

RULES AND REGULATIONS
FOR THE LICENSURE OF
PHYSICIAN ASSISTANTS
(R5-54-PA)



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

Department of Health

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INTRODUCTION

These rules and regulations are promulgated pursuant to the authority conferred under section 5-54-7(c) of the General Laws of Rhode Island, as amended, and are established for the purpose of adopting administrative procedures and prevailing standards for the licensure of physician assistants.

Pursuant to the provisions of section 42-35-3(c) of the General Laws of Rhode Island, as amended, consideration was given to: (1) alternative approaches to the regulations; and (2) duplication or overlap with other state regulations. No alternative approach, overlap or duplication was identified, consequently the regulations are adopted in the best interest of the health, safety and welfare of the public.

These rules and regulations shall supersede all previous rules and regulations pertaining to the licensure of physician assistants promulgated by the Department of Health and filed with the Secretary of State.

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Section 1.0 *Definitions*

Wherever used in these rules and regulations the following terms shall be construed as follows:

- 1.1 *"Act"* refers to Chapter 5-54 of the General Laws of Rhode Island, as amended, entitled, "Physician Assistants."
- 1.2 *"Approved program"* means a program for the education and training of physician assistants that has been formally approved by the American Medical Association's (A.M.A.'s) Committee on Allied Health, Education and Accreditation, its successor, the Commission on Accreditation of Allied Health Education Programs (CAAHEP) or its successor.
- 1.3 *"Approved program for continuing medical education"* means a program for continuing education approved by the American Academy of Physician Assistants (AAPA) or the Accreditation Council for Continuing Medical Education of the American Medical Association (AMA), or the American Academy of Family Physicians (AAPFP) or the American Osteopathic Association Committee on Continuing Medical Education (AOACCME) or any other Board-approved program.
- 1.4 *"Board"* means the Board of Licensure of Physician Assistants within the Department established pursuant to section 5-54-4 of the General Laws of Rhode Island, as amended.
- 1.5 *"Department"* means the Rhode Island Department of Health.
- 1.6 *"Director"* means the Director of the Department of Health.
- 1.7 *"Health care facility"* means any facility licensed pursuant to the provisions of Chapter 23-17 of the General Laws of Rhode Island, as amended.
- 1.8 *"Physician"* means a person licensed under the provisions of Chapters 5-29 or 5-37 of the General Laws of Rhode Island, as amended.
- 1.9 *"Physician assistant"* means a person who is qualified by academic and practical training to provide those certain patient services in which he/she is trained under the supervision, control, responsibility and direction of a licensed physician.
- 1.10 *"Supervision"*, pursuant to section 5-54-2 of the Act, means overseeing the activities of, and accepting the responsibility for, the medical services rendered by the physician assistants. Supervision shall be continuous and under the direct control of a licensed physician expert in the field of medicine in which the physician assistants practice.

The constant physical presence of the supervising physician or physician designee is not required. It is the responsibility of the supervising physician and physician assistant to assure an appropriate level of supervision depending upon the services being rendered. Each physician or group of physicians, or other health care delivery organization excluding licensed hospitals or licensed health care facilities controlled or operated by a licensed hospital_employing physician assistant(s) must have on file at the primary practice site a copy of a policy in the form of an agreement between the supervising physician(s) and physician assistant(s)

delineating:

- a) the level of supervision provided by the supervising physician(s) or designee(s) with particular reference to differing levels of supervision depending on the type of patient services provided and requirements for communication between the supervising physician(s) or designee(s) and the physician assistant.
- b) a job description for the physician assistant listing patient care responsibilities and procedures to be performed by the physician assistant.
- c) a program for quality assurance for physician assistant services including requirements for periodic review of the physician assistant services.
- d) Requirements for supervision of physician assistants employed or extended medical staff privileges by licensed hospitals or other licensed health care facilities or employed by other health care delivery agencies shall be delineated by the medical staff bylaws and/or applicable governing authority of the facility.
- e) The supervising physician or physician designee must be available for easy communication and referral at all times.

