

## Frequently Asked Questions

### **HB1028: An act to revise certain provisions regarding the regulation of physician assistants**

#### **Why is new legislation needed?**

The initial Physician Assistant (PA) practice act, SDCL 36-4A, was passed in 1973. Many parts of the practice act require updating to remain relevant in today's healthcare environment. For example, the name of the organization that accredits PA programs has changed since the statutes were first enacted and should be updated. Similarly, separate statutes referring to "primary care" physician assistants and "assistants to specialist physicians" are no longer applicable in licensing PAs. All PAs should meet and abide by the same "licensing" requirements, whether they are supervised by a primary care or a sub-specialist physician.

#### **What will be changed in the new proposal?**

Five primary changes are proposed:

- *Remove the outdated list of tasks in statute with broader functions that may be performed by PAs. The specific tasks to be delegated would be listed in the practice agreement and approved by the Medical Board.*
  - Current statutes contain a very specific list of tasks that may be performed by PAs in primary care and PAs supervised by a specialist physician. This list does not reflect the rapid changes in medical practice, nor the differing practice environments of physician/PA teams. The practice agreement can be more easily updated as a physician/PA practice changes. Tasks must be within the scope of practice of the supervising physician and the PA's competency and training, supervised by a physician and approved by the Medical Board.
- *Modernize statutes to reflect current accreditation, licensure and regulatory realities.*
  - Current statutes contain numerous outdated references to accrediting and licensing entities. The proposal will update references to reflect current accreditation and licensing agencies and make licensure criteria consistent with the other 49 states.
  - PA's licensed prior to 1973 are grandfathered in as in the current statute.
- *Permit more flexibility for the Board of Medicine to establish supervision requirements for physician/PA teams in rule.*
  - The current statute is a "one-size fits all" supervision statute that does not adequately address the varied nature of physician/PA practice – patient acuity, length of time a physician/PA have been in practice, rural and remote locations.
  - The proposed change is consistent with statutes governing nurse practitioners.
- *Streamline the licensure process to be consistent with how other health care professionals are licensed*
  - Current law requires a PA to have an employment contract with a physician prior to obtaining a license, unlike any other health professional. The legislation permits the Board to issue a license to a PA who meets licensure criteria, but a PA may not practice until the PA has a practice agreement with a supervising physician approved by the Medical Board.
- *Permit PAs to function in emergency and disaster situations when access to their supervising physician is compromised or not possible.*
  - In rare emergency and disaster circumstances, no physician supervision may be available. A growing number of states are adopting laws that authorize: a PA to provide care in these unique circumstances; authorize physicians who may be available to supervise PAs without a practice agreement; and, provide Good Samaritan immunity to the physician and the PA.

**Will the legislation lead to independent practice for PAs?**

No. PA practice remains 100% physician delegated, which is consistent with the policy of the PA profession nationwide. PAs will continue to practice with physician supervision. The Board of Medical & Osteopathic Examiners will have more flexibility to develop supervision requirements that consider such factors as patient acuity, length of training/practice, remote locations, etc.

**Will the proposed legislation increase PA scope of practice?**

No. No new authority is granted to PAs in the legislation. The language clarifies that the PA's scope of practice is to be determined by the supervising physician and the PA and must be approved the SD Board of Medical & Osteopathic Examiners. If the PA is granted privileges in a healthcare facility, the healthcare facility will also continue to control the PA's scope of practice through its credentialing and privileging process, as is the case now.

**Will the proposed legislation increase PA prescriptive authority?**

No. There is no change to the authority that governs what a physician may delegate a PA to prescribe. The new language clarifies that PAs may receive and distribute samples.

**Will a new regulatory agency be needed? Will this cost the state money?**

No. PAs will continue to be regulated by the State Board of Medical & Osteopathic Examiners. Changes proposed in the licensing process will save administrative time for the board and its staff.

**How will the proposed legislation affect physicians?**

Physicians will be able to hire PAs knowing that they already hold a state license. The supervising physician will be assured that the PA has met certain licensure criteria and be ready to practice as soon as a practice agreement is in place and approved the board. Physicians will also be more readily able to add a PA to the practice, or find a PA to fill in while a PA is on vacation or out on medical leave. The physician/PA team will also be able to more readily adapt the practice agreement to changing medical practice with the board's approval.

**How will the proposed legislation affect patients and access to medical care?**

Access to healthcare services is a critical issue in South Dakota, especially in rural areas. The proposed legislation should improve access to health care by streamlining the process for physicians to recruit PAs on a permanent or temporary basis. For example, once a PA has a license, he or she can replace or substitute for another PA under the same supervising physician with approval of a practice agreement. This will allow more flexibility in clinic staffing to meet patient needs, and it will make it easier to use a PA to provide health care services on a temporary basis when the local physician or PA is out of town or otherwise unavailable.

In addition, by giving the Board of Medical & Osteopathic Examiners more flexibility in establishing supervision requirements that reflect factors such as geography and length of practice, physicians may be able to provide PA supervision in remote and underserved locations.

**Have other states enacted similar laws?**

Yes. Nearly every state, including all the states that border South Dakota, has laws similar to the one being proposed. Laws that govern PAs are becoming more uniform across the country.

**Is there anything completely new in the legislative proposal?**

Yes. The law contains a new section that describes how PAs may practice in disasters. This type of language is being adopted across the country as states improve their disaster response systems. PAs are unique because they require physician supervision in order to practice. The legislation would permit PAs to provide medical care in rare emergency circumstances when their supervising physician is not available, or permit another physician to supervise without a written practice agreement.