

COMMITTEE REPORT

TO: Patrick O'Donnell
Clerk of the Legislature

FROM: Senator Sara Howard
Chair, Health and Human Services Committee

DATE: 11.13.2020

RE: Health and Human Services Committee Report and Recommendations on
Regulated Occupations within Committee Jurisdiction – Physician Assistants

GENERAL INFORMATION

- I. Occupation Regulated
 - A) Physician Assistants

- II. Name of Occupational Board Responsible for Enforcement
 - A) Per Nebraska Revised Statutes Section [38-161](#), the Board of Medicine and Surgery provides recommendations to the Department of Health and Human Services regarding the issuance or denial of credentials, and provides recommendations to the Department of Health and Human Services regarding rules and regulations to carry out the Uniform Credentialing Act.

Per Nebraska Revised Statutes Section [38-2056](#), the Physician Assistant Committee shall review and make recommendations to the Board of Medicine and Surgery regarding all matters relating to physician assistants that come before the board. Such matters shall include, but not be limited to, (a) applications for licensure, (b) physician assistant education, (c) scope of practice, (d) proceedings arising pursuant to sections 38-178 and 38-179, (e) physician assistant licensure and supervising physician requirements, and (f) continuing competency. The committee shall be directly responsible to the board.

- III. Public Purpose and Assumptions Underlying License Creation
 - A) Physician Assistants provide healthcare services typically performed by a Physician, under the supervision of and collaboration with a Physician. Due to the geographic maldistribution of health care services in Nebraska, the Legislature wanted physicians to be able to delegate health care tasks to qualified physician assistants, when such delegation was

consistent with the patient's health and welfare. The license was created to protect the public health, safety, and welfare.

IV. Number of Regulated Professionals in Nebraska

- A) There are 1,467 licensed Physician Assistants in Nebraska.

BOARD MEMBERSHIPS AND MEETINGS

I. Number of Members

- A) There are eight members of the Board of Medicine and Surgery.
B) There are five members of the Physician Assistant Committee.

II. Who Appoints Members of the Board / Is Legislative Approval Required?

- A) The Board of Health appoints the members of the Board of Medicine and Surgery and the Physician Assistant Committee. Legislative approval is not required for appointments to either the Board or the Committee.

III. Term Length

- A) The length of term for service on the Board of Medicine and Surgery is up to two consecutive five year terms, on a rotating basis.
B) The length of term for service on the Physician Assistant Committee is up to two consecutive five year terms, on a rotating basis.

IV. Qualifications for Membership of the Board

- A) The Board of Medicine and Surgery is made up of six professional members and two public members. The professional members shall have held and maintained an active credential and be and have been actively engaged in the practice of his or her profession for a period of five years just preceding his or her appointment and shall maintain such credential and practice while serving as a board member. Two of the six professional members of the board shall be officials or members of the instructional staff of an accredited medical school in this state. One of the six professional members of the board shall be a person who has a license to practice osteopathic medicine and surgery in this state.
B) The Physician Assistant Committee is made up of four professional members and one public member. The professional members shall have held and maintained an active credential and be and have been actively engaged in the practice of his or her profession for a period of five years just preceding his or her appointment and shall maintain such credential and practice while serving as a board member. Of the professional members, there shall be two physician assistants, one supervising physician, and one member of the Board of Medicine and Surgery.

- V. The Number of Meetings Required Per Year / Meetings Actually Held
- A) The following information is for the Board of Medicine and Surgery.
 - B) For fiscal year (FY) 2014-2015: Meetings Required – 1; Meetings Held – 7.
 - C) For FY 2015-2016: Meetings Required – 1; Meetings Held – 6.
 - D) For FY 2016-2017: Meetings Required – 1; Meetings Held – 7.
 - E) For FY 2017-2018: Meetings Required – 1; Meetings Held – 7.
 - F) For FY 2018-2019: Meetings Required – 1; Meetings Held – 9.
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- G) The following information is for the Physician Assistant Committee.
 - H) For fiscal year (FY) 2014-2015: Meetings Required – 1; Meetings Held – 4.
 - I) For FY 2015-2016: Meetings Required – 1; Meetings Held – 3.
 - J) For FY 2016-2017: Meetings Required – 1; Meetings Held – 4.
 - K) For FY 2017-2018: Meetings Required – 1; Meetings Held – 3.
 - L) For FY 2018-2019: Meetings Required – 1; Meetings Held – 5.

