



2025 South Dakota Legislature

House Bill 1071

Introduced by: **Representative Mulder**

1 **An Act to modify practice criteria for physician assistants.**

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 **Section 1. That § 36-4A-1 be AMENDED:**

4 **36-4A-1.** Terms as used in this chapter mean:

- 5 (1) "Board," the State Board of Medical and Osteopathic Examiners;
- 6 (2) "Collaboration," the consultation with, or referral to, an appropriate physician or
 7 other licensed health care provider by a physician assistant, as indicated by:
 8 (a) The patient's condition;
 9 (b) The education, competencies, and experience of the physician assistant;
 10 and
 11 (c) The standard of care; and
 12 (3) ~~"Physician assistant," a health-professional care provider who meets the~~
 13 ~~qualifications defined set forth in this chapter and is licensed by the board;~~
 14 (3) ~~"Supervising physician," a doctor of medicine or doctor of osteopathy licensed by~~
 15 ~~the board who supervises a physician assistant;~~
 16 (4) ~~"Supervision," the act of overseeing the activities of, and accepting responsibility~~
 17 ~~for, the medical services rendered by a physician assistant.~~

18 **Section 2. That § 36-4A-1.1 be AMENDED:**

19 **36-4A-1.1.** The term, ~~practice~~ "collaborative agreement," as used in this chapter,
 20 means a ~~written agreement authored and~~ contract that:

- 21 (1) Is signed by the a physician assistant and the supervising physician. The practice
 22 agreement shall prescribe the delegated activities which the physician assistant
 23 may perform, consistent with § 36-4A-26.1 and contain such other information as
 24 required by the board to describe the physician assistant's level of competence and
 25 the supervision provided by the physician who has not filed an affidavit with the

1 board attesting to the completion of at least two thousand eighty practice hours
2 and:

3 (a) A physician licensed in accordance with chapter 36-4; or

4 (b) A physician assistant who has completed four thousand practice hours, not
5 including any practice hours completed under a collaborative agreement;
6 and

7 (2) Contains the terms and conditions governing the collaboration of the providers.

8 A physician, or physician assistant who meets the requirements of subsection
9 (1)(b), who is entering into a collaborative agreement must be free from any disciplinary
10 action that would restrict the ability to collaborate.

11 A physician assistant, for whom a collaborative agreement has been signed, shall
12 keep a copy of the practice agreement shall be kept on file at the physician assistant's
13 primary practice site and be filed with and approved by the board prior to beginning
14 practice. No physician assistant may practice without an approved practice agreement.
15 The physician assistant shall provide a copy of the signed collaborative agreement to the
16 board, upon request.

17 **Section 3. That chapter 36-4A be amended with a NEW SECTION:**

18 A physician assistant may practice without a collaborative agreement if the
19 physician assistant:

20 (1) Is certified by the National Commission on Certification of Physician Assistants;
21 and

22 (2) Files an affidavit with the board attesting to the completion of at least two thousand
23 eighty practice hours.

24 The physician assistant shall provide documentation of national certification and
25 the successful completion of the two thousand eighty practice hours to the board, upon
26 request.

27 **Section 4. That § 36-4A-4 be AMENDED:**

28 **36-4A-4.** Except as provided in §§ 36-4A-5 and 36-4A-6, any ~~person~~ individual
29 who practices as a physician assistant in this state, without a license issued by the board
30 and a practice agreement approved by the board, is guilty of a Class 1 misdemeanor. Each
31 violation ~~shall be considered~~ is a separate offense.

32 **Section 5. That chapter 36-4A be amended with a NEW SECTION:**

1 Except as provided in § 36-4A-6, an individual who is not licensed under this
 2 chapter, but meets the qualifications for licensure under this chapter, may use the title of
 3 physician assistant, but may not practice as a physician assistant.

4 **Section 6. That § 36-4A-5 be AMENDED:**

5 **36-4A-5.** Nothing in this chapter limits the activities and services of a ~~physician~~
 6 ~~assistant in pursuing an approved course of study at an accredited~~ student enrolled in a
 7 physician assistant program accredited by the Accreditation Review Commission on
 8 Education for the Physician Assistant.

