

INTERIM STUDY PROPOSAL 2019-185

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A Bill

JMB/JMB
HOUSE BILL

By: Representative Springer
By: Senator K. Hammer

Filed with: Senate Committee on Public Health, Welfare, and Labor
pursuant to A.C.A. §10-3-217.

For An Act To Be Entitled

AN ACT TO AMEND THE MEMBERSHIP OF THE ARKANSAS STATE
MEDICAL BOARD; TO AMEND THE SUPERVISION AND
PRESCRIPTIVE AUTHORITY OF PHYSICIAN ASSISTANTS; AND
FOR OTHER PURPOSES.

Subtitle

TO AMEND THE MEMBERSHIP OF THE ARKANSAS
STATE MEDICAL BOARD; AND TO AMEND THE
SUPERVISION AND PRESCRIPTIVE AUTHORITY
OF PHYSICIAN ASSISTANTS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 17-95-301(b), concerning the creation and members of the Arkansas State Medical Board, is amended to read as follows:

(b)(1)(A) The board shall consist of ~~fourteen (14)~~ fifteen (15) members appointed by the Governor for terms of six (6) years.

(B) The Governor shall consider diversity of practice specialties and geographical areas of practice in making appointments to the board.

(2)(A)(i) Ten (10) members shall be ~~duly~~ qualified, licensed, and active medical practitioners ~~and~~ appointed by the Governor after ~~consulting~~ the Governor has consulted the Arkansas Medical Society, Inc., and shall be subject to confirmation by the Senate.

1 (ii) At least two (2) members shall be appointed
2 from each of the state's four (4) congressional districts.

3 (iii) Two (2) members shall be appointed at large.
4 (B) Congressional district representation required under
5 this subdivision (b)(2) shall be achieved by appointment as vacancies occur.

6 (3) One (1) member shall be a licensed practicing physician in
7 this state and shall be appointed by the Governor ~~consulting~~ the Governor has
8 consulted the Physicians' Section of the Arkansas Medical, Dental, and
9 Pharmaceutical Association, Inc. and shall be subject to confirmation by the
10 Senate.

11 (4)(A) Two (2) members of the board shall not be actively
12 engaged in or retired from the practice of medicine.

13 (B) One (1) member shall represent consumers, and one (1)
14 member shall be sixty (60) years of age or older and shall represent the
15 elderly.

16 (C) Both shall be appointed from the state at large
17 subject to confirmation by the Senate.

18 (D) The two (2) positions may not be held by the same
19 person.

20 (E) Both shall be full voting members but shall not
21 participate in the grading of examinations.

22 (5) One (1) member shall be a ~~duly~~ qualified, licensed, and
23 practicing osteopathic physician ~~and~~ appointed after consulting the Arkansas
24 Osteopathic Medical Association and shall be subject to confirmation by the
25 Senate.

26 (6) One (1) member shall be a qualified, licensed, and
27 practicing physician assistant appointed by the Governor after the Governor
28 has consulted with the Arkansas Academy of Physician Assistants and shall be
29 subject to confirmation by the Senate.

30
31 SECTION 2. Arkansas Code § 17-95-301(d), concerning the creation and
32 members of the Arkansas State Medical Board, is amended to add an additional
33 subdivision to read as follows:

34 (5) In the event that a vacancy exists in the position of the
35 licensed physician assistant appointed under subsection (b) of this section
36 due to death, resignation, or other causes, a successor to the position shall

1 be appointed by the Governor for the remainder of the term of the licensed
2 physician assistant in the same manner as provided in this subchapter for the
3 initial appointment.

4
5 SECTION 3. Arkansas Code § 17-95-301(h)(1)(C)(i), concerning the
6 creation and members of the Arkansas State Medical Board, is amended to read
7 as follows:

8 (C)(i) For any reason that would justify probation,
9 suspension, or revocation of a physician's license to practice medicine under
10 the Arkansas Medical Practices Act, § 17-95-201 et seq., § 17-95-301 et seq.,
11 and § 17-95-401 et seq., or for any reason that would justify probation,
12 suspension, or revocation of a physician assistant's license to practice
13 under § 17-105-101 et seq., which shall be referred directly to the Division
14 of Pharmacy Services and Drug Control of the Department of Health by the
15 Governor for investigation as provided in § 17-80-106.

16
17 SECTION 4. Arkansas Code § 17-95-301, concerning the creation and
18 members of the Arkansas State Medical Board, is amended to add an additional
19 subsection to read as follows:

20 (i) A physician assistant appointed to the board shall:

21 (1) Remain in active practice for the full term of the
22 appointment; or

23 (2) Resign if, with more than one (1) year remaining of the
24 appointed term, the physician assistant is no longer actively practicing as a
25 physician assistant.

