

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 250

Introduced by Gloor, 35; Janssen, 15.

Read first time January 14, 2009

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to physician assistants; to amend sections
2 38-2008, 38-2014, 38-2015, 38-2017, 38-2018, 38-2037,
3 38-2047, 38-2049, 38-2050, 38-2051, and 38-2055, Reissue
4 Revised Statutes of Nebraska; to change and repeal
5 definitions; to change provisions relating to supervision
6 and practice of physician assistants; to change powers
7 and duties of supervising physicians, the Board of
8 Medicine and Surgery, and the Department of Health
9 and Human Services; to harmonize provisions; to repeal
10 the original sections; and to outright repeal section
11 38-2009, Reissue Revised Statutes of Nebraska.
12 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 38-2008, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 38-2008 Approved program means a program for the
4 education of physician assistants which is approved by the
5 Commission on Accreditation of Allied Health Education Programs or
6 its predecessor or successor agency and which the board formally
7 approves.

8 Sec. 2. Section 38-2014, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 38-2014 Physician assistant means any person who
11 graduates from a program approved by the Commission on
12 Accreditation of Allied Health Education Programs or its
13 predecessor or successor agency and the board, an approved program,
14 who satisfactorily completes has passed a proficiency examination,
15 and whom the board, with the concurrence of the department, with
16 the recommendation of the board, approves to perform medical
17 services under the supervision of a physician or group of
18 physicians, approved by the department, with the recommendation of
19 the board, to supervise such assistant.

20 Sec. 3. Section 38-2015, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 38-2015 Proficiency examination means the initial
23 proficiency examination approved by the board for the licensure
24 of physician assistants, including, but not limited to, the
25 examination Physician Assistant National Certifying Examination

1 administered by the National Commission on Certification of
2 Physician Assistants, ~~or other national organization established~~
3 ~~for such purpose that is recognized by the board.~~

4 Sec. 4. Section 38-2017, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 38-2017 Supervising physician means ~~(1) a board-approved~~
7 ~~physician who utilizes a licensed physician who supervises a~~
8 ~~physician assistant, or (2) a backup physician.~~

9 Sec. 5. Section 38-2018, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 38-2018 Supervision means the ready availability of
12 the supervising physician for consultation and direction of the
13 activities of the physician assistant. Contact with the supervising
14 physician by telecommunication shall be sufficient to show ready
15 availability, ~~if the board finds that such contact is sufficient to~~
16 ~~provide quality medical care. The level of supervision may vary by~~
17 ~~geographic location as provided in section 38-2047.~~

18 Sec. 6. Section 38-2037, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 38-2037 In addition to the grounds for disciplinary
21 action found in sections 38-178 and 38-179, a license to practice
22 medicine and surgery or osteopathic medicine and surgery and a
23 license to practice as a physician assistant may be denied, refused
24 renewal, limited, revoked, or suspended or have other disciplinary
25 measures taken against it in accordance with section 38-196 when

1 the applicant or licensee fails to comply with the provisions
2 of section 71-603.01, 71-604, 71-605, or 71-606 relating to the
3 signing of birth and death certificates.

4 Sec. 7. Section 38-2047, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 38-2047 (1) Notwithstanding any other provision of law,
7 a physician assistant may perform medical services when he or she
8 renders such services under the supervision of a licensed physician
9 or group of physicians. A physician assistant may perform those
10 duties and responsibilities that are delegated by the supervising
11 physician. A physician assistant shall be considered an agent
12 of his or her supervising physician in the performance of all
13 practice-related activities delegated by the supervising physician,
14 including, but not limited to, ordering diagnostic, therapeutic,
15 and other medical services. approved by the department, with the
16 recommendation of the board, in the specialty area or areas for
17 which the physician assistant shall be trained or experienced.
18 Any physician assistant licensed under the Medicine and Surgery
19 Practice Act to perform services may perform those services only:

20 (2) Each team of supervising physician or physicians and
21 physician assistant or physician assistants shall be responsible
22 to ensure that the scope of practice of each physician assistant
23 is identified, that the delegation of medical tasks is appropriate
24 to the level of competence of each physician assistant, that the
25 relationship of and access to the supervising physician is defined,

1 and that a process for evaluation of the performance of the
2 physician assistant is established.

3 (3) A physician assistant may provide any medical service
4 which is delegated by the supervising physician when the service
5 is within the skills of the physician assistant, forms a component
6 of the physician's scope of practice, and is provided with
7 supervision.

