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Indicates New Matter

AMENDED

April 24, 2013

**H. 3618**

Introduced by Reps. K.R. Crawford, Sandifer, Whitmire, Cobb‑Hunter, Whipper and Murphy

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Read the first time February 26, 2013.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 40‑47‑938 SO AS TO PROVIDE CIRCUMSTANCES IN WHICH A PHYSICIAN MAY ENTER A SUPERVISORY RELATIONSHIP WITH A PHYSICIAN ASSISTANT; TO AMEND SECTION 40‑47‑910, RELATING TO DEFINITIONS IN THE PHYSICIAN ASSISTANTS PRACTICE ACT, SO AS TO ADD AND REVISE CERTAIN DEFINITIONS; TO AMEND SECTION 40‑47‑940, RELATING TO APPLICATION FOR LICENSURE, SO AS TO DELETE CERTAIN APPLICATION REQUIREMENTS; TO AMEND SECTION 40‑47‑945, RELATING TO CONDITIONS FOR GRANTING PERMANENT LICENSURE, SO AS TO DELETE REQUIREMENTS THAT AN APPLICANT APPEAR BEFORE THE BOARD WITH HIS SUPERVISING PHYSICIAN AND HIS SCOPE OF PRACTICE GUIDELINES, AND TO DELETE THE PROHIBITION AGAINST THE APPROVAL OF A SUPERVISING PHYSICIAN OF ON‑THE‑JOB TRAINING OR TASKS NOT LISTED ON THE APPLICATION FOR LIMITED LICENSURE AS A PHYSICIAN ASSISTANT; TO AMEND SECTION 40‑47‑955, RELATING TO PHYSICAL PRESENCE REQUIREMENTS OF THE SUPERVISING PHYSICIAN OF A PHYSICIAN ASSISTANT, SO AS TO DELETE EXISTING REQUIREMENTS CONCERNING ON‑SITE SETTINGS AND TO PROVIDE WHERE AND HOW A PHYSICIAN ASSISTANT MAY PRACTICE, TO REVISE PROVISIONS CONCERNING OFF‑SITE SETTINGS, AND TO REVISE CERTAIN REQUIREMENTS OF A SUPERVISING PHYSICIAN; TO AMEND SECTION 40‑47‑960, RELATING TO MINIMUM REQUIREMENTS FOR SCOPE OF PRACTICE GUIDELINES FOR PHYSICIAN ASSISTANTS, SO AS TO INCLUDE THE IMMEDIATE CONSULTATION BETWEEN THE PHYSICIAN ASSISTANT AND HIS PRIMARY OR SUPERVISING PHYSICIAN; TO AMEND SECTION 40‑47‑965, RELATING TO THE AUTHORITY OF A PHYSICIAN ASSISTANT TO REQUEST OR RECEIVE PROFESSIONAL SAMPLES OF DRUGS AUTHORIZED UNDER HIS SCOPE OF PRACTICE GUIDELINES, SO AS TO DELETE THE PROHIBITION AGAINST REQUESTING OR RECEIVING PROFESSIONAL SAMPLES OF SCHEDULE II CONTROLLED SUBSTANCES; TO AMEND SECTION 40‑47‑970, RELATING TO THE PRESCRIBING OF DRUGS BY A PHYSICIAN ASSISTANT, SO AS TO AS TO DELETE A PROHIBITION AGAINST PRESCRIBING SCHEDULE II CONTROLLED SUBSTANCES; TO AMEND SECTION 40‑47‑975, RELATING TO THE AUTHORITY OF A SUPERVISING PHYSICIAN TO REQUEST PERMISSION FROM THE BOARD FOR A PHYSICIAN ASSISTANT UNDER HIS SUPERVISION TO RECEIVE ON‑THE‑JOB TRAINING, SO AS TO DELETE EXISTING LANGUAGE AND PROVIDE THAT A SUPERVISING PHYSICIAN MAY DETERMINE WHETHER A PHYSICIAN ASSISTANT UNDER HIS SUPERVISION NEEDS ADDITIONAL TRAINING OR EDUCATION, THAT THE PHYSICIAN AND PHYSICIAN ASSISTANT MAY JOINTLY DETERMINE THE MEANS OF PROVIDING THIS TRAINING OR EDUCATION, AND THAT CERTAIN RELATED INFORMATION MUST BE SUBMITTED TO THE BOARD OF MEDICAL EXAMINERS AND THE PHYSICIAN ASSISTANT COMMITTEE FOR THE APPROVAL OF EACH; TO AMEND SECTION 40‑47‑995, RELATING TO THE TERMINATION OF A SUPERVISORY RELATIONSHIP BETWEEN A PHYSICIAN AND PHYSICIAN ASSISTANT, SO AS TO PROVIDE THAT UPON THIS TERMINATION THE PRACTICE OF THE PHYSICIAN ASSISTANT MUST CEASE UNTIL NEW SCOPE OF PRACTICE GUIDELINES, RATHER THAN A NEW APPLICATION, ARE SUBMITTED BY A NEW SUPERVISING PHYSICIAN TO THE BOARD; AND TO REPEAL SECTION 40‑47‑980 RELATING TO THE TREATMENT OF PATIENTS IN CHRONIC CARE AND LONG‑TERM CARE FACILITIES.