26
27 SECTION 5. Arkansas Code § 17-95-801(a)(2)(A), concerning the members
28 of the Physician Assistant Committee, is amended to read as follows:

29 (A) Three (3) members who shall be members of the board.

30 (i) Two (2) members as described in this subdivision
31 (a)(2)(A) shall be physicians.

32 (ii) One (1) member as described in this subdivision
33 (a)(2)(A) shall be a physician assistant; and

34
35 SECTION 6. Arkansas Code § 17-95-802 is amended to read as follows:
36 17-95-802. Duties of Physician Assistant Committee.

1 The Physician Assistant Committee shall review and make recommendations
2 to the Arkansas State Medical Board regarding all matters relating to
3 physician assistants, including without limitation:

4 ~~(1) Review all applications for physician assistants' licensure~~
5 ~~and for renewal of physician assistants' licensure;~~

6 ~~(2) Review protocols between a physician assistant and a~~
7 ~~supervising physician;~~

8 ~~(3) Recommend to the Arkansas State Medical Board approval or~~
9 ~~disapproval of applications submitted under subdivision (1) of this section~~
10 ~~and of protocols reviewed under subdivision (2) of this section; and~~

11 ~~(4) Recommend the approval, disapproval, or modification of the~~
12 ~~application for prescriptive privileges for a physician assistant.~~

13 (1) Applications for licensure and renewal;

14 (2) Disciplinary proceedings; and

15 (3) Any other issues pertaining to the regulation and practice
16 of physician assistants.

17
18 SECTION 7. Arkansas Code § 17-105-101(1), concerning the definition of
19 "physician assistant", is amended to read as follows:

20 (1)(A) "Physician assistant" means a person healthcare
21 professional qualified by academic and clinical education and licensed by the
22 Arkansas State Medical Board to provide healthcare services and who has:

23 ~~(i)(A) Graduated from a physician assistant or~~
24 ~~surgeon assistant program accredited by the American Medical Association's~~
25 ~~Committee on Allied Health Education and Accreditation or the Commission on~~
26 ~~Accreditation of Allied Health Education Programs for the education and~~
27 ~~training of physician assistants that has been approved by the Accreditation~~
28 ~~Review Commission on Education for the Physician Assistant or its successors;~~
29 and

30 ~~(ii)(B) Passed the certifying examination~~
31 ~~administered by the National Commission on Certification of Physician~~
32 ~~Assistants;~~

33 ~~(B) The physician assistant is a dependent medical~~
34 ~~practitioner who:~~

35 ~~(i) Provides healthcare services under the~~
36 ~~supervision of a physician; and~~

1 ~~(ii) Works under a physician drafted protocol~~
2 ~~approved by the Arkansas State Medical Board, which describes how the~~
3 ~~physician assistant and the physician will work together and any practice~~
4 ~~guidelines required by the supervising physician;~~

5
6 SECTION 8. Arkansas Code § 17-105-102(b)(3), concerning the
7 qualifications for licensure as a physician assistant, is amended to read as
8 follows:

9 (3) Has successfully completed an educational program for
10 physician assistants ~~or surgeon assistants~~ accredited by the Accreditation
11 Review Commission on Education for the Physician Assistant or by its
12 successor agency and has passed the Physician Assistant National Certifying
13 Examination administered by the National Commission on Certification of
14 Physician Assistants;

15
16 SECTION 9. Arkansas Code § 17-105-106(1), concerning the exemption
17 from licensure as a physician assistant, is amended to read as follows:

18 (1) A physician assistant student enrolled in a physician
19 assistant ~~or surgeon assistant~~ educational program accredited by the
20 ~~Commission on Accreditation of Allied Health Education Programs~~ Accreditation
21 Review Commission on Education for the Physician Assistant or by its
22 successor agency;

23
24 SECTION 10. Arkansas Code §§ 17-105-107 and 17-105-108 are amended to
25 read as follows:

26 17-105-107. Scope of authority – Delegatory authority —~~Agent of~~
27 ~~supervising physician.~~

28 ~~(a)(1) Physician assistants provide healthcare services with physician~~
29 ~~supervision~~ A physician assistant may provide healthcare services a physician
30 assistant is licensed or otherwise authorized to perform under an agreement
31 with a supervising physician. The supervising physician shall be identified
32 on all prescriptions and orders.