9 **Section 7. That § 36-4A-8 be AMENDED:**

- 10 **36-4A-8.** The board may grant a license to an applicant who:
- 11 (1) Is of good moral character;
- 12 (2) Has ~~successfully~~ completed an educational program for physician assistants
 13 accredited by the Accreditation Review Commission on Education for the Physician
 14 Assistant or its successor agency, or, prior to 2001, either by the Committee on
 15 Allied Health Education and Accreditation or the Commission on Accreditation of
 16 Allied Health Education ~~Program Programs~~;
- 17 (3) Has passed the Physician Assistant National ~~Certification~~ Certifying Examination
 18 administered by the National ~~Committee on Education for~~ Commission on
 19 Certification of Physician Assistants; ~~and~~
- 20 (4) Has submitted verification that the ~~physician assistant~~ applicant is not subject to
 21 any disciplinary proceeding or pending complaint before any medical or other
 22 licensing board ~~unless, or has notified~~ the board ~~considers such proceedings of a~~
 23 disciplinary procedure or pending complaint and the board, after consideration,
 24 agrees to licensure; and
- 25 (5) Has:
- 26 (a) Filed an affidavit with the board attesting to the completion of at least two
 27 thousand eighty practice hours; or
- 28 (b) Entered into a collaborative agreement, as provided for in this chapter.

29 **Section 8. That § 36-4A-8.1 be AMENDED:**

30 **36-4A-8.1.** The board may issue a temporary license to an applicant who has
 31 ~~successfully~~ completed an ~~approved~~ accredited program, as referenced in § 36-4A-8, and

1 has submitted evidence to the board that the applicant is a candidate accepted to write
2 the examination required by § 36-4A-8 or is awaiting the results of the first examination
3 for which the applicant is eligible after graduation from an ~~approved physician assistant~~
4 accredited program.

5 A temporary license may be issued only once and, except as otherwise provided in
6 this section, is effective for a ~~term of not more~~ period no longer than one hundred twenty
7 days. A temporary license otherwise expires on the occurrence of the following upon:

8 (1) Issuance of a regular license to the applicant; or

9 (2) Failure of the applicant to pass the licensing examination; ~~or~~

10 (3) ~~Expiration of the term for which the temporary license was issued.~~

11 The period of effectiveness set forth in this section for a temporary license does
12 not apply to an applicant who has passed the licensing examination, has a collaborative
13 agreement, and has an application for licensure pending before the board.

14 The period of effectiveness set forth in this section for a temporary license and the
15 requirement for evidence of acceptance to write the examination required by § 36-4A-8,
16 upon graduation from an accredited program, do not apply to an otherwise eligible
17 applicant, if the examination is delayed or cancelled due to a natural disaster or
18 gubernatorially declared emergency.

19 **Section 9. That chapter 36-4A be amended with a NEW SECTION:**

20 Upon application and payment of the fee established by the board in accordance
21 with § 36-4A-34, the board may issue a license to practice, as a physician assistant, to an
22 individual licensed under the laws of another state or territory, if the requirements for
23 licensure of that other state or territory meet the requirements of this state and if the
24 individual is not otherwise disqualified under § 36-4A-8.

25 Upon application and payment of the fee established by the board in accordance
26 with § 36-4A-34, the board may issue a temporary license to an individual awaiting
27 licensure under this section. A temporary license issued under this section must state the
28 period during which the license is effective. The period may not exceed one hundred
29 twenty days, except in the case of a natural disaster or gubernatorially declared
30 emergency.

31 **Section 10. That § 36-4A-20.1 be AMENDED:**

1 **36-4A-20.1.** ~~The board may not approve any practice agreement that includes~~
 2 ~~abortion as a permitted procedure~~Nothing in this chapter authorizes a physician assistant
 3 to effectuate an abortion.

