APPROVED
MARCH 18, 2020
BY GOVERNOR

CHAPTER
627
PUBLIC LAW

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND TWENTY

S.P. 537 - L.D. 1660

An Act To Improve Access to Physician Assistant Care

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, it is critically important that this legislation take effect before the expiration of the 90-day period; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine as follows:

PART A

Sec. A-1. 24-A MRSA §4306, as amended by PL 2011, c. 364, §28, is further amended to read:

§4306. Enrollee choice of primary care provider

A carrier offering or renewing a managed care plan shall allow enrollees to choose their own primary care providers, as allowed under the managed care plan's rules, from among the panel of participating providers made available to enrollees under the managed care plan's rules. A carrier shall allow physicians, including, but not limited to, pediatricians and physicians who specialize in obstetrics and gynecology, and physician assistants licensed pursuant to Title 32, section 2594-E or section 3270-E and certified nurse practitioners who have been approved by the State Board of Nursing to practice advanced practice registered nursing without the supervision of a physician pursuant to Title 32, section 2102, subsection 2-A to serve as primary care providers for managed care plans. A carrier is not required to contract with certified nurse practitioners, physician assistants or physicians as primary care providers in any manner that exceeds the access and provider network standards required in this chapter or chapter 56, or any

rules adopted pursuant to those chapters. A carrier shall allow enrollees in a managed care plan to change primary care providers without good cause at least once annually and to change with good cause as necessary. When an enrollee fails to choose a primary care provider, the carrier may assign the enrollee a primary care provider located in the same geographic area in which the enrollee resides.

Sec. A-2. 24-A MRSA §4320-O is enacted to read:

§4320-O. Coverage for services provided by a physician assistant

1. Services provided by a physician assistant. A carrier offering a health plan in this State shall provide coverage for health care services performed by a physician assistant licensed under Title 32, section 2594-E or 3270-E when those services are covered services under the health plan when performed by any other health care provider and when those services are within the lawful scope of practice of the physician assistant.

2. Limits; deductible; copayment; coinsurance. A carrier may offer a health plan containing a provision for a deductible, copayment or coinsurance requirement for a health care service provided by a physician assistant as long as the deductible, copayment or coinsurance does not exceed the deductible, copayment or coinsurance applicable to the same service provided by other health care providers.

3. Network participation. A carrier shall demonstrate that the carrier's provider network includes reasonable access, in accordance with section 4303, to all covered services that are within the lawful scope of practice of a physician assistant. A carrier may not exclude a provider from participation in the carrier's provider network solely because the provider is a physician assistant as long as the provider is willing to meet the same terms and conditions as other participating providers. This subsection does not require a carrier to contract with all physician assistants or require a carrier to provide coverage under a health plan for any service provided by a participating physician assistant that is not within the health plan's scope of coverage.

4. Billing. A carrier shall authorize a physician assistant to bill the carrier and receive direct payment for a medically necessary service the physician assistant provides to an enrollee and identify the physician assistant as provider in the billing and claims process for payment of the service. A carrier may not impose on a physician assistant a practice, education or collaboration requirement that is inconsistent with or more restrictive than a requirement of state law or board or agency rules.

Sec. A-3. Application. The requirements of this Part apply to all policies, contracts and certificates executed, delivered, issued for delivery, continued or renewed in this State on or after January 1, 2021. For purposes of this Act, all contracts are deemed to be renewed no later than the next yearly anniversary of the contract date.

Sec. A-4. Exemption from review. Notwithstanding the Maine Revised Statutes, Title 24-A, section 2752, section 2 of this Part is enacted without review and evaluation by the Department of Professional and Financial Regulation, Bureau of Insurance.

PART B

Sec. B-1. 6 MRSA §205, sub-§5, as amended by PL 2009, c. 447, §4, is further amended to read:

5. Administration of tests. Persons conducting analyses of blood, breath or urine for the purpose of determining the alcohol level or drug concentration must be certified for this purpose by the Department of Health and Human Services under certification standards set by that department.

Only a duly licensed physician, ~~registered physician's~~ licensed physician assistant, registered nurse or a person certified by the Department of Health and Human Services under certification standards set by that department, acting at the request of a law enforcement officer, may draw a specimen of blood to determine the alcohol level or drug concentration of a person who is complying with the duty to submit to a chemical test. This limitation does not apply to the taking of breath specimens. When a person draws a specimen of blood at the request of a law enforcement officer, that person may issue a certificate that states that the person is in fact a duly licensed or certified person as required by this subsection and that the person followed the proper procedure for drawing a specimen of blood to determine the alcohol level or drug concentration. That certificate, when duly signed and sworn to by the person, is admissible as evidence in any court of the State. It is prima facie evidence that the person was duly licensed or certified and that the person followed the proper procedure for drawing a specimen for chemical testing, unless, with 10 days' written notice to the prosecution, the defendant requests that the person testify as to licensure or certification, or the procedure for drawing the specimen of blood.

A law enforcement officer may take a sample specimen of the breath or urine of any person whom the officer has probable cause to believe operated or attempted to operate an aircraft while under the influence of intoxicating liquor or drugs and who is complying with the duty to submit to and complete a chemical test. The sample specimen must be submitted to the Department of Health and Human Services or a person certified by the Department of Health and Human Services for the purpose of conducting chemical tests of the sample specimen to determine the alcohol level or drug concentration of that sample.