Amend Title To Conform

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Article 7, Chapter 47, Title 40 of the 1976 Code is amended by adding:

“Section 40‑47‑938. (A) A physician currently possessing an active, unrestricted permanent license to practice medicine under the provisions of this chapter, who accepts the responsibility to supervise a physician assistant’s activities, must enter into a supervisory relationship with a physician assistant licensed pursuant to this article, subject to approval of a scope of practice guidelines by the board. The physician must notify the board, in writing, of the proposed supervisory relationship and include the proposed scope of practice guidelines for the relationship. Upon receipt of board approval, the physician assistant may begin clinical practice with the named supervising physician and alternate physicians.

(B) A supervising physician may determine that there are additional medical acts, tasks, or functions for which a physician assistant under his supervision needs additional training or education to meet the needs of the physician’s practice and that the physician would like to incorporate into the physician assistant’s scope of practice guidelines. The physician must determine, in consultation with the physician assistant, the means of educating the physician assistant, which may include training under the direct supervision of the physician, education or certification of proposed practices, or other appropriate educational methods. The physician must notify the board in writing of the requested changes to the physician assistant’s scope of practice guidelines and must provide documentation to the board of the competence of the physician assistant to perform the additional medical acts, tasks, or functions. Upon receipt of board approval of the requested changes, the physician assistant may incorporate such additional medical acts, tasks, or functions into practice.

(C) The board shall review and determine whether to approve these proposed scope of practice guidelines or requested changes to the scope of practice guidelines within ten business days after receipt of notice from the supervising physician as required by subsections (A) and (B) of this section. If the board needs additional information or clarification, a physician member of the board must contact the supervisory physician within ten business days of receipt of the physician’s notice. If the board requests additional information or clarification to consider approval of scope of practice guidelines or changes to these guidelines, it must be provided by the supervising physician in a timely manner and, upon receipt, a determination regarding approval must be made within ten business days.”

SECTION 2. Section 40‑47‑910 of the 1976 Code is amended to read:

“Section 40‑47‑910. As used in this article:

(1) ‘Alternate physician supervisor’ or ‘alternate supervising physician’ means a South Carolina licensed physician currently possessing an active, unrestricted permanent license to practice medicine in South Carolina who accepts the responsibility to supervise a physician assistant’s activities in the absence of the supervising physician and this physician is approved by the physician supervisor in writing in the scope of practice guidelines.

(2) ‘Board’ means the Board of Medical Examiners of South Carolina.

(3) ‘Committee’ means the Physician Assistant Committee as established by this article as an advisory committee responsible to the board.

(4) ‘Immediate consultation’ means a supervising physician must be available for direct communication, telephone, or other means of telecommunication.

(~~4~~5) ‘NCCPA’ means the National Commission on Certification of Physician Assistants, Inc., the agency recognized to examine and evaluate the education of physician assistants, or its successor organization as recognized by the board.

(~~5~~6) ‘Physician assistant’ means a health care professional licensed to assist in the practice of medicine with a physician supervisor.