4 **Section 11. That § 36-4A-26.1 be AMENDED:**

5 **36-4A-26.1.** ~~A physician assistant shall be considered an agent of the supervising~~
 6 ~~physician in the performance of all practice related activities. A physician assistant may~~
 7 ~~provide those medical services that are delegated by the supervising physician pursuant~~
 8 ~~to § 36-4A-1.1 if the service is within the physician assistant's skills, forms a component~~
 9 ~~of the physician's scope of practice, and is provided with supervision including~~ may provide
 10 medical and surgical services, for which the physician assistant has been prepared by
 11 education, training, and experience, and for which the physician assistant is competent to
 12 perform. A physician assistant may:

- 13 (1) ~~Initial medical diagnosis and institution of a plan of therapy or referral;~~
 14 (2) ~~Prescribing and provision of drug samples or a limited supply of labeled~~
 15 ~~medications, including controlled substances listed on Schedule II in chapter 34-~~
 16 ~~20B for one period of not more than thirty days, for treatment of causative factors~~
 17 ~~and symptoms. Medications or sample drugs provided to patients shall be~~
 18 ~~accompanied with written administration instructions and appropriate~~
 19 ~~documentation shall be entered in the patient's record. Physician assistants may~~
 20 ~~request, receive, and sign for professional samples of drugs provided by the~~
 21 ~~manufacturer;~~
 22 (3) ~~Responding~~
 23 Evaluate, diagnose, manage, and provide medical treatment;
 24 (2) Obtain and perform comprehensive health histories and physical examinations;
 25 (3) Order, perform, and interpret diagnostic procedures;
 26 (4) Order and perform therapeutic procedures;
 27 (5) Plan and initiate therapeutic regimens that involve ordering and prescribing non-
 28 pharmacological interventions;
 29 (6) Order, prescribe, dispense, and administer medical devices, legend drugs, and
 30 prescription drugs not listed in § 34-20B-12;
 31 (7) Respond to emergencies ~~and the institution of~~ institute emergency treatment
 32 ~~measures including the writing of;~~
 33 (8) Write a chemical or physical restraint order ~~when~~ if the patient may do personal
 34 harm or harm others;

- 1 ~~(4)(9) Completing~~Complete and signing of official documents such as sign birth and death
- 2 certificates and ~~similar~~ other official documents required by law;
- 3 ~~(5)(10) Taking X-rays~~Take x-rays and ~~performing~~ perform radiologic procedures; ~~and~~
- 4 ~~(6)(11) Performing~~Perform physical examinations for participation in athletics and
- 5 ~~certifying~~ certify that the patient is healthy and able to participate in athletics;
- 6 (12) Certify the health or disability of a patient, as required by any local, state, or federal
- 7 program;
- 8 (13) Educate patients on health promotion and disease prevention;
- 9 (14) Write medical orders;
- 10 (15) Obtain informed consent;
- 11 (16) Assist in surgery;
- 12 (17) Perform routine clinical office surgical procedures;
- 13 (18) Supervise, delegate, and assign therapeutic and diagnostic measures to assistive
- 14 personnel; and
- 15 (19) Provide consultation upon request.

16 Whenever a physician assistant orders, prescribes, dispenses, or administers drugs
 17 and medical devices, as permitted by subdivision (6), the physician assistant shall ensure
 18 that medications or sample drugs provided to a patient are accompanied by written
 19 administration instructions, and the physician assistant shall enter appropriate
 20 documentation in the patient's record. A physician assistant may request, receive, and
 21 sign for professional samples of drugs provided by the manufacturer.

22 A physician assistant shall collaborate with other health care providers and refer or
 23 transfer patients, as necessary and appropriate. Collaboration does not require the
 24 physical presence of the appropriate health care provider at the time or place the physician
 25 assistant provides services.

26 The degree of collaboration between a physician assistant and the appropriate
 27 health care provider is determined by the policies of the facility at which or practice setting
 28 in which the physician assistant is employed.