1.11 **"Unprofessional conduct"** shall include but not be limited to the following items or any combination thereof and may be further defined by regulations established by the Board with prior approval of the Director:

- a) Fraudulent or deceptive procuring or use of a license;
- b) Representation of himself or herself as a physician;
- c) Conviction of a crime involving moral turpitude; conviction of a felony; conviction of a crime arising out of the practice of medicine. All advertising of medical business which is intended or has a tendency to deceive the public;
- d) Abandonment of a patient;
- e) Dependence upon a controlled substance, habitual drunkenness, or rendering professional services to a patient while intoxicated or incapacitated by the use of drugs;
- f) Promotion of the sale of drugs, devices appliances, or goods or services provided for a patient in such a manner as to exploit the patient for the financial gain of the physician assistant;
- g) Immoral conduct of a physician assistant in the practice of medicine;
- h) Willfully making and filing false reports or records;
- i) Willful omission to file or record or willfully impeding or obstructing a filing or recording, or inducing another person to omit to file or record medical or other reports as required by law;
- j) Agreeing with clinical or bioanalytical laboratories to accept payments from such laboratories for individual tests or test series for patients;
- k) Practicing with an unlicensed physician or physician assistant or aiding or abetting such unlicensed persons in the practice of medicine;
- l) Offering, undertaking or agreeing to cure or treat a disease by a secret method,

- procedure, treatment or medicine;
- m) Professional or mental incompetence;
 - n) Surrender, revocation, suspension, limitation of privilege based on quality of care provided, or any other disciplinary action against a license or authorization to practice in another state or jurisdiction; or surrender, revocation, suspension, or any other disciplinary action relating to membership on any medical staff or in any medical professional association, or society while under disciplinary investigation by any of those authorities or bodies for acts or conduct similar to acts or conduct which would constitute grounds for action as set forth in the Act;
 - o) Any adverse judgment, settlement, or award arising from a medical liability claim related to acts or conduct which would constitute grounds for action as set forth in the Act;
 - p) Failure to furnish the Board, the Department, investigator or representatives, information legally requested by the Board;
 - q) Violation of any provision(s) of the Act or the rules and regulations herein or an action, stipulation, or agreement of the Board;
 - r) Cheating or attempting to subvert the certifying examination;
 - s) Violating any state or federal law or regulation relating to controlled substances;
 - t) Medical malpractice;
 - u) Sexual contact between a physician assistant and patient during the existence of the physician assistant/patient relationship;
 - v) Providing services to a person who is making a claim as a result of a personal injury, who charges or collects from the person any amount in excess of the reimbursement to the physician assistant by the insurer as a condition of providing or continuing to provide services or treatment.

Section 2.0 *Licensure Requirements*

- 2.1 No person who is not licensed as a physician assistant shall use the title of "Physician Assistant" or hold himself out as a physician assistant pursuant to section 5-54-16 of the Act.

Exemptions

- 2.2 The provisions of the Act and the rules and regulations herein do not apply to services performed in any of the following areas:
- a) The practice of dentistry or dental hygiene as defined in Chapter 5-31.1 of the Rhode Island General Laws, as amended;
 - b) The practice of chiropractic;
 - c) The practice of optometry as defined in Chapter 5-35 of the Rhode Island General Laws, as amended;
 - d) A physician assistant student enrolled in an approved program, as defined in section

1.2 herein, while performing duties in conjunction with an approved program clinical rotation.

- e) Technicians, or other assistants or employees of physicians who perform delegated tasks in the office of a physician but who are not rendering services as a physician assistant or identifying themselves as a physician assistant.

Section 3.0 *Qualifications for Licensure*

3.1 An applicant seeking licensure to practice in this state as a physician assistant must:

- a) be of good character and reputation;
- b) have been graduated from a physician assistant training program certified by the AMA's Committee on Allied Health, Education and Accreditation its successor, the Commission on Accreditation of Allied Health Education Programs (CAAHEP) or its successor;
- c) have passed a certifying examination approved by the National Commission on Certification of Physician Assistants, or any other national certifying exam approved by the Board and
- d) have submitted a completed application together with the required fee as set forth in the *Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health*.

Section 4.0 *Application for Licensure and Fee*

4.1 Application for licensure shall be made on forms provided by the Department which shall be completed and submitted to the Board. Such application shall be accompanied by the following documents:

- a) supporting official transcripts of education credentials;
- b) a copy of the valid certificate of having successfully passed a national certifying examination approved by the Board;
- c) a statement from the board of physician assistant examiners in each state or territory or District of Columbia, or in which the applicant has held or holds licensure, to be submitted directly to the Board of this state, attesting to the licensure status of the applicant during the time period applicant held licensure in said state; and
- d) the non-refundable licensure fee as set forth in the *Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health*.

