

Date of Hearing: September 13, 2023

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS

Marc Berman, Chair

AB 1070 (Low) – As Amended June 28, 2023

NOTE: This bill is being heard pursuant to Assembly Rule 77.2 for concurrence in Senate amendments only.

SUBJECT: Physician assistants: physician supervision: exceptions.

SUMMARY: Authorizes a physician and surgeon to supervise up to eight physician assistants (PAs) if the PAs are only performing home health evaluations.

EXISTING LAW:

- 1) Regulates and licenses PAs under the Physician Assistant Practice Act and establishes the Physician Assistant Board (PAB) to administer and enforce the act. (Business and Professions Code (BPC) §§ 3500-3545)
- 2) Defines “supervising physician” or “supervising physician and surgeon” as a physician and surgeon who supervises one or more physician assistants and who is not currently on disciplinary probation prohibiting the employment or supervision of a physician assistant. (BPC § 3501(e))
- 3) “Supervision” means that a physician and surgeon oversees the activities of, and accepts responsibility for, the medical services rendered by a PA. (BPC § 3501(f)(1))
- 4) Specifies that supervision does not require the physical presence of the physician and surgeon, but does require the following:
 - a) Adherence to adequate supervision as agreed to in the practice agreement. (BPC § 3501(f)(1)(A))
 - b) The physician and surgeon is available by telephone or other electronic communication methods at the time the PA examines the patient. (BPC § 3501(f)(1)(B))
- 5) Specifies that the PAB may require the physical presence of a physician and surgeon as a term or condition of a PA’s reinstatement, probation, or imposing discipline. (BPC § 3501(f)(2))
- 6) Defines “practice agreement” as the writing, developed through collaboration among one or more physicians and surgeons and one or more PAs, that defines the medical services the PA is authorized to perform and that grants approval for physicians and surgeons on the staff of an organized health care system to supervise one or more PAs in the organized health care system. (BPC § 3501(k))
- 7) Authorizes a PA to perform medical services if the following requirements are met:

- a) The PA renders the services under the supervision of a physician and surgeon who is not subject to a disciplinary condition prohibiting that supervision or prohibiting the employment of a PA. (BPC § 3502(a)(1))
 - b) The PA renders the services under a practice agreement. (BPC § 3502(a)(2))
 - c) The PA is competent to perform the services. (BPC § 3502(a)(3))
 - d) The PA's education, training, and experience have prepared the PA to render the services. (BPC § 3502(a)(4))
- 8) Requires a practice agreement to include provisions that address the following:
- a) The types of medical services a PA is authorized to perform. (BPC § 3502.3(a)(1)(A))
 - b) Policies and procedures to ensure adequate supervision of the PA, including, but not limited to, appropriate communication, availability, consultations, and referrals between a physician and surgeon and the PA in the provision of medical services. (BPC § 3502.3(a)(1)(B))
 - c) The methods for the continuing evaluation of the competency and qualifications of the PA. (BPC § 3502.3(a)(1)(C))
 - d) The furnishing or ordering of drugs or devices by a PA. (BPC § 3502.3(a)(1)(D))
 - e) Any additional provisions agreed to by the PA and physician and surgeon. (BPC § 3502.3(a)(1)(E))
- 9) Prohibits a physician and surgeon from supervising more than four PAs at any one time except in declared emergencies. (BPC §§ 3516(b), 3502.5)

THIS BILL:

- 1) Defines "in home health evaluation" as a comprehensive physical exam, assessment of current and prior health conditions, a complete medication review, screening tests, health education, and assessment of social determination of health needs to be used for diagnosing individual medical conditions.
- 2) Defines "annual wellness visit" as a preventive visit with correlating current procedural terminology codes performed annually to a patient, to be used for the purposes of diagnosing patient conditions during the annual wellness visit, which may include a nonphysical examination for patients covered by Medicare Part B for more than 12 months.
- 3) Authorizes a physician and surgeon to supervise up to eight PAs at one time if the following conditions are satisfied by all supervised PAs:
 - a) The PAs are focused solely on performing in home health evaluations.
 - b) The PAs are performing in home health evaluations solely for the following purposes:
 - i) Gathering patient information.

