

**First Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 19-0649.01 Richard Sweetman x4333

HOUSE BILL 19-1095

HOUSE SPONSORSHIP

Cutter and Landgraf,

SENATE SPONSORSHIP

Fields,

House Committees

Health & Insurance
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING PHYSICIAN ASSISTANTS, AND, IN CONNECTION**
102 **THEREWITH, ESTABLISHING REQUIREMENTS FOR THE**
103 **SUPERVISION OF PHYSICIAN ASSISTANTS, ESTABLISHING**
104 **LIABILITY FOR PHYSICIAN ASSISTANTS, INCREASING THE**
105 **NUMBER OF PHYSICIAN ASSISTANT MEMBERS ON THE COLORADO**
106 **MEDICAL BOARD, AND MAKING AN APPROPRIATION.**

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

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

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.

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

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

4 **12-36-107.7. Physician assistants - definitions - supervisory**
5 **requirements - liability - definitions.** (1) AS USED IN THIS SECTION,
6 UNLESS THE CONTEXT OTHERWISE REQUIRES:

7 (a) "PERFORMANCE EVALUATION" MEANS A DOCUMENT THAT
8 INCLUDES DOMAINS OF COMPETENCY RELEVANT TO THE PRACTICE OF A
9 PHYSICIAN ASSISTANT, USES MORE THAN ONE MODALITY OF ASSESSMENT
10 TO EVALUATE THE DOMAINS, AND INCLUDES CONSIDERATION OF THE

1 PHYSICIAN ASSISTANT'S EDUCATION, TRAINING, EXPERIENCE,
2 COMPETENCY, AND KNOWLEDGE OF THE SPECIALTY IN WHICH THE
3 PHYSICIAN ASSISTANT IS ENGAGED.

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

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

17 (2) A PHYSICIAN ASSISTANT LICENSED PURSUANT TO THIS ARTICLE
18 36 WHO HAS PRACTICED FOR LESS THAN THREE YEARS IS SUBJECT TO THE
19 FOLLOWING SUPERVISORY REQUIREMENTS:

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

27 (b) AFTER THE PHYSICIAN ASSISTANT COMPLETES ONE HUNDRED

1 SIXTY WORKING HOURS, A SUPERVISING PHYSICIAN MUST REMAIN
2 AVAILABLE TO THE PHYSICIAN ASSISTANT VIA A TELECOMMUNICATION
3 DEVICE AT ALL TIMES WHEN THE PHYSICIAN ASSISTANT IS WORKING.

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

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

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

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

26 (III) THE SIGNATURES OF THE PHYSICIAN ASSISTANT AND
27 SUPERVISING PHYSICIAN; AND

1 (IV) A TERMINATION PROVISION THAT ALLOWS THE PHYSICIAN
2 ASSISTANT OR THE SUPERVISING PHYSICIAN TO TERMINATE THE PRACTICE
3 AGREEMENT AFTER PROVIDING WRITTEN NOTICE OF HIS OR HER INTENT TO
4 DO SO AT LEAST THIRTY DAYS BEFORE THE DATE OF TERMINATION. IF A
5 PRACTICE AGREEMENT IS TERMINATED, THE PHYSICIAN ASSISTANT AND
6 THE PHYSICIAN ASSISTANT'S PRIMARY SUPERVISING PHYSICIAN MUST
7 CREATE A NEW PRACTICE AGREEMENT WITHIN FORTY-FIVE DAYS AFTER
8 THE DATE THE PREVIOUS PRACTICE AGREEMENT WAS TERMINATED.

9 (b) IN ADDITION TO THE COMPONENTS DESCRIBED IN SUBSECTION
10 (3)(a) OF THIS SECTION, A PRACTICE AGREEMENT MAY IMPOSE CONDITIONS
11 CONCERNING SPECIFIC DUTIES, PROCEDURES, OR DRUGS.