4.2 If the applicant provides documentation to the Department of credentials verification by the Federation Credentials Verification Service (FCVS) of the Federation of State Medical Boards (FSMB), the requirements set forth in sections 4.1 (a)(b) and (c) herein shall be met.

Section 5.0 *Issuance and Renewal of Certificate of Licensure*

- 5.1 The Director shall issue a certificate of licensure as a physician assistant to those individuals recommended by the Board as having met the criteria for licensure in section 3.0 herein. Said certificate of licensure unless sooner suspended or revoked shall expire on the thirtieth (30th) day of June of every odd-numbered year beginning in June 2005.
- 5.2 On or before the first day of March in every other year beginning in 2005, the Department shall mail an application for the renewal of the certificate of licensure to every person licensed. Every person who desires his or her certificate of licensure to be renewed shall on or before the first day of June in each year file with the Department:
- a) a signed, completed renewal application (on forms provided by the Department); and
 - b) the renewal fee as set forth in the *Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health*.

Upon receipt of such application and fee, the accuracy of such application shall be verified and the Department shall grant a renewal certificate effective July 1st and expiring June 30th two (2) years later, unless said certificate shall sooner be suspended for cause as provided in section 5-54-12 of the Act.

Inactive List

- 5.3 A physician assistant licensed to practice who does not intend to engage in the practice of his/her profession during any year, upon written request to the Board may have his/her name transferred to an inactive list, and shall not be required to register annually or pay any renewal as long as he/she remains inactive. Any physician assistant included in the inactive list as provided for in this section shall be restored to active status by the Department upon filing of a written request accompanied by the renewal fee.

Section 6.0 *Scope of Practice*

- 6.1 Physician assistants practice with physician supervision. Physician assistants may perform those duties and responsibilities consistent with the limitations of section 5-54-8 of the Act, including prescribing of drugs and medical devices, that are delegated by their supervising physician(s). Physician assistants may request, receive, sign for and distribute professional samples of drugs and medical devices to patients only within the limitations of section 5-54-8 of the Act.
- Notwithstanding any other provisions of law, a physician assistant may perform health care services when such services are rendered under the supervision of a licensed physician.
- 6.2 Physician assistants, depending upon their level of professional training and experience, as determined by a supervising physician, may perform health care services consistent with their expertise and that of the supervising physician who is a licensed physician in solo practice, in group practice, or in health care facilities.

Prescriptive Privileges and Medical Orders

- 6.3 When employed by, or extended medical staff privileges by a licensed hospital or other licensed health care facility, a physician assistant may write medical orders for inpatients as delineated by the medical staff by-laws of the facility, as well as its credentialing process and

applicable governing authority.

- 6.4 Hospitals and other licensed health care facilities shall have discretion to grant privileges to a physician assistant and to define the scope of privileges or services which a physician assistant may deliver in a facility. Hospitals or other licensed facilities shall not grant privileges to a physician assistant that would not be granted to the supervising physician.
- 6.5 Physician assistants employed directly by physicians, health maintenance organizations or other health care delivery organizations may prescribe legend medications, including schedules II, III, IV, and V medications under Title 21 Chapter 28 of the Rhode Island Uniform Controlled Substance Act, medical therapies, medical devices and medical diagnostics according to guidelines established by the employing physician, health maintenance organization, or other health care delivery organization.
- 6.6 Prescriptive privileges for physician assistants shall be granted for all legend medications, including controlled substances from schedules II, III, IV, and V, in accordance with the agreement developed by the supervising physician and the physician assistant cited in section 1.10 herein.
- 6.7 If a physician assistant does prescribe controlled substances from schedules II, III, IV, and V, under Title 21 of Chapter 28, he/she must obtain a state registration for prescribing controlled substances from the Board of Pharmacy, as well as a federal registration.

Podiatry Supervision

- 6.8 When supervised by a physician licensed under Chapter 29 of Title 5, the services rendered by the physician assistant shall be limited to the foot. The "foot" is defined as the pedal extremity of the human body and its articulations and shall include the tendons and muscles of the lower leg only as they be involved in the conditions of the foot.

Graduate Practice

- 6.9 Any graduate of an approved physician assistant training program who has filed a completed application (which includes all documents except for examination scores) for licensure may, upon receiving a permit from the Department, perform as a graduate physician assistant. During this period, such an applicant shall identify himself or herself only as a "graduate physician assistant." If such an applicant shall fail to take the next succeeding examination within ninety (90) days without due cause or fail to pass the examination and be licensed, all aforementioned privileges shall automatically cease.