Only equipment approved by the Department of Health and Human Services may be used by a law enforcement officer to take a sample specimen of the defendant's breath or urine for submission to the Department of Health and Human Services or a person certified by the Department of Health and Human Services for the purpose of conducting tests of the sample specimen to determine the alcohol level or drug concentration of that sample. Approved equipment must have a stamp of approval affixed by the Department of Health and Human Services. Evidence that the equipment was in a sealed carton bearing the stamp of approval must be accepted in court as prima facie evidence that the equipment was approved by the Department of Health and Human Services for use by the law enforcement officer to take the sample specimen of the defendant's breath or urine.

As an alternative to the method of breath testing described in this subsection, a law enforcement officer may test the breath of any person whom the officer has probable cause to believe operated or attempted to operate an aircraft while under the influence of

intoxicating liquor or drugs, by use of a self-contained, breath-alcohol testing apparatus to determine the person's alcohol level, as long as the testing apparatus is reasonably available. The procedures for the operation and testing of self-contained, breath-alcohol testing apparatuses must be as provided by rule adopted by the Department of Health and Human Services. The result of any such test must be accepted as prima facie evidence of the alcohol level of a person in any court.

Approved self-contained, breath-alcohol testing apparatuses must have a stamp of approval affixed by the Department of Health and Human Services after periodic testing. That stamp of approval is valid for a limited period of no more than one year. Testimony or other evidence that the equipment was bearing the stamp of approval must be accepted in court as prima facie evidence that the equipment was approved by the Department of Health and Human Services for use by the law enforcement officer to collect and analyze a sample specimen of the defendant's breath.

Failure to comply with any provision of this subsection or with any rule adopted under this subsection does not, by itself, result in the exclusion of evidence of alcohol level or drug concentration, unless the evidence is determined to be not sufficiently reliable.

Testimony or other evidence that any materials used in operating or checking the operation of the equipment were bearing a statement of the manufacturer or of the Department of Health and Human Services must be accepted in court as prima facie evidence that the materials were of a composition and quality as stated.

A person certified by the Maine Criminal Justice Academy, under certification standards set by the academy, as qualified to operate approved self-contained, breath-alcohol testing apparatuses may operate those apparatuses to collect and analyze a sample specimen of a defendant's breath.

Sec. B-2. 12 MRSA §10703, sub-§5, ¶A, as amended by PL 2019, c. 452, §5, is further amended to read:

A. Only a physician, ~~registered physician's~~ licensed physician assistant, registered nurse or person whose occupational license or training allows that person to draw blood samples may draw a specimen of blood for the purpose of determining the blood-alcohol level or the presence of a drug or drug metabolite. This limitation does not apply to the taking of breath or urine specimens. When a person draws a specimen of blood at the request of a law enforcement officer, that person may issue a certificate that states that the person is in fact a duly licensed or certified person as required by this subsection and that the person followed the proper procedure for drawing a specimen of blood to determine an alcohol level or drug concentration. That certificate, when duly signed and sworn to by the person, is admissible as evidence in any court of the State. It is prima facie evidence that the person was duly licensed or certified and that the person followed the proper procedure for drawing a specimen of blood for chemical testing, unless, with 10 days' written notice to the prosecution, the defendant requests that the person testify as to licensure or certification, or the procedure for drawing the specimen of blood.

Sec. B-3. 12 MRSA §10703, sub-§6, as amended by PL 2019, c. 452, §6, is further amended to read:

6. Liability. Only a physician, ~~registered physician's~~ licensed physician assistant, registered nurse or person whose occupational license or training allows that person to draw blood samples or other health care provider in the exercise of due care is not liable in damages or otherwise for any act done or omitted in performing the act of collecting or withdrawing specimens of blood at the request of a law enforcement officer pursuant to this section.

Sec. B-4. 18-C MRSA §5-306, sub-§1, as amended by PL 2019, c. 276, §1, is further amended to read:

1. Evaluation; report. In every adult guardianship matter, the respondent must be examined by a medical practitioner who is acceptable to the court and who is qualified to evaluate the respondent's alleged cognitive and functional abilities. The individual conducting the evaluation shall file a report in a record with the court at least 10 days before any hearing on the petition. Unless otherwise directed by the court, the report must contain:

A. A description of the nature, type and extent of the respondent's cognitive and functional abilities and limitations;

B. An evaluation of the respondent's mental and physical condition and, if appropriate, educational potential, adaptive behavior and social skills;

C. A prognosis for improvement and recommendation for the appropriate treatment, support or habilitation plan; and

D. The date of the examination on which the report is based.

As used in this subsection, "medical practitioner" means a licensed physician, a ~~registered~~ licensed physician assistant, a certified psychiatric clinical nurse specialist, a certified nurse practitioner or a licensed clinical psychologist.

Sec. B-5. 22 MRSA §1241, sub-§3, as enacted by PL 2009, c. 533, §1, is amended to read:

3. Health care professional. "Health care professional" means an allopathic physician licensed pursuant to Title 32, chapter 48, an osteopathic physician licensed pursuant to Title 32, chapter 36, a physician assistant ~~who has been delegated the provision of sexually transmitted disease therapy or expedited partner therapy by that physician assistant's supervising physician~~ licensed pursuant to Title 32, chapter 36 or 48, an advanced practice registered nurse who has a written collaborative agreement with a collaborating physician that authorizes the provision of sexually transmitted disease therapy or expedited partner therapy or an advanced practice registered nurse who possesses appropriate clinical privileges in accordance with Title 32, chapter 31.

