

2019 Regular Session

SENATE BILL NO. 166

BY SENATOR LAFLEUR

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

HEALTH SERVICES. Provides relative to physician assistants. (8/1/19)

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AN ACT

To amend and reenact R.S. 37:1360.21(B) and (D), 1360.22(5), (7), and (8), 1360.23(A), (C), (D) and (G), 1360.28(A), the introductory paragraph of (B), and (B)(3), the introductory paragraph of 1360.29(A), (A)(2), (3) and (4), and (B), 1360.30(B), 1360.31(A), (B), (C)(1), (2)(a)(ii), (iii) and (iv), and (D), 1360.32, and 3003(4)(a), and to repeal R.S. 37:1360.23(I), relative to physician assistants, to provide for sponsorship of a physician assistant; to provide for the physician assistant's professional liability; to provide for referral or order authority for occupational therapy; to provide for definitions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 37:1360.21(B) and (D), 1360.22(5), (7), and (8), 1360.23(A), (C), (D) and (G), 1360.28(A), the introductory paragraph of (B), and (B)(3), the introductory paragraph of 1360.29(A), (A)(2), (3) and (4), and (B), 1360.30(B), 1360.31(A), (B), (C)(1), (2)(a)(ii), (iii) and (iv), and (D), 1360.32, and 3003(4)(a) are hereby amended and reenacted to read as follows:

§1360.21. Legislative intent

* * *

1 B. Physician assistants are health care professionals qualified by academic
 2 and clinical education and licensed by the Louisiana State Board of Medical
 3 Examiners to provide health care services at the direction ~~and under the supervision~~
 4 of a physician or group of physicians approved by the board as ~~a supervising~~
 5 **physician**.

6 * * *

7 D. It is the intent of this Part to encourage and permit the utilization of
 8 physician assistants by physicians and assist in the development of the physician
 9 assistant profession and allow for innovative developments of programs for the
 10 education of physician assistants. It is also the purpose of this Part to provide for a
 11 system of licensing physician assistants and regulating their relationship with
 12 ~~supervising~~ physicians so that a high quality of service is assured.

13 §1360.22. Definitions

14 As used in this Part:

15 * * *

16 (5) "Physician assistant" means a health professional qualified by academic
 17 and clinical education and licensed by the Louisiana State Board of Medical
 18 Examiners to provide health care services at the direction ~~and under the supervision~~
 19 of a physician or group of physicians approved by the board as a ~~supervising~~
 20 sponsoring physician.

21 * * *

22 (7) "~~Supervising~~ Sponsoring physician" means a physician who has been
 23 approved by the board to ~~supervise~~ sponsor a physician assistant.

24 (8) "Supervision" "Sponsoring" means ~~responsible direction and control,~~
 25 ~~with the supervising physician assuming legal liability for the services~~ a cooperative
 26 working relationship between a physician and a physician assistant to jointly
 27 contribute to providing patient care as rendered by the physician assistant in the
 28 course and scope of the physician assistant's employment. Such ~~supervision~~
 29 sponsoring shall not be construed ~~in every case~~ to require the physical presence of

1 the ~~supervising~~ physician. However, the ~~supervising~~ physician and physician
 2 assistant must have the capability to be in contact with each other by either telephone
 3 or other telecommunications device. ~~Supervision~~ **Sponsoring** shall exist when the
 4 ~~supervising~~ physician responsible for the patient gives informed concurrence of the
 5 action of a physician assistant, whether given prior to or after the action, and when
 6 a medical treatment plan or action is made in accordance with written clinical
 7 practice guidelines or protocols set forth by the ~~supervising~~ physician. The level and
 8 method of ~~supervision~~ **sponsoring** shall be at the physician and physician assistant
 9 level, shall be documented and reviewed annually, and shall reflect the acuity of the
 10 patient care and nature of the procedure.

11 * * *

12 §1360.23. Powers and duties of the board

13 A. The board shall have and exercise all powers and duties previously
 14 granted to it, subject to the provisions of Title 36 of the Louisiana Revised Statutes
 15 of 1950. The powers and authority granted to the board by this Part shall be subject
 16 to the provisions of Title 36 of the Louisiana Revised Statutes of 1950, and
 17 particularly R.S. 36:259(A) and 803. Except as otherwise provided by this Part, the
 18 board shall also have the power, in consultation with the Physician Assistants
 19 Advisory Committee, to make rules and regulations pertaining to the approval and
 20 regulation of physician assistants and the approval and regulation of physicians
 21 ~~applying to become supervising physicians~~ **who sponsor physician assistants**.

22 * * *

23 C. The board shall have the authority to approve or reject an application by
 24 a licensed physician or physicians to ~~act as a supervising physician~~ **sponsor a**
 25 **physician assistant**, within the bounds of this Part and rules and regulations
 26 promulgated by the board.