- ii) Performing an annual wellness visit or health evaluation, if it does not involve direct patient treatment or prescribing medication.
- iii) A physician assistant who performs an in home health evaluation for the purposes specified in subparagraph (B) of paragraph (2) remains subject to all supervisory and scope requirements pursuant to this chapter and shall provide the supervising physician and surgeon with all information related to their evaluation under subparagraphs (A) and (B) of paragraph (2).

FISCAL EFFECT: According to the Senate Appropriations Committee, pursuant to Senate Rule 28.8, no significant state costs anticipated.

COMMENTS:

Purpose. This bill is sponsored by the author. According to the author, “In-home health evaluations are an incredibly valuable service provided by clinicians throughout the state. The in-home evaluation allows physician assistants an unparalleled line of sign into the member’s clinical, social, functional, behavioral and environmental condition. The COVID-19 pandemic not only exposed the lack of access to health care for many Californians, it had a profound impact on workforce availability that remains a challenge today. Many patients have not seen a physician in over a year. Highly trained and credentialed PA’s are well qualified to perform in-home assessments and provide the limited scope of services rendered without supervision. By eliminating the need for physician involvement when licensed PA’s are merely gathering patient information and performing a health evaluation that does not involve treating or prescribing, the system is made more efficient for both the physician and the PA by reducing unnecessary paperwork and by removing any potential obstacles for PA’s to perform these limited in scope evaluations.”

Background. PAs are healthcare providers that can provide a wide range of medical services under the supervision of a physician, including prescribing, when authorized by a supervising physician under a document known as a practice agreement. The practice agreement outlines what a PA may or may not do based on the PA’s competence and the level of physician supervision required. A physician may also supervise more than one PA, but no more than four at a time.

Due to the high level of medical care that PAs are capable of providing, the supervision ratio limit was put in place to prevent physicians from becoming overextended. After the amendments taken in the Senate, this bill would create a narrow exemption to the ratio requirement, allowing a physician to supervise up to eight PAs who only provide home health care.

Precedent for Lifting Ratios. On March 4, 2020, the governor proclaimed a state of emergency as a result of the impacts of COVID-19 to help the state prepare to respond to medical care and hospitalization needs. During the emergency, the governor issued Executive Order N-39-20, authorizing the California Department of Consumer Affairs (DCA) to waive professional licensing or scope of practice requirements for licensed healthcare professionals, including PAs.

On April 14, 2020, the DCA issued a waiver titled DCA-20-04 Physician Assistant Supervision Requirements that waived the four PA to one physician ratio requirement and lifted the supervision requirement in practice sites or organized health care systems when a supervising physician was not available. The waiver was extended until March 31, 2022.

ARGUMENTS IN SUPPORT:

The *California Academy of Physician Assistants* writes in support, "This is a common sense measure aimed at bringing the most basic kind of health care to hard-to-reach populations and we respectfully ask for an aye vote."

Signify Health writes in support, "Currently California allows a physician to oversee 4 physician assistants that provide in-home evaluations. With the current need for these important home evaluations, we believe [this bill] is the right approach and ensures that nothing shall prohibit a physician assistant from gathering patient information and/or performing a health evaluation including diagnostic screenings that does not involve rendering treatment or prescribing medications.

The *United Nurses Associations of California/Union of Health Care Professionals* writes in support, "The tasks contemplated by [this bill] are routine and basic duties at the lower end of the skillsets of PAs, which involve primarily consulting with patients and filling out medical forms. These very basic tasks will not unduly strain the supervisory capabilities of physicians and surgeons. Neither will this endanger patient safety. Quite the contrary, by removing an artificial cap on the number of PAs that can be supervised, this allows the health care system to expand its reach and provide services to patients who may not otherwise have any access to these services.

ARGUMENTS IN OPPOSITION:

The *Medical Board of California* writes in opposition: "The Board appreciates the recent amendments and the desire to expand services to meet the needs of patients. In the Board's view, however, the bill still does not sufficiently clarify what may happen during these home health evaluations or how these visits will be documented and managed by the supervising physician. Further, without a limit on the number of patients that a physician assistant may see each day under this new authority, the supervising physician may not be able to adequately oversee their work. Finally, the Board was not assured that patients who may be fragile, homebound, and receiving care under the provisions of [this bill] will have their multiple needs met adequately.

REGISTERED SUPPORT:

California Academy of Physician Assistants

Signify Health

United Nurses Associations of California/Union of Health Care Professionals

REGISTERED OPPOSITION:

Medical Board of California

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