(~~6~~7) ‘Physician supervisor or supervising physician’ means a South Carolina licensed physician currently possessing an active, unrestricted permanent license to practice medicine in South Carolina who is approved to serve as a supervising physician for no more than ~~two~~ three full‑time equivalent physician assistants. The physician supervisor is the individual who is responsible for supervising a physician assistant’s activities.

(~~7~~8) ‘Supervising’ means overseeing the activities of, and accepting responsibility for, the medical services rendered by a physician assistant as part of a physician‑led team in a manner approved by the board.”

SECTION 3. Section 40‑47‑940(A) of the 1976 Code is amended to read:

“(A) An application must be submitted to the board on forms supplied by the board. The application must be complete in every detail before ~~it~~ licensure may be ~~approved~~ granted and must be accompanied by a nonrefundable fee. As part of the application process, the supervising physician and physician assistant must specify clearly in detail those medical acts, tasks, or functions for which approval is being sought. The specific medical acts, tasks, or functions must be included in the scope of practice guidelines, and the scope of practice guidelines must accompany the application.”

SECTION 4. Section 40‑47‑945 of the 1976 Code is amended to read:

“Section 40‑47‑945. (A) Except as otherwise provided in this article, an individual shall obtain a permanent license from the board before the individual may practice as a physician assistant. The board shall grant a permanent license as a physician assistant to an applicant who has:

(1) submitted a completed application on forms provided by the board;

(2) paid the nonrefundable application fees established in this article;

(3) successfully completed an educational program for physician assistants approved by the Accreditation Review Commission on Education for the Physician Assistant or its predecessor or successor organization;

(4) successfully completed the NCCPA certifying examination and provide documentation that the applicant possesses a current, active, NCCPA certificate;

(5) certified that the applicant is mentally and physically able to engage safely in practice as a physician assistant;

(6) no licensure, certificate, or registration as a physician assistant under current discipline, revocation, suspension, probation, or investigation for cause resulting from the applicant’s practice as a physician assistant;

(7) good moral character;

(8) submitted to the board other information the board considers necessary to evaluate the applicant’s qualifications;

(9) appeared before a board member or board designee with ~~the applicant’s supervising physician and~~ all original diplomas and certificates and demonstrated knowledge of the contents of this article. A temporary authorization to practice may be issued as provided in Section 40‑47‑940 pending completion of this requirement and subject to satisfactory interview as provided below; and

(10) successfully completed an examination administered by the committee on the statutes and regulations regarding physician assistant practice and supervision.

(B) Not later than ninety days from the date a temporary authorization is issued, each applicant shall appear before a board member or board designee ~~with the applicant’s supervising physician and scope of practice guidelines~~ and demonstrate knowledge of the contents of this article. Failure to appear within the prescribed time automatically results in the immediate invalidation of the authorization to practice pending compliance and further order of the board. If approved, a permanent license may be issued immediately. If not approved, the application must be reviewed by the committee and may be recommended to the board for approval as presented to or modified by the committee.

(C) The supervising physician of a limited licensee physically must be present on the premises at all times when the limited licensee is performing a task. ~~No on‑the‑job training or task not listed on the application may be approved for a limited license holder.~~”

SECTION 5. Section 40‑47‑950 of the 1976 Code is amended to read:

“Section 40‑47‑950. (A) The board may issue a limited physician assistant license to an applicant who has:

(1) submitted a completed application on forms provided by the board;

(2) paid the nonrefundable application fees established by this regulation;

(3) successfully completed an educational program for physician assistants approved by the Accreditation Review Commission on Education for the Physician Assistant or its predecessor or successor organization;

(4) never previously failed two consecutive NCCPA certifying examinations and has registered for, or intends to register to take the next offering of, the NCCPA examination;

(5) certified that the applicant mentally and physically is able to engage safely in practice as a physician assistant;

(6) no licensure, certificate, or registration as a physician assistant under current discipline, revocation, suspension, probation, or investigation for cause resulting from the applicant’s practice as a physician assistant;

(7) good moral character;

(8) submitted to the board any other information the board considers necessary to evaluate the applicant’s qualifications;

(9) appeared before a board member or board designee with ~~the applicant’s supervising physician and~~ all original diplomas and certificates and demonstrated knowledge of the contents of this article; and

(10) successfully completed an examination administered by the committee on the statutes and regulations regarding physician assistant practice and supervision.

