

Stricken language would be deleted from and underlined language would be added to present law.

1 State of Arkansas As Engrossed: S2/23/21 S3/17/21

2 93rd General Assembly

A Bill

3 Regular Session, 2021

SENATE BILL 152

4

5 By: Senator K. Hammer

6 By: Representative Springer

7

8

For An Act To Be Entitled

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

13

14

15

Subtitle

16

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

20

21

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

23

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

26 (b)(1)(A) The board shall consist of ~~fourteen (14)~~ fifteen (15)

27 members appointed by the Governor for terms of six (6) years.

28

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

31

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

35

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



1 (iii) Two (2) members shall be appointed at large.

2 (B) Congressional district representation required under
3 this subdivision (b)(2) shall be achieved by appointment as vacancies occur.

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

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

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

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

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

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

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

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

28

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

32 (5) In the event that a vacancy exists in the position of the
33 licensed physician assistant appointed under subsection (b) of this section
34 due to death, resignation, or other causes, a successor to the position shall
35 be appointed by the Governor for the remainder of the term of the licensed
36 physician assistant in the same manner as provided in this subchapter for the

1 initial appointment.

2

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

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

14

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

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

19 (1) Remain in active practice for the full term of the
20 appointment; or

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

24

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

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

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

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

32

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

35 The Physician Assistant Committee shall review and make recommendations
36 at the request of the Arkansas State Medical Board regarding all matters

1 relating to physician assistants, including without limitation:

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

4 ~~(2) Review protocols between a physician assistant and a~~
 5 ~~supervising physician;~~

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

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

11 (1) Applications for licensure and renewal;

12 (2) Disciplinary proceedings; and

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

15
 16 SECTION 7. Arkansas Code § 17-105-101(1), concerning the definition of
 17 "physician assistant", is amended to read as follows:

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

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

27 and

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

31 ~~(B)(C)~~ The physician assistant is a dependent medical
 32 practitioner who:

33 (i) Provides healthcare services under the
 34 supervision of a physician; and

35 (ii) Works under a physician drafted protocol
 36 approved by the Arkansas State Medical Board, which describes how the

1 ~~physician assistant and the physician will work together and any practice~~
2 ~~guidelines required by the supervising physician~~ a delegation agreement with
3 a physician;
4

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

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

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

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

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

25 17-105-107. Scope of authority – Delegatory authority ~~—Agent of~~
26 ~~supervising physician.~~

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

32 (2) ~~Physician assistants~~ A physician assistant may perform those
33 duties and responsibilities, including prescribing, ordering, and
34 administering drugs and medical devices, that are delegated by ~~their~~
35 ~~supervising physicians~~ a supervising physician under an agreement determined
36 at the practice level.

1 (3) A supervising physician shall not delegate to a physician
2 assistant the duty or responsibility to perform or induce an abortion.

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.

7 (2) A physician assistant may provide medical services delegated
8 by a supervising physician when the service is within the skills of the
9 physician assistant, forms a component of the supervising physician's scope
10 of practice, and is conducted under the supervision of the supervising
11 physician.

12 (c) Physician assistants may perform healthcare services in any
13 setting authorized by the supervising physician in accordance with any
14 applicable facility policy.

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

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

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

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

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

27
28 17-105-108. Prescriptive authority.

29 (a)(1) Physicians supervising physician assistants may delegate
30 prescriptive authority to physician assistants to include receiving,
31 prescribing, ordering, and administering Schedule III-V Schedule II-V
32 controlled substances as described in the Uniform Controlled Substances Act,
33 § 5-64-101 et seq., and 21 C.F.R. Part 1300, all legend drugs, and all
34 nonschedule prescription medications and medical devices. All prescriptions
35 and orders issued by a physician assistant shall identify his or her
36 supervising physician.

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

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

5 (B) A stimulant, if the prescription meets the following
6 criteria:

7 (i) The prescription was originally initiated by a
8 physician;

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

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

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

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

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

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

28
29 SECTION 11. Arkansas Code § 17-105-110 is amended to read as follows:

30 17-105-110. Supervising physician.

31 A physician desiring to supervise a physician assistant must:

32 (1) Be licensed in this state; and

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

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

1 (i) Exercise supervision over the physician
 2 assistant in accordance with this section and rules adopted by the Arkansas
 3 State Medical Board; and

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

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

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

11
 12 SECTION 12. Arkansas Code § 17-105-111 is amended to read as follows:
 13 17-105-111. Notification ~~of intent to practice.~~

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

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

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

21 ~~(b) A physician assistant shall notify the board~~ Arkansas State
 22 Medical Board ~~of any changes or additions in supervising physicians within~~
 23 ~~ten (10) calendar days.~~

24
 25 SECTION 13. Arkansas Code § 17-105-113 is amended to read as follows:
 26 17-105-113. Violation.

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

29 (1) Fraudulently or deceptively obtains or attempts to obtain a
 30 license;

31 (2) Fraudulently or deceptively uses a license;

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

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

36 (5) Is a habitual user of intoxicants or drugs to such an extent

1 that he or she is unable to safely perform as a physician assistant;

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

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

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

7 (9) Demonstrates professional incompetence;

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

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

11 (12) Engages in unprofessional or immoral conduct;

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

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

18 (15) Fails to cooperate with an investigation conducted by the
19 board.

20
21 SECTION 14. Arkansas Code § 17-105-115(a)(3), concerning title and
22 practice protection of physician assistants, is amended to read as follows:

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

25
26 SECTION 15. Arkansas Code § 17-105-116 is amended to read as follows:

27 17-105-116. Identification requirements.

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

32
33 SECTION 16. Arkansas Code § 17-105-122(a), concerning physician
34 assistant patient care orders, is amended to read as follows:

35 (a) Patient care orders generated by a physician assistant shall be
36 construed as having the same medical, health, and legal force and effect as

1 if the orders were generated by ~~their~~ the physician assistant's supervising
2 physician, ~~provided that the supervising physician's name is identified in~~
3 ~~the patient care order.~~

4
5 SECTION 17. Arkansas Code Title 17, Chapter 105, Subchapter 1, is
6 amended to add an additional section to read as follows:

7 17-105-124. Participation in disaster and emergency care.

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

11 (1) Licensed in this state;

12 (2) Licensed or authorized to practice in another state or
13 territory; or

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

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

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

23
24 */s/K. Hammer*