33 ~~(2) Physician assistants~~ A physician assistant may perform these
34 duties and responsibilities, including prescribing, ordering, and
35 administering drugs and medical devices, that are delegated by ~~their~~

1 ~~supervising physicians~~ a supervising physician under an agreement determined
2 at the practice level.

3 (b)(1) ~~Physician assistants shall be considered the agents of their~~
4 ~~supervising physicians in the performance of all practice related activities,~~
5 ~~including, but not limited to, the ordering of diagnostic, therapeutic, and~~
6 ~~other medical services~~ A physician assistant may provide medical services
7 delegated by a supervising physician when the service is within the skills of
8 the physician assistant, forms a component of the supervising physician's
9 scope of practice, and is conducted under the supervision of the supervising
10 physician.

11 (2) A physician assistant may perform a task not within the
12 scope of practice of the supervising physician if the supervising physician
13 has adequate training, oversight skills, and supervisory and referral
14 arrangements to ensure competent provision of the healthcare service by the
15 physician assistant.

16 (c) Physician assistants may perform healthcare services in any
17 setting authorized by the supervising physician in accordance with any
18 applicable facility policy.

19 ~~(d) Nothing in this chapter shall be construed to authorize a~~
20 ~~physician assistant to:~~

21 ~~(1) Examine the human eye or visual system for the purpose of~~
22 ~~prescribing glasses or contact lenses or the determination of the refractive~~
23 ~~power for surgical procedures;~~

24 ~~(2) Adapt, fill, duplicate, modify, supply, or sell contact~~
25 ~~lenses or prescription eye glasses; or~~

26 ~~(3) Prescribe, direct the use of, or use any optical device in~~
27 ~~connection with ocular exercises, vision training, or orthoptics.~~

28 (d) A physician assistant may pronounce death and may authenticate
29 with his or her signature a form that may be authenticated by a supervising
30 physician's signature as authorized under § 17-80-120.

31
32 17-105-108. Prescriptive authority.

33 (a)(1) Physicians supervising physician assistants may delegate
34 prescriptive authority to physician assistants to include receiving,
35 prescribing, ordering, and administering ~~Schedule III-V~~ Schedule II-V
36 controlled substances as described in the Uniform Controlled Substances Act,

1 § 5-64-101 et seq., and 21 C.F.R. Part 1300, all legend drugs, and all
2 nonschedule prescription medications and medical devices. ~~All prescriptions~~
3 ~~and orders issued by a physician assistant shall identify his or her~~
4 ~~supervising physician.~~

5 (2) A physician assistant's prescriptive authority extends to
6 drugs listed in Schedule II only if the prescription is for:

7 (A) An opioid, if the prescription is only for a five-day
8 period or less; or

9 (B) A stimulant, if the prescription meets the following
10 criteria:

11 (i) The prescription was originally initiated by a
12 physician;

13 (ii) The physician has evaluated the patient within
14 six (6) months before the physician assistant issues a prescription; and

15 (iii) The prescription by the physician assistant is
16 to treat the same condition as the original prescription.

17 (b) A physician assistant may prescribe hydrocodone combination
18 products reclassified from Schedule III to Schedule II as of October 6, 2014,
19 if authorized by the physician assistant's supervising physician and in
20 accordance with other requirements of this section.

21 (c) At no time shall a physician assistant's level of prescriptive
22 authority exceed that of the supervising physician.

23 (d) Physician assistants who prescribe controlled substances shall
24 register with the United States Drug Enforcement Administration as part of
25 the United States Drug Enforcement Administration's Mid-Level Practitioner
26 Registry, 21 C.F.R. Part 1300, 58 FR 31171-31175, and the Controlled
27 Substances Act.

28 (e) The Arkansas State Medical Board shall promptly adopt rules
29 concerning physician assistants that are consistent with the board's rules
30 governing the prescription of dangerous drugs and controlled substances by
31 physicians.

32
33 SECTION 11. Arkansas Code § 17-105-110 is amended to read as follows:
34 17-105-110. Supervising physician.

35 A physician desiring to supervise a physician assistant must:

36 (1) Be licensed in this state; and

1 (2)(A) ~~Notify the Arkansas State Medical Board of his or her~~
2 ~~intent to supervise a physician assistant; and~~ Enter into and maintain a
3 written agreement with the physician assistant.

4 (B) The agreement shall state that the physician shall:

5 (i) Exercise supervision over the physician
6 assistant in accordance with this section and rules adopted by the Arkansas
7 State Medical Board; and

8 (ii) Retain professional and legal responsibility
9 for the care provided by the physician assistant.

10 (C) The agreement shall be signed by the physician and the
11 physician assistant and updated annually.