- 6.9.1 The level of supervision for the graduate physician assistant shall be determined by the supervising physician.

Section 7.0 Continuing Medical Education

- 7.1 Pursuant to section 5-54-12.1 of the Rhode Island General Laws, as amended, every physician assistant licensed to practice within the state shall be required to have satisfactorily completed twenty (20) hours of approved continuing medical education biennially (i.e., every two years).
- 7.2 The biannual period for accumulation of continuing medical education hours shall commence on the first day of July and run through the thirtieth (30th) day of June of the next odd-numbered year. The Department shall not renew the certificate of licensure until the applicant has attested to satisfactory evidence of completion of the required continuing medical education.
- 7.3 Course descriptions, proof of attendance, or other documentation of completion shall be

retained by the licensee for a minimum of four (4) years and is subject to random audit by the Board.

- 7.4 An extension of time to complete the continuing education requirements may be granted to a physician assistant solely at the discretion of the Board for reasons of hardship or other extenuating circumstances.
- 7.5 Physician assistants initially licensed after the July 1st renewal date shall be exempt from the continuing education requirements stated herein until the date of the next renewal cycle (i.e., June 30th of the next odd numbered year).

Section 8.0 ***Denial, Suspension or Revocation of Licensure - Violations***

- 8.1 Any violation pursuant to the provisions of Chapter 5-54 of the Act and the rules and regulations herein, may be cause for denial, revocation or suspension of registration, grounds for discipline and imposing other penalties in accordance with the provisions of the Act.

Section 9.0 ***Non-disciplinary Alternative Program***

- 9.1 The Board may permit a licensee to enter into a non disciplinary alternative program.
- 9.2 All records pertaining to the physician assistant's participation in the non-disciplinary program are confidential and not subject to discovery, subpoena, or public disclosure.

Section 10.0 ***Reports Relating to Professional Conduct and Capacity***

- 10.1 In addition to the requirements of section 42-14-2.1 of the Rhode Island General Laws, as amended, any person, including, but not limited to, corporations, health care facilities, health maintenance organizations, organizations and federal, state, or local governmental agencies, or peer review boards shall report to the Board any: conviction, determination, or finding that a licensed physician assistant has committed unprofessional conduct as defined in § 5-54-2 as amended, or to report information which indicates that a licensed physician assistant may not be able to practice with reasonable skill and safety to patients as the result of any mental or physical condition.
- 10.2 The following reports, in writing, shall be filed with the Board:
- a) Every insurer providing professional liability insurance to a physician assistant licensed under the provisions of the Act shall send a complete report to the Board reporting any formal notice of any claim, settlement of any claim or cause of action, or final judgment rendered in any cause of action for damages for death or personal injury caused by a physician assistant's negligence, error or omission in practice or his or her rendering of unauthorized professional services. The report shall be sent within thirty (30) days after service of the complaint or notice, settlement, judgment, or arbitration award on the parties. All the reports shall present an in-depth factual summary of the claim in question.
 - b) All hospital and licensed health care facilities including, but not limited to, nursing homes and health maintenance organizations and the Board of Pharmacy must report within thirty (30) days of this action, any action, disciplinary or otherwise, taken for any reason, which limits, suspends, or revokes a physician assistant's privilege to practice, either through formal action by the institution or facility or through any voluntary agreement with the physician assistant.

- c) Within ten (10) days after a judgment by a court of this state that a physician assistant licensed under the provisions of the Act has been convicted of a crime or is civilly liable for any death or personal injury caused by his or her negligence, error or omission in his or her practice or his or her rendering unauthorized professional services, the clerk of the court which rendered the judgment shall report the judgment to the Board.
- 10.3 The Board shall publicly report any change of privileges, of which it is aware, to the board of trustees or other appropriate body of all licensed hospitals, licensed health care facilities, health maintenance organizations and any other parties that the Board deems appropriate, within thirty (30) days; provided, that notwithstanding the provisions of this section, the Board may, in instances where the change of privilege is not related to quality of patient care, elect not to disseminate the report of changed privileges. This election may be made in executive session and no decision not to disseminate is made except by the majority vote of the members present at the meeting and only upon a finding of fact by the Board after inquiry that the change was not related to quality of patient care.
- 10.4 The contents of any report filed are confidential and exempt from public disclosure, except that it may be reviewed:
- a) By the licensee involved or his or her counsel or authorized representative who submits any additional exculpatory or explanatory statements or other information, which statements or information are included in the file, or
 - b) By the chief administrative officer, a representative of the Board or investigator of the Board, who is assigned to review the activities of a licensed physician assistant.
- 10.5 Upon determination that a report is without merit, the Board's records shall be purged of information relating to the report.
- 10.6 If any person refuses to furnish a required report, the Board may petition the superior court of any county in which the person resides or is found, and the court issues to the person an order to furnish the required report. Any failure to obey the order is punished by the court as a civil contempt is punished.
- 10.7 Every individual medical association, medical society, physician assistant professional organization, health care facility, health maintenance organization, peer review board, medical service bureau, health insurance carrier or agent, professional standards review organization, and agency of the federal, state, or local government is immune from civil liability, whether direct or derivative, for providing information in good faith to the Board pursuant to the Act or the regulations herein.
- 10.8 Nondisclosure agreements are prohibited insofar as they forbid parties from making reports regarding competency and/or unprofessional conduct to the Board.

