



2025 South Dakota Legislature

House Bill 1071

SENATE HEALTH AND HUMAN SERVICES ENGROSSED

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 six thousand practice hours, and a
 2 physician licensed in accordance with chapter 36-4; and

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

4 A physician who is entering into a collaborative agreement must be free from any
 5 disciplinary action that would restrict the ability to collaborate.

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

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

13 A physician assistant may practice without a collaborative agreement if the
 14 physician assistant:

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

17 (2) Files an affidavit with the board attesting to the completion of at least six thousand
 18 practice hours.

19 The physician assistant shall provide documentation of national certification and
 20 the successful completion of the six thousand practice hours to the board, upon request.

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

22 **36-4A-4.** Except as provided in §§ 36-4A-5 and 36-4A-6, any ~~person~~ individual
 23 who practices as a physician assistant in this state, without a license issued by the board
 24 and a practice agreement approved by the board, is guilty of a Class 1 misdemeanor. Each
 25 violation ~~shall be considered~~ is a separate offense.

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

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

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

1 **36-4A-5.** Nothing in this chapter limits the activities and services of a ~~physician~~
 2 ~~assistant in pursuing an approved course of study at an accredited~~ student enrolled in a
 3 physician assistant program accredited by the Accreditation Review Commission on
 4 Education for the Physician Assistant.

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

6 **36-4A-8.** The board may grant a license to an applicant who:
 7 (1) Is of good moral character;
 8 (2) Has ~~successfully~~ completed an educational program for physician assistants
 9 accredited by the Accreditation Review Commission on Education for the Physician
 10 Assistant or its successor agency, or, prior to 2001, either by the Committee on
 11 Allied Health Education and Accreditation or the Commission on Accreditation of
 12 Allied Health Education ~~Program Programs~~;
 13 (3) Has passed the Physician Assistant National ~~Certification~~ Certifying Examination
 14 administered by the National ~~Committee on Education for~~ Commission on
 15 Certification of Physician Assistants; ~~and~~
 16 (4) Has submitted verification that the ~~physician assistant~~ applicant is not subject to
 17 any disciplinary proceeding or pending complaint before any medical or other
 18 licensing board ~~unless, or has notified~~ the board ~~considers such proceedings of a~~
 19 disciplinary procedure or pending complaint and the board, after consideration,
 20 agrees to licensure; and
 21 (5) Has:
 22 (a) Filed an affidavit with the board attesting to the completion of at least six
 23 thousand practice hours; or
 24 (b) Entered into a collaborative agreement, as provided for in this chapter.

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

26 **36-4A-8.1.** The board may issue a temporary license to an applicant who has
 27 ~~successfully~~ completed an ~~approved~~ accredited program, as referenced in § 36-4A-8, and
 28 has submitted evidence to the board that the applicant is a candidate accepted to write
 29 the examination required by § 36-4A-8 or is awaiting the results of the first examination
 30 for which the applicant is eligible after graduation from an ~~approved physician assistant~~
 31 accredited program.

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

- 4 (1) Issuance of a regular license to the applicant; or
 5 (2) Failure of the applicant to pass the licensing examination; ~~or~~
 6 (3) ~~Expiration of the term for which the temporary license was issued.~~

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

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

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

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

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

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

28 **36-4A-20.1.** ~~The board may not approve any practice agreement that includes~~
 29 ~~abortion as a permitted procedure~~ Nothing in this chapter authorizes a physician assistant
 30 to effectuate an abortion.

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

1 **36-4A-26.1.** A physician assistant ~~shall be considered an agent of the supervising~~
 2 ~~physician in the performance of all practice related activities. A physician assistant may~~
 3 ~~provide those medical services that are delegated by the supervising physician pursuant~~
 4 ~~to § 36-4A-1.1 if the service is within the physician assistant's skills, forms a component~~
 5 ~~of the physician's scope of practice, and is provided with supervision including~~ may provide
 6 the following medical and surgical services, for which the physician assistant has been
 7 ~~prepared by education, training, and experience, and for which the physician assistant is~~
 8 ~~competent to perform:~~