12 (c) IF THE TERMS OR CONDITIONS OF A PRACTICE AGREEMENT
13 CHANGE, BOTH THE PHYSICIAN ASSISTANT AND THE SUPERVISING
14 PHYSICIAN MUST SIGN AND DATE THE UPDATED PRACTICE AGREEMENT.

15 (4) A PHYSICIAN ASSISTANT LICENSED PURSUANT TO THIS ARTICLE
16 36 WHO HAS PRACTICED FOR AT LEAST TWELVE MONTHS AND WHO IS
17 MAKING A SUBSTANTIVE CHANGE IN HIS OR HER SCOPE OF PRACTICE OR
18 PRACTICE AREA IS SUBJECT TO THE FOLLOWING SUPERVISORY
19 REQUIREMENTS:

20 (a) THE PHYSICIAN ASSISTANT'S FIRST EIGHTY WORKING HOURS
21 MUST BE SUPERVISED BY A SUPERVISING PHYSICIAN WHO WORKS AT THE
22 SAME LOCATION AS THE PHYSICIAN ASSISTANT. THE PHYSICIAN
23 ASSISTANT'S PRIMARY SUPERVISING PHYSICIAN MUST PROVIDE AT LEAST
24 TWENTY HOURS OF SUPERVISION, AND THE REMAINING HOURS MAY BE
25 PROVIDED BY A SECONDARY SUPERVISING PHYSICIAN WHO IS DESIGNATED
26 BY THE PRIMARY SUPERVISING PHYSICIAN.

27 (b) AFTER THE PHYSICIAN ASSISTANT COMPLETES EIGHTY

1 WORKING HOURS, A SUPERVISING PHYSICIAN MUST REMAIN AVAILABLE TO
2 THE PHYSICIAN ASSISTANT VIA A TELECOMMUNICATION DEVICE AT ALL
3 TIMES WHEN THE PHYSICIAN ASSISTANT IS WORKING.

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

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

15 (b) A PHYSICIAN ASSISTANT WHO MAY BE LIABLE FOR DAMAGES AS
16 DESCRIBED IN SUBSECTION (5)(a) OF THIS SECTION SHALL MAINTAIN
17 PROFESSIONAL LIABILITY INSURANCE IN AN AMOUNT NOT LESS THAN ONE
18 MILLION DOLLARS PER CLAIM AND THREE MILLION DOLLARS FOR ALL
19 CLAIMS.

20 (c) A PHYSICIAN ASSISTANT'S SUPERVISING PHYSICIAN MAY BE
21 LIABLE FOR DAMAGES RESULTING FROM THE PHYSICIAN ASSISTANT'S
22 NEGLIGENCE IN PROVIDING CARE TO A PATIENT IF THE PHYSICIAN
23 ASSISTANT HAS NOT PRACTICED FOR AT LEAST THREE YEARS AS DESCRIBED
24 IN SUBSECTION (5)(a) OF THIS SECTION.

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

27 **12-36-106. Practice of medicine defined - exemptions from**

1 **licensing requirements - unauthorized practice by physician**
2 **assistants and anesthesiologist assistants - penalties - rules - repeal.**

3 (5) (b) (I) If the authority to perform an act is delegated pursuant to
4 ~~paragraph (a) of this subsection (5)~~ SUBSECTION (5)(a) OF THIS SECTION,
5 the ~~act~~ PHYSICIAN ASSISTANT TO WHOM THE ACT IS DELEGATED shall not
6 ~~be performed~~ PERFORM THE ACT except under the personal and
7 responsible direction and supervision of a person licensed under the laws
8 of this state to practice medicine. A licensed physician may be responsible
9 for the direction and supervision of up to ~~four~~ EIGHT physician assistants
10 at any one time. ~~and may be responsible for the direction and supervision~~
11 ~~of more than four physician assistants upon receiving specific approval~~
12 ~~from the board.~~ A LICENSED PHYSICIAN SHALL NOT BE MADE RESPONSIBLE
13 FOR THE DIRECTION AND SUPERVISION OF MORE THAN FOUR PHYSICIAN
14 ASSISTANTS UNLESS THE LICENSED PHYSICIAN AGREES TO ASSUME THE
15 RESPONSIBILITY. The board, by rule, may define what constitutes
16 appropriate direction and supervision of a physician assistant; EXCEPT
17 THAT THE BOARD SHALL NOT PROMULGATE A RULE THAT IS INCONSISTENT
18 WITH SECTION 12-36-107.7.

