A BILL FOR AN ACT

CONCERNING PHYSICIAN ASSISTANTS, AND, IN CONNECTION
THEREWITH, ESTABLISHING REQUIREMENTS FOR THE
SUPERVISION OF PHYSICIAN ASSISTANTS, ESTABLISHING
LIABILITY FOR PHYSICIAN ASSISTANTS, AND INCREASING THE
NUMBER OF PHYSICIAN ASSISTANT MEMBERS ON THE COLORADO
MEDICAL BOARD.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at http://leg.colorado.gov.)

The bill establishes supervisory requirements for physician
assistants who:
  ! Have practiced for less than 3 years;
  ! Have practiced for 3 years or more; or
  ! Have practiced for at least 12 months and are making a substantive change in their scope of practice or practice area.

Current law states that a licensed physician may be responsible for the direction and supervision of up to 4 physician assistants at any one time and may be responsible for the direction and supervision of more than 4 physician assistants upon receiving specific approval from the Colorado medical board (board). The bill eliminates this restriction.

The bill adds 2 more physician assistants as members of the board, for a total of 3 physician assistant members. Current law requires the president of the board to establish a licensing panel consisting of 3 members of the board. The bill adds a fourth member to the licensing panel; that is, a person who is a physician assistant member of the board.

The bill states that a physician assistant who has practiced for at least 3 years may be liable for damages resulting from negligence in providing care to a patient; except that a physician assistant is not liable for any such damages that occur as a result of the physician assistant following a direct order from a supervising physician.

Current law requires that when persons licensed to practice medicine form professional service corporations for the practice of medicine, the articles of incorporation of such corporations must state that one or more licensed physician assistants may be a shareholder of the corporation as long as the physician shareholders maintain majority ownership of the corporation. The bill removes this requirement.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, add 12-36-107.7 as follows:

12-36-107.7. Physician assistants - definitions - supervisory requirements - liability - definitions. (1) As used in this section, unless the context otherwise requires:

(a) "Performance Evaluation" means a document that includes domains of competency relevant to the practice of a physician assistant, uses more than one modality of assessment to evaluate the domains, and includes consideration of the
PHYSICIAN ASSISTANT'S EDUCATION, TRAINING, EXPERIENCE, COMPETENCY, AND KNOWLEDGE OF THE SPECIALTY IN WHICH THE PHYSICIAN ASSISTANT IS ENGAGED.

(b) "PRACTICE AGREEMENT" MEANS A WRITTEN AGREEMENT BETWEEN A PHYSICIAN ASSISTANT AND A SUPERVISING PHYSICIAN THAT DEFINES THE COMMUNICATION AND DECISION-MAKING PROCESS BY WHICH THE PHYSICIAN ASSISTANT AND THE SUPERVISING PHYSICIAN PROVIDE CARE TO PATIENTS.

(c) "SUPERVISORY PLAN" MEANS A DOCUMENT THAT ALLOWS A SUPERVISING PHYSICIAN TO FOLLOW THE ONGOING PROFESSIONAL DEVELOPMENT OF A PHYSICIAN ASSISTANT'S CLINICAL PRACTICE, PROMOTES A COLLABORATIVE RELATIONSHIP BETWEEN A PHYSICIAN ASSISTANT AND HIS OR HER SUPERVISING PHYSICIANS, AND ALLOWS A SUPERVISING PHYSICIAN TO ADDRESS ANY DEFICIENCIES THAT HAVE BEEN IDENTIFIED IN THE PHYSICIAN ASSISTANT'S CLINICAL COMPETENCIES DURING THE INITIAL PERFORMANCE PERIOD.

(2) A PHYSICIAN ASSISTANT LICENSED PURSUANT TO THIS ARTICLE 36 WHO HAS PRACTICED FOR LESS THAN THREE YEARS IS SUBJECT TO THE FOLLOWING SUPERVISORY REQUIREMENTS:

(a) THE PHYSICIAN ASSISTANT'S FIRST ONE HUNDRED SIXTY WORKING HOURS MUST BE SUPERVISED BY A SUPERVISING PHYSICIAN WHO WORKS AT THE SAME LOCATION AS THE PHYSICIAN ASSISTANT. THE PHYSICIAN ASSISTANT'S PRIMARY SUPERVISING PHYSICIAN MUST PROVIDE AT LEAST FORTY HOURS OF SUPERVISION, AND THE REMAINING HOURS MAY BE PROVIDED BY A SECONDARY SUPERVISING PHYSICIAN WHO IS DESIGNATED BY THE PRIMARY SUPERVISING PHYSICIAN.

(b) AFTER THE PHYSICIAN ASSISTANT COMPLETES ONE HUNDRED
SIXTY WORKING HOURS, A SUPERVISING PHYSICIAN MUST REMAIN
AVAILABLE TO THE PHYSICIAN ASSISTANT VIA A TELECOMMUNICATION
DEVICE AT ALL TIMES WHEN THE PHYSICIAN ASSISTANT IS WORKING.