12 ~~(3) Submit a statement to the board that he or she will exercise~~
13 ~~supervision over the physician assistant in accordance with any rules adopted~~
14 ~~by the board.~~

15
16 SECTION 12. Arkansas Code § 17-105-111 is repealed.

17 ~~17-105-111. Notification of intent to practice.~~

18 ~~(a) Before initiating practice, a physician assistant licensed in this~~
19 ~~state must submit on forms approved by the Arkansas State Medical Board~~
20 ~~notification of such an intent. The notification shall include:~~

21 ~~(1) The name, business address, email address, and telephone~~
22 ~~number of the supervising physician; and~~

23 ~~(2) The name, business address, and telephone number of the~~
24 ~~physician assistant.~~

25 ~~(b) A physician assistant shall notify the board of any changes or~~
26 ~~additions in supervising physicians within ten (10) calendar days.~~

27
28 SECTION 13. Arkansas Code § 17-105-113 is amended to read as follows:

29 17-105-113. Violation.

30 Following the exercise of due process, the Arkansas State Medical Board
31 may discipline any physician assistant who:

32 (1) Fraudulently or deceptively obtains or attempts to obtain a
33 license;

34 (2) Fraudulently or deceptively uses a license;

1 (3) Violates any provision of this chapter or any rules adopted
2 by the board pertaining to this chapter or any other laws or rules governing
3 licensed healthcare professionals;

4 (4) Is convicted of a felony listed under § 17-3-102;

5 (5) Is a habitual user of intoxicants or drugs to such an extent
6 that he or she is unable to safely perform as a physician assistant;

7 (6) Has been adjudicated as mentally incompetent or has a mental
8 condition that renders him or her unable to safely perform as a physician
9 assistant; ~~or~~

10 (7) Represents himself or herself as a physician;

11 (8) Is negligent in practice as a physician assistant;

12 (9) Demonstrates professional incompetence;

13 (10) Violates patient confidentiality except as required by law;

14 (11) Engages in conduct likely to deceive, defraud, or harm the
15 public;

16 (12) Engages in unprofessional or immoral conduct;

17 (13) Prescribes, sells, administers, distributes, orders, or
18 gives away a drug classified as a controlled substance for other than
19 medically accepted therapeutic purposes;

20 (14) Has been disciplined by this state or another state or
21 jurisdiction for acts or conduct similar to acts or conduct that would
22 constitute grounds for disciplinary action as defined in this section; or

23 (15) Fails to cooperate with an investigation conducted by the
24 board.

25
26 SECTION 14. Arkansas Code § 17-105-115(a)(3), concerning title and
27 practice protection of physician assistants, is amended to read as follows:

28 (3) Acts as a physician assistant without being licensed by the
29 Arkansas State Medical Board.

30
31 SECTION 15. Arkansas Code § 17-105-116 is amended to read as follows:
32 17-105-116. Identification requirements.

33 Physician assistants licensed under this chapter shall keep their
34 license available for inspection at their primary place of ~~business practice~~
35 and when engaged in their professional activities shall wear a name tag
36 identifying themselves as a physician assistant.

1
2 SECTION 16. Arkansas Code § 17-105-122(a), concerning physician
3 assistant patient care orders, is amended to read as follows:

4 (a) Patient care orders generated by a physician assistant shall be
5 construed as having the same medical, health, and legal force and effect as
6 if the orders were generated by ~~their~~ the physician assistant's supervising
7 physician, ~~provided that the supervising physician's name is identified in~~
8 ~~the patient care order.~~

9
10 SECTION 17. Arkansas Code Title 17, Chapter 105, Subchapter 1, is
11 amended to add an additional section to read as follows:

12 17-105-124. Participation in disaster and emergency care.

13 (a) A physician assistant may render care within his or her scope of
14 practice when responding to a need for medical care created by an emergency
15 or a state or local disaster if the physician assistant is:

16 (1) Licensed in this state;

17 (2) Licensed or authorized to practice in another state or
18 territory; or

19 (3) Credentialed as a physician assistant by a federal employer.

20 (b)(1) A physician assistant who voluntarily and gratuitously, other
21 than in the ordinary course of his or her employment or practice, renders
22 emergency medical assistance is not liable for civil damages for personal
23 injuries that result from acts or omissions of the physician assistant that
24 may constitute ordinary negligence.

25 (2) The immunity granted by subdivision (b)(1) of this section
26 does not apply to acts or omissions of a physician assistant that constitute
27 gross, willful, or wanton negligence.

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30 Referred by Senator K. Hammer

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35 Prepared by: JMB/JMB