Sec. B-6. 22 MRSA §1597-A, sub-§1, ¶B, as amended by PL 1993, c. 600, Pt. B, §21, is further amended by amending subparagraph (5) to read:

(5) A ~~physician's~~ physician assistant ~~registered~~ licensed by the Board of Licensure in Medicine, Title 32, chapter 48;

Sec. B-7. 26 MRSA §683, sub-§5, ¶B, as amended by PL 2017, c. 407, Pt. A, §107, is further amended to read:

B. In the case of an employee, have a blood sample taken from the employee by a licensed physician, ~~registered physician's~~ licensed physician assistant, registered nurse or a person certified by the Department of Health and Human Services to draw blood samples. The employer shall have this sample tested for the presence of alcohol or marijuana metabolites, if those substances are to be tested for under the employer's written policy. If the employee requests that a blood sample be taken as provided in this paragraph, the employer may not test any other sample from the employee for the presence of these substances.

(1) The Department of Health and Human Services may identify, by rules adopted under section 687, other substances for which an employee may request a blood sample be tested instead of a urine sample if the department determines that a sufficient correlation exists between the presence of the substance in an individual's blood and its effect upon the individual's performance.

(2) An employer may not require, request or suggest that any employee or applicant provide a blood sample for substance use testing purposes nor may any employer conduct a substance use test upon a blood sample except as provided in this paragraph.

(3) Applicants do not have the right to require the employer to test a blood sample as provided in this paragraph.

Sec. B-8. 29-A MRSA §2524, sub-§1, as amended by PL 2013, c. 459, §11, is further amended to read:

1. Persons qualified to draw blood for blood tests. Only a physician, ~~registered physician's~~ licensed physician assistant, registered nurse or person whose occupational license or training allows that person to draw blood samples may draw a specimen of blood for the purpose of determining the blood-alcohol level or the presence of a drug or drug metabolite.

Sec. B-9. 32 MRSA §86, sub-§2-A, ¶A, as amended by PL 1993, c. 152, §3, is further amended to read:

A. When a patient is already under the supervision of a personal physician or ~~a physician's~~ physician assistant or a nurse practitioner supervised by ~~that~~ the physician and the physician, ~~physician's~~ physician assistant or nurse practitioner assumes the care of the patient, then for as long as the physician, ~~physician's~~ physician assistant or nurse practitioner remains with the patient, the patient must be cared for as the physician, ~~physician's~~ physician assistant or nurse practitioner directs. The emergency medical services persons shall assist to the extent that their licenses and protocol allow; and

Sec. B-10. 32 MRSA §2561, as amended by PL 2013, c. 101, §1, is further amended to read:

§2561. Membership; qualifications; tenure; vacancies

The Board of Osteopathic Licensure, as established by Title 5, section 12004-A, subsection 29, and in this chapter called the "board," consists of ~~10~~ 11 members appointed by the Governor. Members must be residents of this State. Six members must be graduates of a school or college of osteopathic medicine approved by the American Osteopathic Association and must ~~be~~ have been, at the time of appointment, actively engaged in the practice of the profession of osteopathic medicine in the State for a continuous period of at least 5 years preceding their appointment to the board. ~~One member~~ Two members must be ~~a~~ physician ~~assistant~~ assistants licensed under this chapter who ~~has~~ have been actively engaged in ~~that member's~~ the profession of physician assistant in this State for at least 5 years preceding appointment to the board. Three members must be public members. Consumer groups may submit nominations to the Governor for the members to be appointed to represent the interest of consumers. A full term of appointment is for 5 years. Appointment of members must comply with section 60. A member of the board may be removed from office for cause by the Governor.

Sec. B-11. 32 MRSA §2594-A, as amended by PL 2013, c. 33, §1, is further amended to read:

§2594-A. Assistants; delegating authority

~~Nothing contained in this chapter may be construed to prohibit an individual from rendering medical services if these services are rendered under the supervision and control of a physician and if the individual has satisfactorily completed a training program approved by the Board of Osteopathic Licensure. Supervision and control may not be construed as requiring the personal presence of the supervising and controlling physician at the place where these services are rendered, unless a physical presence is necessary to provide patient care of the same quality as provided by the physician. Nothing in this~~ This chapter may not be construed as prohibiting a physician from delegating to the physician's employees or support staff certain activities relating to medical care and treatment carried out by custom and usage when these activities are under the direct control of the physician. The physician delegating these activities to employees or support staff, to program graduates or to participants in an approved training program is legally liable for the activities of those individuals, and any individual in this relationship is considered the physician's agent. Nothing contained in this section may be construed to apply to registered nurses acting pursuant to chapter 31 and licensed physician assistants acting pursuant to this chapter or chapter 48.

When the delegated activities are part of the practice of optometry as defined in chapter 34-A, then the individual to whom these activities are delegated must possess a valid license to practice optometry in Maine or otherwise may perform only as a technician within the established office of a physician and may act solely on the order of and under the responsibility of a physician skilled in the treatment of eyes as designated by the proper professional board and without assuming evaluation or interpretation of examination findings by prescribing corrective procedures to preserve, restore or improve vision.

