke, suspend, deny, decline to renew, limit, or restrict the ~~license~~~~[certification]~~ of a physician assistant, or may fine, reprimand or place a physician assistant on probation for no more than five (5) years upon proof that a physician assistant has:
 - (a) Knowingly made or presented or caused to be made or presented any false, fraudulent, or forged statement, writing, certificate, diploma, or other document relating to an application for ~~licensure~~~~[certification]~~;
 - (b) Practiced, aided, or abetted in the practice of fraud, forgery, deception, collusion, or conspiracy relating to an examination for ~~licensure~~~~[certification]~~;
 - (c) Been convicted by any court of a misdemeanor offense involving moral turpitude or been convicted of an act that is or would be a felony under the laws of the Commonwealth of Kentucky or of the United States;

- (d) Become addicted to or is an abuser of alcohol, drugs, or any illegal substance;
 - (e) Developed a physical or mental disability or other condition that presents a danger in continuing to practice medicine to patients, the public, or other health care personnel;
 - (f) Knowingly made or caused to be made or aided or abetted in the making of a false statement in any document executed in connection with the practice of medicine or osteopathy;
 - (g) Performed any act or service as a physician assistant without a designated supervising physician;
 - (h) Exceeded the scope of medical services described by the supervising physician in the applications required under KRS 311.854;
 - (i) Exceeded the scope of practice for which the physician assistant was credentialed by the governing board of a hospital or licensed health care facility under KRS 311.856 and 311.858;
 - (j) Aided, assisted, or abetted the unlawful practice of medicine or osteopathy or any healing art, including the unlawful practice of physician assistants;
 - (k) Willfully violated a confidential communication;
 - (l) Performed the services of a physician assistant in an unprofessional, incompetent, or grossly or chronically negligent manner;
 - (m) Been removed, suspended, expelled, or placed on probation by any health care facility or professional society for unprofessional conduct, incompetence, negligence, or violation of any provision of this section or KRS 311.858 or 311.862;
 - (n) Violated any applicable provision of administrative regulations relating to physician assistant practice;
 - (o) Violated any term of probation or other discipline imposed by the board; or
 - (p) Failed to complete the required number of hours of approved continuing education.
- (2) All disciplinary proceedings against a physician assistant shall be conducted in accordance with the provisions of KRS 311.591, 311.592, 311.593, 311.599, and KRS Chapter 13B and related administrative regulations promulgated under KRS Chapter 311.

Section 8. KRS 311.852 is amended to read as follows:

- (1) At any time when an inquiry panel established under KRS 311.591 has probable cause to believe that a physician assistant has violated the terms of an agreed order as defined in KRS 311.550(19), or violated the terms of a disciplinary order, or that a physician assistant's practice constitutes a danger to the health, welfare, or safety of his or her patients or the general public, the inquiry panel may issue an emergency order in accordance with KRS 13B.125 suspending, limiting, or restricting the physician assistant's ~~license~~~~certification~~.
- (2) For the purposes of a hearing conducted under KRS 13B.125 on an emergency order issued under this section, the findings of fact in the emergency order shall constitute a rebuttable presumption of substantial evidence of a violation of law that constitutes immediate danger to the health, welfare, or safety of patients or the general public. For the purposes of this hearing only, hearsay shall be admissible and may serve as a basis of the board's findings.
- (3) An emergency order as described in subsection (1) of this section shall not be issued unless grounds exist for the issuance of a complaint. The inquiry panel shall issue a complaint prior to the date of the emergency hearing or the emergency order shall become void.
- (4) An order of temporary suspension, restriction, or limitation shall not be maintained after a final order as defined in KRS 311.550(20) is served on the charged physician assistant pursuant to the proceeding on the complaint. An appeal of an emergency order shall not prejudice the board from proceeding with the complaint.

Section 9. KRS 311.856 is amended to read as follows:

A supervising physician shall:

- (1) Restrict the services of a physician assistant to services within the physician assistant's scope of practice and to the provisions of KRS 311.840 to 311.862;
- (2) Prohibit a physician assistant from prescribing or dispensing controlled substances;
- (3) Inform all patients in contact with a physician assistant of the status of the physician assistant;
- (4) Post a notice stating that a physician assistant practices medicine or osteopathy in all locations where the physician assistant may practice;
- (5) Require a physician assistant to wear identification that clearly states that he or she is a physician assistant;
- (6) Prohibit a physician assistant from independently billing any patient or other payor for services rendered by the physician assistant;
- (7) If necessary, participate with the governing body of any hospital or other licensed health care facility in a credentialing process established by the facility;
- (8) Not require a physician assistant to perform services or other acts that the physician assistant feels incapable of carrying out safely and properly;
- (9) Maintain adequate, active, and continuous supervision of a physician assistant's activities to assure that the physician assistant is performing as directed and complying with the requirements of KRS 311.840 to 311.862 and all related administrative regulations;
- (10) Sign all records of service rendered by a physician assistant in a timely manner as certification that the physician assistant performed the services as delegated;
- (11)
 - (a) Reevaluate the reliability, accountability, and professional knowledge of a physician assistant two (2) years after the physician assistant's original ~~licensure~~~~certification~~ in this Commonwealth and every two (2) years thereafter; and
 - (b) Based on the reevaluation, recommend approval or disapproval of ~~licensure or renewal~~~~certification or recertification~~ to the board; and
- (12) Notify the board within three (3) business days if the supervising physician:
 - (a) Ceases to supervise or employ the physician assistant; or
 - (b) Believes in good faith that a physician assistant violated any disciplinary rule of KRS 311.840 to 311.862 or related administrative regulations.

Section 10. KRS 311.862 is amended to read as follows:

- (1) A physician assistant who was practicing as an anesthesiology assistant in Kentucky prior to July 15, 2002, may continue to practice if the physician assistant:
 - (a) Met the practice, education, training, and ~~licensure~~~~certification~~ requirements specified in KRS 311.844 and 311.846;
 - (b) Is a graduate of an approved program accredited by the Committee on Allied Health Education and Accreditation or the Commission on Accreditation of Allied Health Education Programs that is specifically designed to train an individual to administer general or regional anesthesia; and
 - (c) Is employed by a supervising physician in anesthesia.
- (2) A physician assistant who has not practiced as an anesthesiology assistant in Kentucky prior to the July 15, 2002, shall meet the following requirements prior to practicing as an anesthesiology assistant:
 - (a) Graduation from an approved four (4) year physician assistant program as specified in subsection (1)(b) of this section and graduation from another two (2) year approved and accredited program that consists of academic and clinical training in anesthesiology;
 - (b) Compliance with the practice, education, training, and ~~licensure~~~~certification~~ requirements specified in KRS 311.844 and 311.846; and
 - (c) Employment with a supervising physician in anesthesia.

- (3) A physician assistant practicing as an anesthesiology assistant shall not administer or monitor general or regional anesthesia unless the supervising physician in anesthesia:
- (a) Is physically present in the room during induction and emergence;
 - (b) Is not concurrently performing any other anesthesiology procedure; and
 - (c) Is available to provide immediate physical presence in the room.

Section 11. A physician assistant who is certified in Kentucky and in good standing on the effective date of this Act shall automatically be licensed under Sections 1 to 10 of this Act and shall be issued a physician assistant license upon annual renewal.

Approved March 28, 2006.