- 9 (1) ~~Initial medical diagnosis and institution of a plan of therapy or referral;~~
 10 (2) ~~Prescribing and provision of drug samples or a limited supply of labeled~~
 11 ~~medications, including controlled substances listed on Schedule II in chapter 34-~~
 12 ~~20B for one period of not more than thirty days, for treatment of causative factors~~
 13 ~~and symptoms. Medications or sample drugs provided to patients shall be~~
 14 ~~accompanied with written administration instructions and appropriate~~
 15 ~~documentation shall be entered in the patient's record. Physician assistants may~~
 16 ~~request, receive, and sign for professional samples of drugs provided by the~~
 17 ~~manufacturer;~~
 18 (3) ~~Responding~~
 19 Evaluate, diagnose, manage, and provide medical treatment;
 20 (2) Obtain and perform comprehensive health histories and physical examinations;
 21 (3) Order, perform, and interpret diagnostic procedures;
 22 (4) Order and perform therapeutic procedures;
 23 (5) Plan and initiate therapeutic regimens that involve ordering and prescribing non-
 24 pharmacological interventions;
 25 (6) Order, prescribe, dispense, and administer medical devices, legend drugs, and
 26 prescription drugs not listed in § 34-20B-12;
 27 (7) Respond to emergencies and ~~the institution of~~ institute emergency treatment
 28 ~~measures including the writing of;~~
 29 (8) Write a chemical or physical restraint order ~~when~~ if the patient may do personal
 30 harm or harm others;
 31 (4)(9) ~~Completing~~ Complete and signing of official documents such as sign birth and death
 32 certificates and ~~similar~~ other official documents required by law;
 33 (5)(10) ~~Taking X-rays~~ Take x-rays and ~~performing~~ perform radiologic procedures; and
 34 (6)(11) ~~Performing~~ Perform physical examinations for participation in athletics and
 35 certifying certify that the patient is healthy and able to participate in athletics;

- 1 (12) Certify the health or disability of a patient, as required by any local, state, or federal
- 2 program;
- 3 (13) Educate patients on health promotion and disease prevention;
- 4 (14) Write medical orders;
- 5 (15) Obtain informed consent;
- 6 (16) Assist in surgery;
- 7 (17) Perform routine clinical office surgical procedures;
- 8 (18) Supervise, delegate, and assign therapeutic and diagnostic measures to assistive
- 9 personnel; and
- 10 (19) Provide consultation upon request.

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

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

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

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

25 **36-4A-26.2.** ~~A~~ If any physician assistant, licensed in this state or, licensed or
 26 authorized to practice in any other state or territory of the United States jurisdiction or
 27 ~~who is, or~~ credentialed as a physician assistant by a federal employer who, is responding
 28 to a need for medical care created by an emergency or a state or local disaster (not to be
 29 defined as an emergency situation which occurs in the place of one's employment) a
 30 natural disaster or other gubernatorially declared emergency, that physician assistant may
 31 render such the care that he or she the physician assistant is able to provide without
 32 supervision as it is defined in this chapter, or with such supervision as is available.

Underscores indicate new language.
Overstrikes indicate deleted language.

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

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

5 **36-4A-26.3.** ~~No~~ A physician assistant licensed in this state, or licensed or
 6 authorized to practice in ~~other states~~ another state or territory of the United States ~~who~~
 7 ~~voluntarily and gratuitously, and other than in the ordinary course of employment or~~
 8 ~~practice, renders emergency medical assistance,~~ is not liable for civil damages for any
 9 personal injuries ~~which that~~ result from the physician assistant's acts or omissions ~~by~~
 10 ~~those persons in rendering emergency care which constitute ordinary negligence.~~

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

15 ~~No~~ A physician who supervises collaborating with a physician assistant ~~voluntarily~~
 16 ~~and gratuitously providing who renders~~ emergency care, as described in this section, is
 17 not liable for civil damages for any personal injuries ~~which that~~ result from acts or
 18 omissions by the physician assistant rendering the emergency care.

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

20 A physician assistant may authenticate any document with the physician assistant's
 21 signature, certification, stamp, verification, affidavit, or endorsement, if the document
 22 may be authenticated by the signature, certification, stamp, verification, affidavit, or
 23 endorsement of a physician.

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

25 **36-4A-30.** ~~Nothing in this chapter relieves the physician of the professional or~~
 26 ~~legal responsibility~~ A physician assistant is professionally and legally responsible for the
 27 ~~care and treatment of patients cared for by that~~ the physician assistant provides.

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

29 **36-4A-31.** ~~The~~ A physician assistant license of every person licensed under the
 30 ~~provisions of this chapter shall issued by the board must~~ be renewed annually on a date

1 set by the board. ~~The request for renewal shall be made on~~ To renew a license, a physician
 2 assistant shall:

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

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

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

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

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

15 **36-4A-37.** ~~The board may deny the issuance or renewal of a license.~~

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

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

22 (2) Violation of this chapter in any respect;

23 (3) ~~Failure to maintain on file with the board a copy of each practice agreement~~
 24 ~~containing the current information regarding the licensee's practice status as~~
 25 ~~required by:~~

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

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

28 (4) Rendering of medical services beyond those delegated to the physician assistant in
 29 the practice agreement; or

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

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

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

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

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

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

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

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

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

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

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

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

30 ~~In order to supervise a physician assistant, a physician shall:~~

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

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

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

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

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