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

21 **12-36-103. Colorado medical board - immunity - subject to**
22 **termination - repeal of article.** (1) (a) (I) There is hereby created the
23 Colorado medical board, referred to in this ~~article~~ ARTICLE 36 as the
24 "board". The board shall consist of ~~sixteen~~ SEVENTEEN members
25 appointed by the governor and possessing the qualifications specified in
26 this ~~article~~ ARTICLE 36 and as follows:

27 (B) ~~One member~~ TWO MEMBERS licensed under this ~~article~~

1 ARTICLE 36 as a ~~physician assistant~~ PHYSICIAN ASSISTANTS; and
2 (II) The terms of the members of the board ~~shall be~~ ARE four
3 years. For the two physician ~~and one physician assistant~~ appointees added
4 to the board during the calendar year beginning January 1, 2010, the term
5 for one of the physician member appointees ~~shall expire~~ EXPIRES four
6 years after the appointment, the term for the other physician member
7 appointee ~~shall expire~~ EXPIRES three years after the appointment, and the
8 term for the physician assistant appointee ~~shall expire~~ EXPIRES two years
9 after the appointment. THE TERM OF THE PHYSICIAN ASSISTANT APPOINTEE
10 ADDED TO THE BOARD DURING THE CALENDAR YEAR BEGINNING JANUARY
11 1, 2019, EXPIRES TWO YEARS AFTER THE APPOINTMENT. THEREAFTER, THE
12 TERMS OF THE MEMBERS OF THE BOARD ARE FOUR YEARS.

13 (2) The board ~~shall be comprised~~ MUST INCLUDE at all times of
14 eight members having the degree of doctor of medicine, three members
15 having the degree of doctor of osteopathy, and ~~one physician assistant~~
16 TWO PHYSICIAN ASSISTANTS, all of whom ~~shall~~ have been licensed in
17 good standing and actively engaged in the practice of their professions in
18 this state for at least three years next preceding their appointments, and
19 four members of the public at large.

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

22 **12-36-111.3. Licensing panel.** (1) (a) The president of the board
23 shall establish a licensing panel consisting of ~~three~~ FOUR members of the
24 board as follows:

25 (I) One ~~panel~~ member ~~shall be~~ WHO IS a licensed physician having
26 the degree of doctor of medicine;

27 (II) One ~~panel~~ member ~~shall be~~ WHO IS a licensed physician

1 having the degree of doctor of osteopathy; and

2 (III) One ~~panel~~ member ~~shall be~~ WHO IS a public member of the
3 board; AND

4 (IV) ONE MEMBER WHO IS A PHYSICIAN ASSISTANT MEMBER OF
5 THE BOARD.

6

7 **SECTION 5. Appropriation.** For the 2019-20 state fiscal year,
8 \$4,650 is appropriated to the department of regulatory agencies for use by
9 the division of professions and occupations. This appropriation is from
10 the division of professions and occupations cash fund created in section
11 24-34-105 (2)(b)(I), C.R.S. To implement this act, the division may use
12 this appropriation for operating expenses.

13 **SECTION 6. Act subject to petition - effective date -**
14 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
15 the expiration of the ninety-day period after final adjournment of the
16 general assembly (August 2, 2019, if adjournment sine die is on May 3,
17 2019); except that, if a referendum petition is filed pursuant to section 1
18 (3) of article V of the state constitution against this act or an item, section,
19 or part of this act within such period, then the act, item, section, or part
20 will not take effect unless approved by the people at the general election
21 to be held in November 2020 and, in such case, will take effect on the
22 date of the official declaration of the vote thereon by the governor.

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