(B) A limited license is not renewable and is valid only until the results of a limited licensee’s two consecutive NCCPA certifying examinations are reported to the board. When a limited licensee has failed two consecutive NCCPA certifying examinations, or fails one exam and does not take the NCCPA certifying examination at the next opportunity or, after applying for a limited license, fails to register for the next offering of the examination, the limited license immediately is void and the applicant is no longer eligible to apply for further limited licensure.

(C) The supervising physician of a limited licensee physically must be present on the premises at all times when the limited licensee is performing a task. ~~No on‑the‑job training, or task not listed on the application, may be approved for a limited license holder.~~”

SECTION 6. Section 40‑47‑955 of the 1976 Code is amended to read:

“Section 40‑47‑955. (A) The supervising physician is responsible for all aspects of the physician assistant’s practice. Supervision must be continuous but must not be construed as necessarily requiring the physical presence of the supervising physician at the time and place where the services are rendered, except as otherwise required for limited licensees. The supervising physician shall identify the physician assistant’s scope of practice and determine the delegation of medical acts, tasks, or functions. Medical acts, tasks, or functions must be defined in ~~approved~~ written scope of practice guidelines which must be appropriate to the physician assistant’s ability and knowledge.

(B) ~~In an on‑site practice setting, the supervising physician or alternate supervising physician physically must be present at the same location as the physician assistant at least seventy‑five percent of the time each month the physician assistant is providing services at the same location as the supervising physician or alternate supervising physician. The physician assistant may not provide services in the absence of the supervising physician or alternate supervising physician for more than seven consecutive days each month without the prior written approval of the board. The board may grant in writing exceptions to the seventy‑five percent direct supervision requirement provided for in this subsection~~ Pursuant to scope of practice guidelines, a physician assistant may practice in a public place, a private place, or a facility where the supervising physician regularly sees patients, may make house calls, perform hospital duties, and perform any functions performed by the supervising physician if the physician assistant is also qualified to perform those functions.

(C) ~~For off‑site practice, a~~ A physician assistant must have six months of clinical experience with the current supervising physician before being permitted to practice at a location off site from the supervising physician, except that a physician assistant who has at least two years continuous practice ~~in South Carolina~~ in the same specialty ~~will be permitted to~~ may practice at a location off site from the supervising physician after three months clinical experience with the supervising physician and upon request of the supervising physician. This three‑month requirement may be waived for experienced physician assistants and supervisors upon recommendation of the committee and approval by the board. The off‑site location may not be more than ~~forty‑five~~ sixty miles ~~or sixty minutes~~ of travel ~~time~~ from the supervising physician or alternate supervising physician without written approval of the board. ~~The supervising physician or alternate supervising physician must be physically present at the off‑site location not less than twenty percent of the time each month the physician assistant is providing services there.~~ Notice of off‑site practice must be filed with the administrative staff of the board before off‑site practice may be authorized. The supervising physician or alternate must review, initial, and date the off‑site physician assistant’s charts ~~not later than five working days from the date of service if not sooner as proportionate to the acuity of care and practice setting~~ periodically as provided in the written scope of practice guidelines, provided he must review and verify the adequacy of clinical practice of ten percent of these charts monthly.

(D) A supervising physician may ~~not~~ simultaneously supervise no more than ~~two~~ three physician assistants providing clinical service at one time.

(E) Upon written request, and recommendation of the committee, the board may authorize exceptions to the requirements of this section.”

SECTION 7. Section 40‑47‑960(7) of the 1976 Code is amended to read:

“(7) situations that require direct evaluation by or immediate referral to the physician, including Schedule II controlled substance prescription authorization as directed in Section 40‑47‑965.”