Sec. B-12. 32 MRSA §2594-E, as amended by PL 2017, c. 288, Pt. A, §33, is further amended to read:

§2594-E. ~~License and registration~~ Licensure of physician assistants

1. License ~~and registration~~ required. A physician assistant may not render medical services ~~under the supervision of an osteopathic physician or an allopathic physician pursuant to a plan of supervision~~ until the physician assistant has applied for and obtained from either the Board of Osteopathic Licensure or the Board of Licensure in Medicine:

A. A license, which must be renewed biennially with the board that issued the initial license~~; and~~.

~~B. A certificate of registration.~~

~~Applications~~ An application for licensure ~~and certificate of registration~~ as a physician assistant must be ~~made to the board that licenses the physician assistant's primary supervising physician at the time the applications for initial licensure and certificate of registration are filed. A physician assistant who applies for licensure without a designated primary supervising physician may submit the application~~ submitted to either the Board of Osteopathic Licensure or the Board of Licensure in Medicine. A license granted by either the Board of Osteopathic Licensure or the Board of Licensure in Medicine authorizes the physician assistant to render medical services ~~under the supervision of an osteopathic or allopathic physician regardless of which board issued the license to the physician assistant~~.

2. Qualification for licensure. The board may issue to an individual a license to practice as a physician assistant under the following conditions:

A. A license may be issued to an individual who:

(1) Graduated from a physician assistant program approved by the board;

(2) Passed a physician assistant national certifying examination administered by the National Commission on Certification of Physician Assistants or its successor organization;

(3) Demonstrates current clinical competency;

(4) Does not have a license or certificate of registration that is the subject of disciplinary action such as probation, restriction, suspension, revocation or surrender;

(5) Completes an application approved by the board;

(6) Pays an application fee of up to ~~$250~~ $300; and

(7) Passes an examination approved by the board~~.~~; and

B. No grounds exist as set forth in section 2591-A to deny the application.

~~**3. Certificate of registration.** A physician assistant may not render medical services until issued a certificate of registration by the board. The board may issue a certificate of registration to a physician assistant under the following requirements:~~

~~A. The physician assistant shall:~~

~~(1) Submit an application on forms approved by the board. The application must include:~~

~~(a) A written statement by the proposed supervising physician taking responsibility for all medical activities of the physician assistant; and~~

~~(b) A written statement by the physician assistant and proposed supervising physician that a written plan of supervision has been established; and~~

~~(2) Pays an application fee of up to $50.~~

~~B. A proposed supervising physician must hold an active license to practice medicine in the State and be in good standing.~~

4. Delegation by physician assistant. A physician assistant may delegate ~~medical acts to a medical assistant employed by the physician assistant or by an employer of the physician assistant as long as that delegation is permitted in the plan of supervision established by the physician assistant and the supervising physician~~ to the physician assistant's employees or support staff or members of a health care team, including medical assistants, certain activities relating to medical care and treatment carried out by custom and usage when the activities are under the control of the physician assistant. The physician assistant who delegates an activity permitted under this subsection is legally liable for the activity performed by an employee, a medical assistant, support staff or a member of a health care team.

5. Rules. The Board of Osteopathic Licensure is authorized to adopt rules regarding the ~~training and~~ licensure and practice of physician assistants ~~and the agency relationship between the physician assistant and the supervising physician~~. These rules, which must be adopted jointly with the Board of Licensure in Medicine, may pertain to, but are not limited to, the following matters:

A. Information to be contained in the application for a license ~~and certificate of registration~~;

~~B. Information that is required on the application for a certificate of registration filed by the proposed supervising physician;~~

C. ~~Training and education~~ Education requirements ~~and scope of permissible clinical medical procedures of~~ for the physician assistant ~~and the manner and methods by which the supervising physician must supervise the physician assistant's medical services~~;

~~D. Scope of practice for physician assistants, including prescribing of controlled drugs;~~

E. Requirements for ~~written plans of supervision~~ collaborative agreements and practice agreements under section 2594-F, including uniform standards and forms;

F. Requirements for a physician assistant to notify the board regarding certain circumstances, including but not limited to any change in address, ~~any change in the identity or address of the physician assistant's employer or in the physician assistant's employment status, any change in the identity or address of the supervising~~

~~physician,~~ the permanent departure of the physician assistant from the State, any criminal convictions of the physician assistant and any discipline by other jurisdictions of the physician assistant;

G. Issuance of temporary physician assistant licenses ~~and temporary registration of physician assistants~~;

H. Appointment of an advisory committee for continuing review of the physician assistant ~~program and~~ rules. The physician assistant ~~member~~ members of the board pursuant to section 2561 must be ~~a member~~ members of the advisory committee;

I. Continuing education requirements as a precondition to continued licensure or licensure renewal;

J. Fees for the application for an initial physician assistant license, which may not exceed ~~$250~~ $300; and

~~K. Fees for an initial certificate of registration, which may not exceed $100;~~

~~L. Fees for transfer of the certificate of registration by a physician assistant from one supervising physician to another, which may not exceed $50; and~~

M. Fees for the biennial renewal of a physician assistant license in an amount not to exceed $250.

Sec. B-13. 32 MRSA §2594-F is enacted to read:

§2594-F. Physician assistants; scope of practice and agreement requirements

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Collaborative agreement" means a document agreed to by a physician assistant and a physician that describes the scope of practice for the physician assistant as determined by practice setting and describes the decision-making process for a health care team, including communication and consultation among health care team members.