Section 11.0 *Communication of Information Among Health Care Facilities*

- 11.1 Any licensed health care facility, acting by and through its chief executive officer or his or her designee, may upon the request of any other licensed health care facility, communicate to the chief executive officer of the requesting facility or his or her designee any and all information available regarding circumstances under which the privileges of any physician assistant were changed as described in section 10.3 herein.
- 11.2 No health care facility, chief executive officer, or his or her designee, communicating information under this section, has liability arising out of the communication, unless the person making the communication is not acting in good faith.

Section 12.0 *Hospital Responsibility to Take Action Based Upon Adverse Information Received*

- 12.1 Whenever a hospital receives information from the board pursuant to section 10.3 herein, that indicates that the privileges of a physician assistant or other health care professional have been suspended, revoked, or limited at another hospital, the receiving hospital shall within thirty (30) days initiate a preliminary inquiry into whether the privileges of the affected physician assistant or other health care professional at the receiving hospital should be suspended, revoked, or limited, based upon review of the exercise of privileges at the receiving hospital, unless the information indicates that any adverse action with respect to privileges was administrative in character.
- 12.2 Any hospital receiving information described in section 12.1 may take any one or more of the following courses of action in addition to the action required in section 12.1, any one of which discharges its responsibility under the Act to monitor the qualification and fitness of physician assistants and other health care professionals on its medical staff:
- a) In any case that has been referred to the Board, to await final disposition of the Board, and to take further action that is consistent with sanctions, if any, imposed by the Board;
 - b) In any case in which the matter has resulted in the suspension, revocation, or restriction of privileges at any other hospital, to adopt the factual findings of the other hospital, and to impose the suspension, revocation, or restriction in privileges that the receiving hospital deems appropriate, if any, in light of these factors; or
 - c) In any case, to conduct a formal inquiry, in accordance with applicable procedural requirements, to determine what action, if any, should be taken with respect to the privileges of the physician assistant or other health care professional.
- 12.3 No hospital, or officer, employee, physician assistant or other health care professional associated with these is liable to any physician assistant or other health care professional for any action taken in accordance with sections 12.1 and 12.2 herein when the action was made in good faith.

Section 13.0 *Immunity from Liability for Gratuitous Emergency Assistance*

- 13.1 No person licensed under the provisions of the Act and the rules and regulations herein or members of the same profession licensed to practice in other states of the United States who

voluntarily and gratuitously, and other than in the ordinary course of his or her employment or practice, renders emergency medical assistance to a person in need is liable for civil damages for any personal injuries resulting from acts or omissions by those persons in rendering the emergency care which may constitute ordinary negligence. The immunity granted by this section does not apply to acts or omissions constituting gross, willful, wanton negligence or when the medical assistance is rendered at any hospital, physician's office, or other health care delivery entity where those services are normally rendered.

Section 14.0 ***Rules Governing Practices and Procedures***

14.1 All hearings and reviews required under the provisions of Chapter 5-54 of the General Laws of Rhode Island, as amended, and the rules and regulations herein shall be held in accordance with the provisions of the *Rules and Regulations of the Rhode Island Department of Health Regarding the Practices and Procedures Before the Department of Health and Access to Public Records of the Department of Health (R42-35-PP)*.

Section 15.0 ***Severability***

15.1 If any provision of these rules and regulations or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the provisions or application of the rules and regulations which can be given effect, and to this end the provisions of the rules and regulations are declared to be severable.

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