8 (4) A physician assistant may pronounce death and may
9 authenticate with his or her signature any form that may be
10 authenticated by a physician's signature.

11 ~~(a) In the office of the supervising physician where such~~
12 ~~physician maintains his or her primary practice;~~

13 ~~(b) In any other office which is operated by the~~
14 ~~supervising physician with the personal presence of the supervising~~
15 ~~physician. The physician assistant may function without the~~
16 ~~personal presence of the supervising physician in an office~~
17 ~~other than where such physician maintains his or her primary~~
18 ~~practice as provided in subsection (2) of this section and when~~
19 ~~approved on an individual basis by the department, with the~~
20 ~~recommendation of the board. Any such approval shall require site~~
21 ~~visits by the supervising physician, regular reporting to the~~
22 ~~supervising physician by the physician assistant, and arrangements~~
23 ~~for supervision at all times by the supervising physician which are~~
24 ~~sufficient to provide quality medical care;~~

25 ~~(c) In a hospital, with the approval of the governing~~

1 board of such hospital, where the supervising physician is a
2 member of the staff and the physician assistant is subject to the
3 rules and regulations of the hospital. Such rules and regulations
4 may include, but need not be limited to, reasonable requirements
5 that physician assistants and the supervising physician maintain
6 professional liability insurance with such coverage and limits
7 as may be established by the hospital governing board, upon the
8 recommendation of the medical staff; or

9 (d) On calls outside such offices, when authorized by the
10 supervising physician and with the approval of the governing board
11 of any affected hospital.

12 (2) The department, with the recommendation of the board,
13 shall adopt and promulgate rules and regulations establishing
14 minimum requirements for the personal presence of the supervising
15 physician, stated in hours or percentage of practice time. The
16 board may provide different minimum requirements for the personal
17 presence of the supervising physician based on the geographic
18 location of the supervising physician's primary and other practice
19 sites and other factors the board deems relevant.

20 Sec. 8. Section 38-2049, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 38-2049 (1) The department, with the recommendation
23 approval of the board, shall issue licenses to persons who are
24 graduates of physician assistant programs approved by the board
25 an approved program and have satisfactorily completed passed a

1 proficiency examination.

2 (2) The department, with the recommendation of the board,
3 shall issue temporary licenses to persons who have successfully
4 completed an approved program ~~for the education and training of~~
5 ~~physician assistants~~ but who have not yet passed a proficiency
6 examination. Any temporary license issued pursuant to this
7 subsection shall be issued for a period not to exceed one year
8 and under such conditions as determined by the department, with
9 the recommendation of the board. ~~Upon a showing of good cause, the~~
10 The temporary license may be extended by the department, with the
11 recommendation of the board.

12 ~~(3) The board may recognize groups of specialty~~
13 ~~classifications of training for physician assistants. These~~
14 ~~classifications shall reflect the training and experience of the~~
15 ~~physician assistant. The physician assistant may receive training~~
16 ~~in one or more such classifications which shall be shown on the~~
17 ~~license issued.~~

18 ~~(4) (3) Physician assistants approved by the board~~
19 ~~prior to April 16, 1985, shall not be required to complete~~
20 ~~the proficiency examination.~~

21 Sec. 9. Section 38-2050, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 38-2050 ~~(1) The department, with the recommendation of~~
24 ~~the board, shall formulate guidelines for the consideration of~~
25 ~~applications by a licensed physician or physicians to supervise~~

1 ~~physician assistants. Any application made by a physician or~~
2 ~~physicians shall include all of the following.~~

3 ~~(a) The qualifications, including related experience, of~~
4 ~~the physician assistant intended to be employed,~~

5 ~~(b) The professional background and specialty of the~~
6 ~~physician or physicians, and~~

7 ~~(c) A description by the physician of his or her, or~~
8 ~~physicians of their, practice and the way in which the assistant or~~
9 ~~assistants shall be utilized. The application shall provide for the~~
10 ~~personal presence of the supervising physician in conformance with~~
11 ~~requirements established by the department, with the recommendation~~
12 ~~of the board, under section 38-2047.~~

13 ~~(2) The department, with the recommendation of the board,~~
14 ~~shall approve an application by a licensed physician to supervise a~~
15 ~~physician assistant when the department, with the recommendation of~~
16 ~~the board, is satisfied that the proposed assistant is a graduate~~
17 ~~of an approved program, has satisfactorily completed a proficiency~~
18 ~~examination, and is fully qualified to perform medical services~~
19 ~~under the responsible supervision of a licensed physician. The~~
20 ~~public shall be adequately protected by the arrangement proposed in~~
21 ~~the application.~~