B. "Consultation" means engagment in a process in which members of a health care team use their complementary training, skill, knowledge and experience to provide the best care for a patient.

C. "Health care team" means 2 or more health care professionals working in a coordinated, complementary and agreed-upon manner to provide quality, cost-effective, evidence-based care to a patient and may include a physician, physician assistant, advanced practice nurse, nurse, physical therapist, occupational therapist, speech therapist, social worker, nutritionist, psychotherapist, counselor or other licensed professional.

D. "Physician" means a person licensed as a physician under this chapter or chapter 48.

E. "Physician assistant" means a person licensed under section 2594-E or 3270-E.

F. "Practice agreement" means a document agreed to by a physician assistant who is the principal clinical provider in a practice and a physician that states the physician will be available to the physician assistant for collaboration or consultation.

G. "Prescription or legend drug" has the same meaning as "prescription drug" in section 13702-A, subsection 30 and includes schedule II to schedule V drugs or other substances under the federal Controlled Substances Act, 21 United States Code, Section 812.

2. Scope of practice. A physician assistant may provide any medical service for which the physician assistant has been prepared by education, training and experience and is competent to perform. The scope of practice of a physician assistant is determined by practice setting, including, but not limited to, a physician employer setting, physician group practice setting or independent private practice setting, or, in a health care facility setting, by a system of credentialing and granting of privileges.

3. Dispensing drugs. Except for distributing a professional sample of a prescription or legend drug, a physician assistant who dispenses a prescription or legend drug:

A. Shall comply with all relevant federal and state laws and federal regulations and state rules; and

B. May dispense the prescription or legend drug only when:

(1) A pharmacy service is not reasonably available;

(2) Dispensing the drug is in the best interests of the patient; or

(3) An emergency exists.

4. Consultation. A physician assistant shall, as indicated by a patient's condition, the education, competencies and experience of the physician assistant and the standards of care, consult with, collaborate with or refer the patient to an appropriate physician or other health care professional. The level of consultation required under this subsection is determined by the practice setting, including a physician employer, physician group practice or private practice, or by the system of credentialing and granting of privileges of a health care facility. A physician must be accessible to the physician assistant at all times for consultation. Consultation may occur electronically or through telecommunication and includes communication, task sharing and education among all members of a health care team.

5. Collaborative agreement requirements. A physician assistant with less than 4,000 hours of clinical practice documented to the board shall work in accordance with a collaborative agreement with an active physician that describes the physician assistant's scope of practice, except that a physician assistant working in a physician group practice setting or a health care facility setting under a system of credentialing and granting of privileges and scope of practice agreement may use that system of credentialing and granting of privileges and scope of practice agreement in lieu of a collaborative agreement. A physician assistant is legally responsible and assumes legal liability for any medical service provided by the physician assistant in accordance with the physician assistant's scope of practice under subsection 2 and a collaborative agreement under this subsection. Under a collaborative agreement, collaboration may occur through electronic

means and does not require the physical presence of the physician at the time or place that the medical services are provided. A physician assistant shall submit the collaborative agreement, or, if appropriate, the scope of practice agreement, to the board for approval and the agreement must be kept on file at the main location of the place of practice and be made available to the board or the board's representative upon request. Upon submission to the board of documentation of 4,000 hours of clinical practice, a physician assistant is no longer subject to the requirements of this subsection.

6. Practice agreement requirements. A physician assistant who has more than 4,000 hours of clinical practice may be the principal clinical provider in a practice that does not include a physician partner as long as the physician assistant has a practice agreement with an active physician, and other health care professionals as necessary, that describes the physician assistant's scope of practice. A physician assistant is legally responsible and assumes legal liability for any medical service provided by the physician assistant in accordance with the physician assistant's scope of practice under subsection 2 and a practice agreement under this subsection. A physician assistant shall submit the practice agreement to the board for approval and the agreement must be kept on file at the main location of the physician assistant's practice and be made available to the board or the board's representative upon request. Upon any change in the parties to the practice agreement or other substantive change in the practice agreement, the physician assistant shall submit the revised practice agreement to the board for approval. Under a practice agreement, consultation may occur through electronic means and does not require the physical presence of the physician or other health care providers who are parties to the agreement at the time or place that the medical services are provided.

7. Construction. To address the need for affordable, high-quality health care services throughout the State and to expand, in a safe and responsible manner, access to health care providers such as physician assistants, this section must be liberally construed to authorize physician assistants to provide health care services to the full extent of their education, training and experience in accordance with their scopes of practice as determined by their practice settings.

Sec. B-14. 32 MRSA §3263, first ¶, as amended by PL 2013, c. 101, §5, is further amended to read:

The Board of Licensure in Medicine, as established by Title 5, section 12004-A, subsection 24, and in this chapter called the "board," consists of ~~10~~ 11 individuals who are residents of this State, appointed by the Governor. Three individuals must be representatives of the public. Six individuals must be graduates of a legally chartered medical college or university having authority to confer degrees in medicine and must have been actively engaged in the practice of their profession in this State for a continuous period of 5 years preceding their appointments to the board. ~~One individual~~ Two individuals must be ~~a~~ physician ~~assistant~~ assistants licensed under this chapter who ~~has~~ have been actively engaged in the practice of ~~that individual's~~ the profession of physician assistant in this State for a continuous period of 5 years preceding appointment to the board. A full-term appointment is for 6 years. Appointment of members must comply with Title 10, section 8009. A member of the board may be removed from office for cause by the Governor.