27 D. The board shall make and enforce orders, rules, and regulations for the
 28 revocation or suspension of approval of licensure to act as a physician assistant, and
 29 for the revocation and suspension of approval of ~~supervising~~ **sponsoring** physicians.

* * *

G. A physician, approved by the board as a ~~supervising physician~~ to sponsor a physician assistant, practicing in a private practice, group practice, partnership, professional medical corporation, or employed by a hospital or other health care organization or entity may be the primary ~~supervising~~ sponsoring physician for up to eight physician assistants. Physician assistants may be employed by a group practice or partnership of physicians or a professional medical corporation duly qualified under R.S. 12:901 et seq., as amended, or a hospital or other health care organization or entity, as long as such physician assistants are ~~being supervised by a qualified supervising~~ sponsored by a board approved physician.

* * *

~~I. Notwithstanding any other provision of this Part to the contrary, any person who before and on June 16, 1993, is currently practicing as a physician assistant under supervision of a licensed physician shall be licensed as a physician assistant.~~

* * *

§1360.28. ~~Supervision of~~ Sponsoring physician assistants

A. ~~Supervision of a~~ Sponsoring a physician assistant shall be continuous but shall not be construed as necessarily requiring the physical presence of the ~~supervising~~ physician at the time and place that the services are rendered.

B. It is the obligation and responsibility of each ~~supervising~~ physician and physician assistant to ensure:

* * *

(3) That the relationship of, and access to, the ~~supervising~~ physician is defined.

* * *

§1360.29. ~~Supervising physician~~ Physician qualifications and registration

A. A physician ~~supervising~~ sponsoring a physician assistant shall:

* * *

(2) Notify the board of his intent to ~~supervise~~ sponsor a physician assistant.

1 (3) Submit a statement to the board that he will ~~exercise supervision over~~
2 **sponsor** the physician assistant in accordance with any rules and regulations adopted
3 by the board and that he will retain professional and legal responsibility for the care
4 rendered by the physician assistant.

5 (4) Maintain a written agreement with the physician assistant in compliance
6 with R.S. 37:1360.22(8) that includes a statement that the physician shall ~~exercise~~
7 ~~supervision over~~ **sponsor** the physician assistant in accordance with this Part. The
8 agreement shall be signed by the ~~supervising~~ physician and physician assistant,
9 updated annually, kept on file at the practice site, and available to the board upon
10 request.

11 B. Physicians seeking to ~~supervise~~ **sponsor** a physician assistant shall be
12 required to appear before the board upon their first application and notification to the
13 board of their intention to ~~supervise~~ **sponsor** a physician assistant when the board
14 finds discrepancies in the physician's application or when the physician is currently
15 or has been previously subject to adverse licensure, certification, or registration
16 actions.

17 §1360.30. Notification of intent to practice

18 * * *

19 B. A physician assistant shall notify the board of any changes in or additions
20 ~~to relative to~~ his ~~supervising~~ **sponsoring** physicians within fifteen days of the date
21 of such change or addition.

22 §1360.31. Services performed by physician assistants

23 A.(1) A physician assistant performs medical services when such services are
24 rendered ~~under the supervision of a supervising~~ **at the direction of a** physician. A
25 physician assistant may perform those duties and responsibilities that are delegated
26 to him by his ~~supervising~~ physician. A physician assistant is considered to be and is
27 deemed the agent of his ~~supervising~~ physician in the performance of all
28 practice-related activities, including but not limited to assisting in surgery and the
29 ordering and interpretation of diagnostic and other medical services. The level and

1 method of ~~supervision~~ **sponsorship** shall be at the physician and physician assistant
 2 level, shall be documented and reviewed annually, and shall reflect the acuity of the
 3 patient care and the nature of a procedure. A physician assistant shall not practice
 4 without ~~supervision~~ **sponsorship** except in life-threatening emergencies and in
 5 emergency situations such as man-made and natural disaster relief efforts.

6 (2) A physician assistant may inject local anesthetic agents subcutaneously,
 7 including digital blocks or apply topical anesthetic agents when delegated to do so
 8 by a ~~supervising~~ physician. However, nothing in this Part shall otherwise permit a
 9 physician assistant to administer local anesthetics perineurally, pericurally,
 10 epidurally, intrathecally, or intravenously unless such physician assistant is a
 11 certified registered nurse anesthetist and meets the requirements in R.S. 37:930.

12 B. The practice of a physician assistant shall include the performance of
 13 medical services within the scope of his education, training, and experience, which
 14 are delegated by the ~~supervising~~ physician.

15 C.(1) A physician assistant may prescribe, order, and administer drugs to the
 16 extent delegated by the ~~supervising~~ physician except as provided pursuant to R.S.
 17 37:930 relative to anesthetics. Drugs which may be prescribed, ordered, and
 18 administered by a physician assistant or a health care professional licensed pursuant
 19 to Chapter 12 of this Title are those listed in Schedules II, III, IV, and V of R.S.
 20 40:964 and legend drugs, which are defined as any drug or drug product bearing on
 21 the label of the manufacturer or distributor, as required by the Food and Drug
 22 Administration, the statement "Caution: Federal law prohibits dispensing without a
 23 prescription". A physician assistant authorized to prescribe controlled substances
 24 shall register with the United States Drug Enforcement Administration.