29 **Section 12. That § 36-4A-26.2 be AMENDED:**

30 **36-4A-26.2.** ~~A~~ If any physician assistant, licensed in this state ~~or,~~ licensed or
 31 authorized to practice in any other state or territory of the United States jurisdiction or
 32 who is, or credentialed as a physician assistant by a federal employer ~~who,~~ is responding
 33 to a need for medical care created by ~~an emergency or a state or local disaster~~ (not to be
 34 defined as an emergency situation which occurs in the place of one's employment) a

1 natural disaster or other gubernatorially declared emergency, that physician assistant may
 2 ~~render such the care that he or she the physician assistant~~ is able to provide ~~without~~
 3 ~~supervision as it is defined in this chapter, or with such supervision as is available.~~

4 ~~No physician who supervises a physician assistant providing medical care in~~
 5 ~~response to such an emergency or state or local disaster is required to meet the~~
 6 ~~requirements set forth in this chapter for a supervising physician.~~

7 **Section 13. That § 36-4A-26.3 be AMENDED:**

8 **36-4A-26.3.** ~~No~~ A physician assistant licensed in this state, or licensed or
 9 authorized to practice in ~~other states~~ another state or territory of the United States ~~who~~
 10 ~~voluntarily and gratuitously, and other than in the ordinary course of employment or~~
 11 ~~practice, renders emergency medical assistance,~~ is not liable for civil damages for any
 12 personal injuries ~~which that~~ result from the physician assistant's acts or omissions ~~by~~
 13 ~~those persons in rendering emergency care which constitute ordinary negligence.~~

14 The immunity granted by this section does not apply to acts or omissions
 15 constituting willful, or wanton negligence ~~or, and does not apply~~ if the medical assistance
 16 is rendered at any hospital, physician's office, or other health care delivery entity, where
 17 those services are normally rendered.

18 ~~No~~ A physician who supervises, or a physician assistant who meets the
 19 requirements of subsection 36-4A-1.1(1)(b), collaborating with a physician assistant
 20 ~~voluntarily and gratuitously providing who renders~~ emergency care, as described in this
 21 section, is not liable for civil damages for any personal injuries ~~which that~~ result from acts
 22 or omissions by the physician assistant rendering the emergency care.

23 **Section 14. That a NEW SECTION be added to chapter 36-4A:**

24 A physician assistant may authenticate any document with the physician assistant's
 25 signature, certification, stamp, verification, affidavit, or endorsement, if the document
 26 may be authenticated by the signature, certification, stamp, verification, affidavit, or
 27 endorsement of a physician.

28 **Section 15. That § 36-4A-30 be AMENDED:**

29 **36-4A-30.** ~~Nothing in this chapter relieves the physician of the professional or~~
 30 ~~legal responsibility~~ A physician assistant is professionally and legally responsible for the
 31 ~~care and treatment of patients cared for by that~~ the physician assistant provides.

1 **Section 16. That § 36-4A-31 be AMENDED:**

2 **36-4A-31.** ~~The~~ A physician assistant license ~~of every person licensed under the~~
 3 ~~provisions of this chapter shall issued by the board must~~ be renewed annually on a date
 4 set by the board. ~~The request for renewal shall be made on~~ To renew a license, a physician
 5 assistant shall:

6 (1) Apply on a form furnished prescribed by the board ~~and shall include such proof, as~~
 7 ~~may be required by the board, of continuance of the qualifications for original~~
 8 ~~licensure including the information set forth in subdivision 36-4A-8(2) and payment~~
 9 ~~of;~~

10 (2) Submit the renewal fee established in accordance with § 36-4A-34; and

11 (3) Submit evidence satisfactory to the board of the completion, during the preceding
 12 twelve months, of at least thirty hours of post-graduate studies approved by the
 13 board.

14 A physician assistant may document compliance with subdivision 3 by providing
 15 proof of current certification from the National Commission on Certification of Physician
 16 Assistants.

17 **Section 17. That § 36-4A-37 be AMENDED:**

18 **36-4A-37.** ~~The board may deny the issuance or renewal of a license.~~

19 The board may deny the issuance or renewal of a physician assistant license, or
 20 suspend, or revoke a license, or impose other disciplinary ~~actions upon the license of any~~
 21 ~~physician assistant issued under this chapter~~ action on a licensee, upon satisfactory proof,
 22 in compliance with chapter 1-26, of the applicant's or licensee's:

23 (1) Professional incompetence or unprofessional or dishonorable conduct, ~~as defined~~
 24 ~~in §§ 36-4-29 and 36-4-30;~~