Sec. B-15. 32 MRSA §3270-A, as amended by PL 2013, c. 33, §2, is further amended to read:

§3270-A. Assistants; delegating authority

~~This chapter may not be construed to prohibit an individual from rendering medical services if these services are rendered under the supervision and control of a physician or surgeon and if that individual has satisfactorily completed a training program approved by the Board of Licensure in Medicine and a competency examination determined by this board. Supervision and control may not be construed as requiring the personal presence of the supervising and controlling physician at the place where these services are rendered, unless a physical presence is necessary to provide patient care of the same quality as provided by the physician.~~ This chapter may not be construed as prohibiting a physician or surgeon from delegating to the physician's or surgeon's employees or support staff certain activities relating to medical care and treatment carried out by custom and usage when the activities are under the control of the physician or surgeon. The physician delegating these activities to employees or support staff, to program graduates or to participants in an approved training program is legally liable for the activities of those individuals, and any individual in this relationship is considered the physician's agent. This section may not be construed to apply to registered nurses acting pursuant to chapter 31 and licensed physician assistants acting pursuant to this chapter and chapter 36.

When the delegated activities are part of the practice of optometry as defined in chapter 34-A, then the individual to whom these activities are delegated must possess a valid license to practice optometry in Maine, or otherwise may perform only as a technician within the established office of a physician, and otherwise acting solely on the order of and under the responsibility of a physician skilled in the treatment of eyes as designated by the proper professional board, and without assuming evaluation or interpretation of examination findings by prescribing corrective procedures to preserve, restore or improve vision.

Sec. B-16. 32 MRSA §3270-E, as amended by PL 2017, c. 288, Pt. A, §34, is further amended to read:

§3270-E. ~~License and registration~~ Licensure of physician assistants

1. License ~~and registration~~ required. A physician assistant may not render medical services ~~under the supervision of an osteopathic physician or an allopathic physician pursuant to a plan of supervision~~ until the physician assistant has applied for and obtained from either the Board of Licensure in Medicine or the Board of Osteopathic Licensure:

A. A license, which must be renewed biennially with the board that issued the initial license~~; and~~.

~~B. A certificate of registration.~~

~~Applications~~ An application for licensure ~~and certificate of registration~~ as a physician assistant must be ~~made to the board that licenses the physician assistant's primary supervising physician at the time the applications for initial licensure and certificate of~~

~~registration are filed. A physician assistant who applies for licensure without a designated primary supervising physician may submit the application~~ submitted to either the Board of Osteopathic Licensure or the Board of Licensure in Medicine. A license granted by either the Board of Osteopathic Licensure or the Board of Licensure in Medicine authorizes the physician assistant to render medical services ~~under the supervision of an allopathic or osteopathic physician regardless of which board issued the license to the physician assistant~~.

2. Qualification for licensure. The board may issue to an individual a license to practice as a physician assistant under the following conditions:

A. A license may be issued to an individual who:

(1) Graduated from a physician assistant program approved by the board;

(2) Passed a physician assistant national certifying examination administered by the National Commission on Certification of Physician Assistants or its successor organization;

(3) Demonstrates current clinical competency;

(4) Does not have a license or certificate of registration that is the subject of disciplinary action such as probation, restriction, suspension, revocation or surrender;

(5) Completes an application approved by the board;

(6) Pays an application fee of up to ~~$250~~ $300; and

(7) Passes an examination approved by the board; and

B. No grounds exist as set forth in section 3282-A to deny the application.

~~**3. Certificate of registration.** A physician assistant may not render medical services until issued a certificate of registration by the board. The board may issue a certificate of registration to a physician assistant under the following requirements:~~

~~A. The physician assistant shall:~~

~~(1) Submit an application on forms approved by the board. The application must include:~~

~~(a) A written statement by the proposed supervising physician taking responsibility for all medical activities of the physician assistant; and~~

~~(b) A written statement by the physician assistant and proposed supervising physician that a written plan of supervision has been established; and~~

~~(2) Pays an application fee of up to $50.~~

~~B. A proposed supervising physician must hold an active license to practice medicine in the State and be in good standing.~~

4. Delegation by physician assistant. A physician assistant may delegate ~~medical acts to a medical assistant employed by the physician assistant or by an employer of the physician assistant as long as that delegation is permitted in the plan of supervision~~

~~established by the physician assistant and the supervising physician~~ to the physician assistant's employees or support staff or members of a health care team, including medical assistants, certain activities relating to medical care and treatment carried out by custom and usage when the activities are under the control of the physician assistant. The physician assistant who delegates an activity permitted under this subsection is legally liable for the activity performed by an employee, a medical assistant, support staff or a member of a health care team.