(c) NOT MORE THAN THIRTY DAYS AFTER THE PHYSICIAN
ASSISTANT COMPLETES ONE HUNDRED SIXTY WORKING HOURS, THE
PRIMARY SUPERVISING PHYSICIAN SHALL COMPLETE AN INITIAL
PERFORMANCE ASSESSMENT AND A SUPERVISORY PLAN FOR THE PHYSICIAN
ASSISTANT.

(3) (a) THE SUPERVISION OF A PHYSICIAN ASSISTANT LICENSED
PURSUANT TO THIS ARTICLE 36 WHO HAS PRACTICED IN THIS STATE FOR
THREE YEARS OR MORE IS DETERMINED BY A PRACTICE AGREEMENT THAT
MUST BE CREATED BY THE PHYSICIAN ASSISTANT AND HIS OR HER PRIMARY
SUPERVISING PHYSICIAN NOT LATER THAN THIRTY DAYS AFTER THE
PHYSICIAN ASSISTANT BEGINS PRACTICING UNDER THE SUPERVISION OF
THE PRIMARY SUPERVISING PHYSICIAN. A PRACTICE AGREEMENT MUST
INCLUDE:

(I) A PROCESS BY WHICH A PHYSICIAN ASSISTANT AND A
SUPERVISING PHYSICIAN COMMUNICATE AND MAKE DECISIONS
CONCERNING PATIENTS' MEDICAL TREATMENT, WHICH PROCESS UTILIZES
THE KNOWLEDGE AND SKILLS OF THE PHYSICIAN ASSISTANT AND THE
SUPERVISING PHYSICIAN BASED ON THEIR RESPECTIVE EDUCATION,
TRAINING, AND EXPERIENCE;

(II) A PROTOCOL FOR DESIGNATING AN ALTERNATIVE PHYSICIAN
FOR CONSULTATION WHEN THE SUPERVISING PHYSICIAN IS UNAVAILABLE
FOR CONSULTATION;

(III) THE SIGNATURES OF THE PHYSICIAN ASSISTANT AND
SUPERVISING PHYSICIAN; AND
(IV) A termination provision that allows the physician assistant or the supervising physician to terminate the practice agreement after providing written notice of his or her intent to do so at least thirty days before the date of termination. If a practice agreement is terminated, the physician assistant and the physician assistant's primary supervising physician must create a new practice agreement within forty-five days after the date the previous practice agreement was terminated.

(b) In addition to the components described in subsection (3)(a) of this section, a practice agreement may impose conditions concerning specific duties, procedures, or drugs.

(c) If the terms or conditions of a practice agreement change, both the physician assistant and the supervising physician must sign and date the updated practice agreement.

(4) A physician assistant licensed pursuant to this article who has practiced for at least twelve months and who is making a substantive change in his or her scope of practice or practice area is subject to the following supervisory requirements:

(a) The physician assistant's first eighty working hours must be supervised by a supervising physician who works at the same location as the physician assistant. The physician assistant's primary supervising physician must provide at least twenty hours of supervision, and the remaining hours may be provided by a secondary supervising physician who is designated by the primary supervising physician.

(b) After the physician assistant completes eighty
WORKING HOURS, A SUPERVISING PHYSICIAN MUST REMAIN AVAILABLE TO
THE PHYSICIAN ASSISTANT VIA A TELECOMMUNICATION DEVICE AT ALL
TIMES WHEN THE PHYSICIAN ASSISTANT IS WORKING.

(c) AFTER THE PHYSICIAN ASSISTANT HAS WORKED FOR SIX
MONTHS, AND AGAIN AFTER THE PHYSICIAN ASSISTANT HAS WORKED FOR
TWELVE MONTHS, THE PRIMARY SUPERVISING PHYSICIAN SHALL COMPLETE
A PERFORMANCE ASSESSMENT AND DISCUSS THE PERFORMANCE
ASSESSMENT WITH THE PHYSICIAN ASSISTANT.

(5) A PHYSICIAN ASSISTANT LICENSED PURSUANT TO THIS ARTICLE
36 WHO HAS PRACTICED FOR AT LEAST THREE YEARS MAY BE LIABLE FOR
DAMAGES RESULTING FROM NEGLIGENCE IN PROVIDING CARE TO A
PATIENT; EXCEPT THAT A PHYSICIAN ASSISTANT IS NOT LIABLE FOR ANY
DAMAGES THAT OCCUR AS A RESULT OF THE PHYSICIAN ASSISTANT
FOLLOWING A DIRECT ORDER FROM A SUPERVISING PHYSICIAN.