SECTION 8. Section 40‑47‑965 of the 1976 Code is amended to read:

“(A) If the written scope of practice guidelines authorizes the physician’s assistant to prescribe drug therapy:

(1) prescriptions for authorized drugs and devices shall comply with all applicable state and federal laws;

(2) prescriptions must be limited to drugs and devices authorized by the supervising physician and set forth in the written scope of practice guidelines;

(3) prescriptions must be signed by the physician assistant and must bear the physician assistant’s identification number as assigned by the board and all prescribing numbers required by law. The preprinted prescription form shall include both the physician assistant’s and physician’s name, address, and phone number and shall comply with the provisions of Section 39‑24‑40;

(4) drugs or devices prescribed must be specifically documented in the patient record;

(5) the physician assistant may request, receive, and sign for professional samples of drugs authorized in the written scope of practice guidelines, except for controlled substances in Schedule II, and may distribute professional samples to patients in compliance with appropriate federal and state regulations and the written scope of practice guidelines;

(6) the physician assistant may authorize prescriptions for an orally administered Schedule II controlled substance, as defined in the federal Controlled Substances Act, pursuant to the following requirements:

(a) the authorization to prescribe is expressly approved by the supervising physician as set forth in the physician assistant’s written scope of practice guidelines;

(b) the physician assistant had directly evaluated the patient;

(c) the authority to prescribe is limited to an initial prescription and must not exceed a seventy‑two hour supply;

(d) any subsequent prescription authorization must be in consultation with and upon patient examination and evaluation by the supervising physician, and must be documented in the patient’s chart;

(e) any prescription for continuing drug therapy must include consultation with the supervising physician and must be documented in the patient's chart.

(7) the physician assistant may authorize a medical order for parenteral administration of a Schedule II controlled substance, as defined in the federal Controlled Substances Act, pursuant to the following requirements:

(a) the authorization to write a medical order is expressly approved by the supervising physician as set forth in the physician assistant’s written scope of practice guidelines;

(b) the physician assistant is providing patient care in a hospital setting, including emergency and outpatient departments affiliated with the hospital;

(c) an initial patient examination and evaluation has been performed by the supervising physician, or his delegate physician, and has been documented in the patient’s chart; however, in a hospital emergency department, a physician assistant may authorize such a medical order if the supervising or delegate physician is unavailable due to clinical demands, but remains on the premises and is immediately available, and the supervising or delegate physician conducts the patient evaluation as soon as practicable and is documented in the patient’s chart;

(d) the physician assistant has directly evaluated the patient; and

(e) the written medical order may not exceed a one‑time administration within a twenty‑four hour period.

(B) When applying for controlled substance prescriptive authority, the applicant shall comply with the following requirements:

(1) the physician assistant shall provide evidence of completion of sixty contact hours of education in pharmacotherapeutics acceptable to the board before application;

(2) the physician assistant shall provide at least fifteen contact hours of education in controlled substances acceptable to the board;

(3) every two years, the physician assistant shall provide documentation of four continuing education contact hours in prescribing controlled substances acceptable to the board; ~~and~~

(4) the physician assistant must have a valid Drug Enforcement Administration (DEA) registration and prescribe in accordance with DEA rules; and

(~~4~~5) the physician assistant and supervising physician must read and sign a document approved by the board describing the management of expanded controlled substances prescriptive authority for physician assistants in South Carolina which must be kept on file for review. Within the two‑year period, the physician assistant and the supervising physician periodically shall review this document and the physician assistant’s prescribing practices to ensure proper prescribing procedures are followed. This review must be documented in writing with a copy kept at each practice site.

(C) A physician assistant’s prescriptive authorization may be terminated by the board if the physician assistant:

(1) practices outside the written scope of practice guidelines;

(2) violates any state or federal law or regulation applicable to prescriptions; or

(3) violates a state or federal law applicable to physician assistants.”

SECTION 9. Section 40‑47‑970(3) of the 1976 Code is amended to read:

“(3) prescribe, under any circumstances, controlled substances in Schedule II, except as authorized in Section 40‑47‑965; or”

SECTION 10. Section 40‑47‑995 of the 1976 Code is amended to read:

“Section 40‑47‑995. If the supervisory relationship between a physician assistant and the supervising physician is terminated for any reason, the physician assistant and the supervising physician shall inform the board immediately in writing of the termination, including the reasons for the termination. The approval of the practice setting terminates coterminous with the termination of the relationship, and practice shall cease until ~~a~~ new ~~application is~~ scope of practice guidelines are submitted by a supervising physician and is approved by the board.”

SECTION 11. Section 40‑47‑980 of the 1976 Code is repealed.

SECTION 12. This act takes effect upon approval by the Governor.

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