5. Rules. The Board of Licensure in Medicine is authorized to adopt rules regarding the ~~training and~~ licensure and practice of physician assistants ~~and the agency relationship between the physician assistant and the supervising physician~~. These rules, which must be adopted jointly with the Board of Osteopathic Licensure, may pertain to, but are not limited to, the following matters:

A. Information to be contained in the application for a license ~~and certificate of registration~~;

~~B. Information that is required on the application for a certificate of registration filed by the proposed supervising physician;~~

C. ~~Training and education~~ Education requirements ~~and scope of permissible clinical medical procedures of~~ for the physician assistant ~~and the manner and methods by which the supervising physician must supervise the physician assistant's medical services~~;

~~D. Scope of practice for physician assistants, including prescribing of controlled drugs;~~

E. Requirements for ~~written plans of supervision~~ collaborative agreements and practice agreements under section 3270-G, including uniform standards and forms;

F. Requirements for a physician assistant to notify the board regarding certain circumstances, including but not limited to any change in address, ~~any change in the identity or address of the physician assistant's employer or in the physician assistant's employment status, any change in the identity or address of the supervising physician,~~ the permanent departure of the physician assistant from the State, any criminal convictions of the physician assistant and any discipline by other jurisdictions of the physician assistant;

G. Issuance of temporary physician assistant licenses ~~and temporary registration of physician assistants~~;

H. Appointment of an advisory committee for continuing review of the physician assistant ~~program and~~ rules. The physician assistant ~~member~~ members of the board pursuant to section ~~2561~~ 3263 must be ~~a member~~ members of the advisory committee;

I. Continuing education requirements as a precondition to continued licensure or licensure renewal;

J. Fees for the application for an initial physician assistant license, which may not exceed ~~$250~~ $300; and

~~K. Fees for an initial certificate of registration, which may not exceed $100;~~

~~L. Fees for transfer of the certificate of registration by a physician assistant from one supervising physician to another, which may not exceed $50; and~~

M. Fees for the biennial renewal of a physician assistant license in an amount not to exceed $250.

Sec. B-17. 32 MRSA §3270-G is enacted to read:

§3270-G. Physician assistants; scope of practice and agreement requirements

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Collaborative agreement" means a document agreed to by a physician assistant and a physician that describes the scope of practice for the physician assistant as determined by practice setting and describes the decision-making process for a health care team, including communication and consultation among health care team members.

B. "Consultation" means engagement in a process in which members of a health care team use their complementary training, skill, knowledge and experience to provide the best care for a patient.

C. "Health care team" means 2 or more health care professionals working in a coordinated, complementary and agreed-upon manner to provide quality, cost-effective, evidence-based care to a patient and may include a physician, physician assistant, advanced practice nurse, nurse, physical therapist, occupational therapist, speech therapist, social worker, nutritionist, psychotherapist, counselor or other licensed professional.

D. "Physician" means a person licensed as a physician under this chapter or chapter 36.

E. "Physician assistant" means a person licensed under section 2594-E or 3270-E.

F. "Practice agreement" means a document agreed to by a physician assistant who is the principal clinical provider in a practice and a physician that states the physician will be available to the physician assistant for collaboration or consultation.

G. "Prescription or legend drug" has the same meaning as "prescription drug" in section 13702-A, subsection 30 and includes schedule II to schedule V drugs or other substances under the federal Controlled Substances Act, 21 United States Code, Section 812.

2. Scope of practice. A physician assistant may provide any medical service for which the physician assistant has been prepared by education, training and experience and is competent to perform. The scope of practice of a physician assistant is determined by practice setting, including, but not limited to, a physician employer setting, physician group practice setting or independent private practice setting, or, in a health care facility setting, by a system of credentialing and granting of privileges.

3. Dispensing drugs. Except for distributing a professional sample of a prescription or legend drug, a physician assistant who dispenses a prescription or legend drug:

A. Shall comply with all relevant federal and state laws and federal regulations and state rules; and

B. May dispense the prescription or legend drug only when:

(1) A pharmacy service is not reasonably available;

(2) Dispensing the drug is in the best interests of the patient; or

(3) An emergency exists.

4. Consultation. A physician assistant shall, as indicated by a patient's condition, the education, competencies and experience of the physician assistant and the standards of care, consult with, collaborate with or refer the patient to an appropriate physician or other health care professional. The level of consultation required under this subsection is determined by the practice setting, including a physician employer, physician group practice, or private practice, or by the system of credentialing and granting of privileges of a health care facility. A physician must be accessible to the physician assistant at all times for consultation. Consultation may occur electronically or through telecommunication and includes communication, task sharing and education among all members of a health care team.

5. Collaborative agreement requirements. A physician assistant with less than 4,000 hours of clinical practice documented to the board shall work in accordance with a collaborative agreement with an active physician that describes the physician assistant's scope of practice, except that a physician assistant working in a physician group practice setting or a health care facility setting under a system of credentialing and granting of privileges and scope of practice agreement may use that system of credentialing and granting of privileges and scope of practice agreement in lieu of a collaborative agreement. A physician assistant is legally responsible and assumes legal liability for any medical service provided by the physician assistant in accordance with the physician assistant's scope of practice under subsection 2 and a collaborative agreement under this subsection. Under a collaborative agreement, collaboration may occur through electronic means and does not require the physical presence of the physician at the time or place that the medical services are provided. A physician assistant shall submit the collaborative agreement, or, if appropriate, the scope of practice agreement, to the board for approval and the agreement must be kept on file at the main location of the place of practice and be made available to the board or the board's representative upon request. Upon submission to the board of documentation of 4,000 hours of clinical practice, a physician assistant is no longer subject to the requirements of this subsection.