SECTION 2. In Colorado Revised Statutes, 12-36-106, amend
(5)(b)(I) as follows:

12-36-106. Practice of medicine defined - exemptions from
licensing requirements - unauthorized practice by physician
assistants and anesthesiologist assistants - penalties - rules - repeal.

(5) (b) (I) If the authority to perform an act is delegated pursuant to
paragraph (a) of this subsection (5) of this section, the act
PERFORM THE ACT except under the personal and
responsible direction and supervision of a person licensed under the laws
of this state to practice medicine. A licensed physician may be responsible
for the direction and supervision of up to four physician assistants at any
one time, and may be responsible for the direction and supervision of
more than four physician assistants upon receiving specific approval from
the board. The board, by rule, may define what constitutes appropriate
direction and supervision of a physician assistant; EXCEPT THAT THE
BOARD SHALL NOT PROMULGATE A RULE THAT IS INCONSISTENT WITH
SECTION 12-36-107.7.

SECTION 3. In Colorado Revised Statutes, 12-36-103, amend
(1)(a)(I) introductory portion, (1)(a)(I)(B), (1)(a)(II), and (2) as follows:

12-36-103. Colorado medical board - immunity - subject to
termination - repeal of article. (1) (a) (I) There is hereby created the
Colorado medical board, referred to in this article ARTICLE 36 as the
"board". The board shall consist of sixteen EIGHTEEN members appointed
by the governor and possessing the qualifications specified in this article
ARTICLE 36 and as follows:

(B) One member THREE MEMBERS licensed under this article
ARTICLE 36 as a physician assistant PHYSICIAN ASSISTANTS; and

(II) The terms of the members of the board shall be ARE four
years. For the two physician and one physician assistant appointees added
to the board during the calendar year beginning January 1, 2010, the term
for one of the physician member appointees shall expire EXPIRES four
years after the appointment, the term for the other physician member
appointee shall expire EXPIRES three years after the appointment, and the
term for the physician assistant appointee shall expire EXPIRES two years
after the appointment. FOR THE TWO PHYSICIAN ASSISTANT APPOINTEES
ADDED TO THE BOARD DURING THE CALENDAR YEAR BEGINNING JANUARY
1, 2019, THE TERM FOR ONE OF THE PHYSICIAN ASSISTANT APPOINTEES
EXPIRES TWO YEARS AFTER THE APPOINTMENT, AND THE TERM FOR THE
OTHER PHYSICIAN ASSISTANT APPOINTEE EXPIRES FOUR YEARS AFTER THE
APPOINTMENT. THEREAFTER, THE TERMS OF THE MEMBERS OF THE BOARD ARE FOUR YEARS.

(2) The board shall be comprised of eight members having the degree of doctor of medicine, three members having the degree of doctor of osteopathy, and one physician assistant three physician assistants, all of whom shall have been licensed in good standing and actively engaged in the practice of their professions in this state for at least three years next preceding their appointments, and four members of the public at large.

SECTION 4. In Colorado Revised Statutes, 12-36-111.3, amend (1)(a) as follows:

12-36-111.3. Licensing panel. (1) (a) The president of the board shall establish a licensing panel consisting of three members of the board as follows:

(I) One panel member shall be a licensed physician having the degree of doctor of medicine;

(II) One panel member shall be a licensed physician having the degree of doctor of osteopathy; and

(III) One panel member shall be a public member of the board; AND

(IV) One member who is a physician assistant member of the board.

SECTION 5. In Colorado Revised Statutes, 12-36-134, amend (1) introductory portion and (1)(d)(I) as follows:

12-36-134. Professional service corporations, limited liability companies, and registered limited liability partnerships for the practice of medicine - definitions. (1) Persons licensed to practice
medicine by the board may form professional service corporations for such persons' practice of medicine under the "Colorado Business Corporation Act", articles 101 to 117 of title 7, C.R.S., if such corporations are organized and operated in accordance with the provisions of this section. The articles of incorporation of such corporations shall contain provisions complying with the following requirements:

(d) (I) Except as specified in subparagraph (II) of this paragraph (d) SUBSECTION (1)(d)(II) OF THIS SECTION, all shareholders of the corporation are persons licensed by the board to practice medicine in the state of Colorado, OR ARE LICENSED BY THE BOARD AS PHYSICIAN ASSISTANTS, who at all times own their shares in their own right. except that one or more persons licensed by the board as a physician assistant may be a shareholder of the corporation as long as the physician shareholders maintain majority ownership of the corporation. The shareholders shall be individuals who, except for illness, accident, time spent in the armed services, on vacations, and on leaves of absence not to exceed one year, are actively engaged in the practice of medicine or as a physician assistant in the offices of the corporation.

SECTION 6. Act subject to petition - effective date - applicability. (1) This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election.
to be held in November 2020 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) This act applies to the supervision of persons who practice as physician assistants on or after the applicable effective date of this act.