25 (2) Violation of this chapter ~~in any respect;~~

26 (3) ~~Failure to maintain on file with the board a copy of each practice agreement~~
 27 ~~containing the current information regarding the licensee's practice status as~~
 28 ~~required by;~~

29 (a) Maintain a collaborative agreement, as required by this chapter; or

30 (b) Provide the agreement to the board, upon request; or

31 (4) Rendering of medical services beyond those ~~delegated to the physician assistant in~~
 32 ~~the practice agreement; or~~

1 ~~(5) — Rendering medical services without supervision of a physician as required by law~~
 2 ~~and the rules of the board permitted by this chapter.~~

3 **Section 18. That § 36-4A-42 be AMENDED:**

4 **36-4A-42.** The board shall promulgate rules pursuant to chapter 1-26 pertaining
 5 to fees, the licensure of physician assistants, ~~and supervision requirements.~~

6 **Section 19. That chapter 36-4A be amended with a NEW SECTION:**

7 A physician assistant may bill for and receive direct payment for any medically
 8 necessary service delivered.

9 **Section 20. That § 36-4A-29 be REPEALED:**

10 ~~The physician, by supervision, continuous monitoring, and evaluation accepts initial~~
 11 ~~and continuing responsibility for the physician assistant or assistants responsible to the~~
 12 ~~physician until such relationship is terminated. Supervision may be by direct personal~~
 13 ~~contact, or by a combination of direct personal contact and contact via telecommunication,~~
 14 ~~as may be required by the board. If the office of a physician assistant is separate from the~~
 15 ~~main office of the supervising physician, the supervision shall include on-site personal~~
 16 ~~supervision by a supervising physician as required by the board. A physician assistant who~~
 17 ~~is issued a temporary license pursuant to § 36-4A-8.1 shall initially receive thirty days of~~
 18 ~~on-site, direct supervision by a supervising physician. Thereafter, and until expiration of~~
 19 ~~the temporary license, the supervision shall include at least two one-half business days~~
 20 ~~per week of on-site personal supervision by a supervising physician.~~

21 **Section 21. That § 36-4A-29.1 be REPEALED:**

22 ~~The board may authorize modifications in the method and frequency of supervision~~
 23 ~~of a physician assistant required by § 36-4A-29 that it considers appropriate based upon~~
 24 ~~its finding of adequate supervision, training, and proficiency.~~

25 ~~A supervising physician may apply to the board for permission to supervise more~~
 26 ~~than one physician assistant. The board shall establish the number of physician assistants,~~
 27 ~~up to four FTE, to be supervised by a supervising physician based upon its finding that~~
 28 ~~adequate supervision will exist under the arrangement proposed by the supervising~~
 29 ~~physician.~~

1 ~~The board may consider a joint application for both modification of supervision and~~
2 ~~the number of physician assistants supervised as provided in this section.~~

3 **Section 22. That § 36-4A-29.2 be REPEALED.**

4 ~~In order to supervise a physician assistant, a physician shall:~~
5 ~~(1) Be licensed as a physician by the board pursuant to chapter 36-4;~~
6 ~~(2) Be free from any restriction on his or her ability to supervise a physician assistant~~
7 ~~that has been imposed by board disciplinary action; and~~
8 ~~(3) Maintain a written practice agreement with the physician assistant as described in~~
9 ~~§ 36-4A-1.1.~~

10 **Section 23. That § 36-4A-32 be REPEALED.**

11 ~~A renewal request shall be accompanied by the prescribed fee together with~~
12 ~~evidence satisfactory to the board of the completion during the preceding twelve months~~
13 ~~of at least thirty hours of post-graduate studies approved by the board. Any physician~~
14 ~~assistant who maintains current certification by the National Commission on Certification~~
15 ~~of Physician Assistants (NCCPA) may document compliance with this requirement by~~
16 ~~providing proof of current certification by the NCCPA.~~

17 **Section 24. That § 36-4A-38 be REPEALED.**

18 ~~The terms "unprofessional or dishonorable conduct" as used in this chapter shall~~
19 ~~be as those terms are defined in § 36-4-30.~~