6. Practice agreement requirements. A physician assistant who has more than 4,000 hours of clinical practice may be the principal clinical provider in a practice that does not include a physician partner as long as the physician assistant has a practice agreement with an active physician, and other health care professionals as necessary, that describes the physician assistant's scope of practice. A physician assistant is legally responsible and assumes legal liability for any medical service provided by the physician assistant in accordance with the physician assistant's scope of practice under subsection 2

and a practice agreement under this subsection. A physician assistant shall submit the practice agreement to the board for approval and the agreement must be kept on file at the main location of the physician assistant's practice and be made available to the board or the board's representative upon request. Upon any change in the parties to the practice agreement or other substantive change in the practice agreement, the physician assistant shall submit the revised practice agreement to the board for approval. Under a practice agreement, consultation may occur through electronic means and does not require the physical presence of the physician or other health care providers who are parties to the agreement at the time or place that the medical services are provided.

7. Construction. To address the need for affordable, high-quality health care services throughout the State and to expand, in a safe and responsible manner, access to health care providers such as physician assistants, this section must be liberally construed to authorize physician assistants to provide health care services to the full extent of their education, training and experience in accordance with their scopes of practice as determined by their practice settings.

Sec. B-18. 32 MRSA §3300-C, as enacted by PL 2011, c. 477, Pt. J, §1, is repealed.

Sec. B-19. 32 MRSA §13786, last ¶, as enacted by PL 1987, c. 710, §5, is amended to read:

This section applies to any ~~physician's assistant or~~ registered nurse who writes a prescription while working under the control or supervision of a physician. ~~In case of the physician's assistant or registered nurse, the~~ The name of the physician under whom the ~~assistant or~~ nurse works ~~shall~~ must be printed, stamped or typed on the blank.

Sec. B-20. 34-B MRSA §3801, sub-§4-B, as enacted by PL 2009, c. 651, §5, is amended to read:

4-B. Medical practitioner. "Medical practitioner" or "practitioner" means a licensed physician, ~~registered~~ licensed physician assistant, certified psychiatric clinical nurse specialist, certified nurse practitioner or licensed clinical psychologist.

Sec. B-21. 37-B MRSA §185, sub-§1-A, as amended by PL 2015, c. 242, §6, is further amended to read:

1-A. Immunity from civil and criminal liability for ~~supervising~~ collaborating or consulting physician. Subsection 1 applies to ~~the supervising~~ a collaborating or consulting physician of a physician assistant under Title 32, section ~~2594-E~~ 2594-F or ~~3270-E~~ 3270-G:

A. With regard to any act of the physician assistant in providing services to individuals not on active state service;

B. When the physician assistant is on active state service in the performance of the physician assistant's duty; and

C. When the ~~supervising~~ collaborating or consulting physician is not on active state service.

Sec. B-22. Transition. The license of a physician assistant under the Maine Revised Statutes, Title 32, section 2594-E or section 3270-E that is current, active and not under investigation on the effective date of this Act remains valid. A physician assistant holding an active, nonclinical license that is not under investigation on the effective date of this Act and who has not been out of clinical practice for more than 2 years as of the effective date of this Act is deemed to have a valid license. A physician assistant holding an active, nonclinical license who has been out of clinical practice for more than 2 years as of the effective date of this Act is required to meet any requirements established by the board before being issued a license.

PART C

Sec. C-1. Appropriations and allocations. The following appropriations and allocations are made.

HEALTH AND HUMAN SERVICES, DEPARTMENT OF

Office of MaineCare Services 0129

Initiative: Provides one-time appropriation and allocation for technology changes required to allow physician assistants to be reimbursed directly for services.

GENERAL FUND	**2019-20**	**2020-21**
All Other	$26,139	$0
GENERAL FUND TOTAL	$26,139	$0

FEDERAL EXPENDITURES FUND	**2019-20**	**2020-21**
All Other	$78,418	$0
FEDERAL EXPENDITURES FUND TOTAL	$78,418	$0

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

Approved: 03/17/20 mac

129th MAINE LEGISLATURE

LD 1660 **LR 1174(05)**

An Act To Improve Access to Physician Assistant Care

Fiscal Note for Bill as Engrossed with:
C "A" (S-432)
S "A" (S-444) to C "A" (S-432)
Committee: Health Coverage, Insurance and Financial Services

Fiscal Note

	FY 2019-20	FY 2020-21	Projections FY 2021-22	Projections FY 2022-23
Net Cost (Savings)				
General Fund	$26,139	$0	$0	$0
Appropriations/Allocations				
General Fund	$26,139	$0	$0	$0
Federal Expenditures Fund	$78,418	$0	$0	$0
Revenue				
Federal Expenditures Fund	$78,418	$0	$0	$0
Other Special Revenue Funds	$0	($51,000)	($51,000)	($51,000)

Fiscal Detail and Notes

The bill includes a one-time General Fund appropriation to the Department of Health and Human Services of $26,139 in fiscal year 2019-20 for technology changes required to allow physician assistants to be reimbursed directly for services. A one-time Federal Expenditures Fund allocation is also included for the FMAP match.

The impact of the change in certain application and registration fees is a net reduction in dedicated revenue of $35,000 annually to the Board of Licensure in Medicine and $16,000 annually to the Board of Osteopathic Licensure, both affiliated boards of the Department of Professional and Financial Regulation.