25 (2)(a) * * *
 26 * * *

27 (ii) Hold ~~an active~~ **a current** ~~unrestricted~~ license issued by the Louisiana
 28 State Board of Medical Examiners.

29 (iii) Be authorized to prescribe as delegated by the ~~supervising~~ physician.

1 (iv) Apply for a controlled dangerous substance license from the Louisiana
2 Board of Pharmacy and register with the United States Drug Enforcement Agency,
3 if delegated authority to prescribe Schedule II, III, IV, or V drugs by the ~~supervising~~
4 physician.

5 * * *

6 D. The activities listed above may be performed in any setting authorized by
7 the ~~supervising~~ physician including but not limited to clinics, hospitals, ambulatory
8 surgical centers, patient homes, nursing homes, other institutional settings, and
9 health manpower shortage areas.

10 §1360.32. ~~Assumption of~~ **Physician assistant** professional liability

11 ~~When a physician assistant is supervised by a physician or group practice of~~
12 ~~physicians or a professional medical corporation or a hospital or other health care~~
13 ~~organization or entity, the physician assistant shall be supervised by and be the legal~~
14 ~~responsibility of the supervising physician or group practice or professional medical~~
15 ~~corporation or other hospital or other health care organization or entity and the~~
16 ~~supervising physician. The legal responsibility for the physician assistant's patient~~
17 ~~care activities, including care and treatment that is provided in health care facilities,~~
18 ~~shall remain~~ **be** that of the **physician assistant**, ~~supervising physician, group practice~~
19 ~~of physicians, or a professional medical corporation or a hospital or other health care~~
20 ~~organization or entity.~~

21 * * *

22 §3003. Definitions

23 As used in this Chapter the following words shall have the meanings
24 hereinafter ascribed to each:

25 * * *

26 (4)(a) "Occupational therapy" means the application of any activity in which
27 one engages for the purposes of evaluation, interpretation, treatment planning, and
28 treatment of problems interfering with functional performance in persons impaired
29 by physical illness or injury, emotional disorders, congenital or developmental

1 disabilities, or the aging process, in order to achieve optimum functioning and
 2 prevention and health maintenance. The occupational therapist may enter a case for
 3 the purposes of providing consultation and indirect services and evaluating an
 4 individual for the need of services. Prevention, wellness, and education related
 5 services shall not require a referral; however, in workers' compensation injuries
 6 preauthorization shall be required by the employer or workers' compensation insurer
 7 or provider. Implementation of direct occupational therapy to individuals for their
 8 specific medical condition or conditions shall be based on a referral or order from
 9 a physician, **physician assistant**, advanced practice registered nurse, dentist,
 10 podiatrist, or optometrist licensed to practice. Practice shall be in accordance with
 11 published standards of practice established by the American Occupational Therapy
 12 Association, Inc., and the essentials of accreditation established by the agencies
 13 recognized to accredit specific facilities and programs.

14 * * *

15 Section 2. R.S. 37:1360.23(I) is hereby repealed.

The original instrument and the following digest, which constitutes no part
 of the legislative instrument, were prepared by Christine Arbo Peck.

DIGEST

SB 166 Engrossed

2019 Regular Session

LaFleur

Present law provides for the licensure and regulation of physician assistants by the Louisiana State Board of Medical Examiners (LSBME). Proposed law retains present law.

Present law provides that a physician assistant shall provide healthcare services at the direction and under the supervision of a LSBME approved supervising physician. Proposed law retains physician involvement in the delivery of health care and LSBME approval, but changes the relationship from one of supervision to one of sponsoring.

Present law provides that the supervising physician is legally responsible for the physician assistant's patient care activities. Proposed law removes professional liability from the physician and places all legal responsibility for the activities of the physician assistant on the physician assistant.

Effective August 1, 2019.

(Amends R.S. 37:1360.21(B) and (D), 1360.22(5), (7), and (8), 1360.23(A), (C), (D) and (G), 1360.28(A), (B)(intro para), and (B)(3), 1360.29(A)(intro para), (A)(2), (3) and (4), and (B), 1360.30(B), 1360.31(A), (B), (C)(1), (2)(a)(ii), (iii) and (iv), and (D), 1360.32, and 3003(4)(a); repeals R.S. 37:1360.23(I))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Health and Welfare to the original bill

1. Changes the relationship between the physician assistant and physician from collaboration to sponsoring.
2. Clarifies that a physician assistant must hold a current license issued by LSBME to be eligible to apply for prescriptive authority.
3. Clarifies that the legal responsibility for a physician assistant is that of the physician assistant regardless of care setting.
4. Provides that a physician assistant can refer or order occupational therapy for a patient.
5. Makes technical corrections.