22 ~~(3) The department, with the recommendation of the board,~~
23 ~~shall approve no more than two physician assistants for any~~
24 ~~practicing physician, except that this limitation may be waived~~
25 ~~by the department, with the recommendation of the board, upon a~~

1 ~~showing of good cause by the practicing physician.~~

2 (1) To be a supervising physician, a person shall:

3 (a) Be licensed to practice medicine and surgery under
4 the Uniform Credentialing Act;

5 (b) Be free from any restriction on his or her ability
6 to supervise a physician assistant which has been imposed as
7 disciplinary action by the board; and

8 (c) Maintain an agreement with the physician assistant
9 which meets the requirements of subsection (2) of this section.

10 (2) An agreement between a supervising physician and a
11 physician assistant shall state that the physician will exercise
12 supervision over the physician assistant in accordance with the
13 Medicine and Surgery Practice Act and the rules and regulations
14 adopted and promulgated under the act relating to such agreements.
15 The agreement shall also state the scope of practice of the
16 physician assistant and that the physician will retain professional
17 and legal responsibility for the care rendered by the physician
18 assistant. The agreement shall be signed by the physician and
19 the physician assistant. The supervising physician shall keep the
20 agreement on file at his or her primary practice site, shall keep
21 a copy of the agreement on file at each practice site where the
22 physician assistant provides medical services, and shall make the
23 agreement available to the board and the department upon request.

24 (3) Supervision of a physician assistant shall be
25 continuous but shall not require the physical presence of the

1 supervising physician at the time and place that the services are
2 rendered.

3 (4) A supervising physician may supervise no more than
4 four physician assistants at any one time. The board may consider
5 an application for waiver of this limit and may grant such waiver
6 if it determines that there will be appropriate supervision in
7 the clinical setting described by the supervising physician in the
8 application.

9 Sec. 10. Section 38-2051, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 38-2051 If the supervision of a physician assistant is
12 terminated by the physician or physician assistant, the physician
13 shall notify the department of such termination. A physician who
14 thereafter assumes the responsibility for such supervision shall
15 obtain a certificate to supervise a physician assistant from the
16 department prior to the use of the physician assistant in the
17 practice of medicine.

18 A physician assistant may render services in a setting
19 geographically remote from the supervising physician, except that
20 a physician assistant with less than two years of experience
21 shall comply with standards of supervision set by rules and
22 regulations under the Medicine and Surgery Practice Act. The board
23 may consider an application for waiver of the standards and may
24 waive the standards upon a showing of good cause by the supervising
25 physician.

1 In order for a physician assistant to practice in
2 a hospital, the supervising physician shall be a member of
3 the medical staff of the hospital, the physician assistant
4 shall be approved by the governing board of the hospital, and
5 the physician assistant shall comply with applicable hospital
6 policies, including, but not limited to, reasonable requirements
7 that the physician assistant and the supervising physician maintain
8 professional liability insurance with such coverage and limits as
9 established by the governing board.

10 Sec. 11. Section 38-2055, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 38-2055 A physician assistant may prescribe drugs and
13 devices as delegated to do so by a supervising physician. Any
14 limitation placed by the supervising physician on the prescribing
15 authority of the physician assistant shall be recorded on the
16 physician assistant's scope of practice agreement established
17 pursuant to rules and regulations adopted and promulgated
18 under the Medicine and Surgery Practice Act. All prescriptions
19 and prescription container labels shall bear the name of ~~the~~
20 ~~supervising physician~~ and the physician assistant. A physician
21 assistant to whom has been delegated the authority to prescribe
22 controlled substances shall obtain a federal Drug Enforcement
23 Administration registration number. When prescribing Schedule II
24 controlled substances, the prescription container label shall bear
25 all information required by the federal Controlled Substances Act

1 of 1970.

2 Sec. 12. Original sections 38-2008, 38-2014, 38-2015,
3 38-2017, 38-2018, 38-2037, 38-2047, 38-2049, 38-2050, 38-2051, and
4 38-2055, Reissue Revised Statutes of Nebraska, are repealed.

5 Sec. 13. The following section is outright repealed:

6 Section 38-2009, Reissue Revised Statutes of Nebraska.