VI. Annual Budget Information for the Previous Five Years

- A) The Board of Medicine and Surgery is cash-funded from licensure fees. The Physician Assistant Committee does not have a separate budget. The numbers below are from the Board of Medicine and Surgery. Funds for credentialed occupations may come from interest earned on the Professional and Occupational Credentialing Cash Fund, certification and verification of credentials, administrative fees, reinstatement fees, general funds and federal funds, fees for miscellaneous services, gifts, and grants.
- B) For FY 2014-2015: \$541,556
- C) For FY 2015-2016: \$511,670
- D) For FY 2016-2017: \$514,740
- E) For FY 2017-2018: \$43,069
- F) For FY 2018-2019: \$54,249

VII. Statement from Occupational Board on Effectiveness of Regulations

- A) The Chair of the Physician Assistant Committee stated “The purpose of the Physician Assistant Committee is to protect the health, safety, and welfare of the public as prescribed in the Uniform Credentialing Act. A Physician Assistant will practice medicine as part of a health care team which includes at least one physician. Physician Assistants will practice in a number of different specialties, clinical settings, and geographic locations. Practicing medicine can be described as to diagnose and treat patients by means of ordering diagnostic tests and prescribing medications. The occupational regulations overseen by the board effectively monitor the minimum standards of proficiency and

competency for Physician Assistants to practice medicine in the state of Nebraska. The Board of Medicine and Surgery has effectively applied penalties to those Physician Assistants performing duties which may cause harm to the health, safety, and welfare of Nebraskans. The Board also advises and recommends changes to regulations which aide in improving practice environments for Physician Assistants to further increase access to care, alleviate physician work-load, and improve provider competency.”

AUTHORIZATION

- I. Statutory Authorization
 - A) Statutory authorization for the Physician Assistant occupation may be found in the Nebraska Revised Statutes, sections [38-2001](#) to [38-2062](#), which may be cited as the Medicine and Surgery Practice Act. For text of the Nebraska statutes relating to the Physician Assistant occupation, see Appendix A.

- II. Other Authorization
 - A) Rules and regulations regarding the Physician Assistant occupation may be found in the Nebraska Administrative Code [Title 172, Chapter 90](#).

CREDENTIALING

- I. Number of Licenses, Certifications, or Registrations Issued In Past Five Years
 - A) There were 620 Physician Assistant licenses issued in the past five years.

- II. Number of Licenses, Certifications, or Registrations Denied in Past Five Years
 - A) There were six Physician Assistant licenses denied in the past five years.
 - B) The initial application was denied.

- III. Number of Licenses, Certifications, or Registrations Revoked in Past Five Years
 - A) There were no Physician Assistant licenses revoked in the past five years.

- IV. Number of Licenses, Certifications, or Registrations Penalized in Past Five Years
 - A) There were 31 Physician Assistant licenses penalized in the past five years.
 - B) Penalties included probation, civility penalty and censure, suspension, temporary suspension, and disciplinary limitation of duties.

V. Comparison of How Other States Regulate This Occupation

- A) All other states regulate the Physician Assistant occupation. The American Academy of Physician Assistants maintains a list of licensing boards in each state, and statutory and regulatory requirements for initial licensure and license renewal. The website may be found [here](#).

VI. What Is The Potential Harm if This Occupation Is No Longer Licensed, Certified, or Regulated?

- A) Physician Assistants practice medicine, which requires a baseline level of knowledge, competence, and maintenance of competency. If the Physician Assistant occupation was no longer licensed, certified, or regulated, we would have unlicensed individuals allowed to practice medicine under the supervision of or collaboration with a physician. There could be severe harm to the public health, safety, and welfare.

COMMITTEE RECOMMENDATION ON CONTINUATION, MODIFICATION, OR TERMINATION OF OCCUPATIONAL REGULATIONS

Regulated occupations under the purview of the Health and Human Services Committee are unique in that through the Nebraska Regulation of Health Professions Act (Neb. Rev. Stat. Sections 71-6201 to 71-6229), health professions which are not licensed or regulated, or health professions that wish to change their scope of practice, go through a three-stage credentialing process.

Credentialing review is a three-stage process conducted by the following review bodies in the following order:

- 1) The review of an ad hoc technical review committee appointed by the Director of the Division of Public Health;
- 2) The review of the State Board of Health;
- 3) The review of the Director of the Division of Public Health.

The three review bodies each create their own independent report on each proposal. All reports created by the review process are available to members of the Health and Human Services Committee to assist them during their review of any bills that might arise from credentialing review proposals. These reports include recommendations regarding the level of licensure of the health profession. These reports are advisory to the Legislature, and only the action of the Legislature may create changes in the regulatory status of a profession. These reports represent expert input into possible public health and safety aspects of credentialing review proposals, and the nine-month process is overseen by those with experience in the provision of health-related or medical services.

The licenses, certifications, and registrations overseen by the Physician Assistants Committee, the Board of Medicine and Surgery, and the Department of Health and

Human Services are intended to protect the health, safety, and welfare of Nebraskans. The current regulation of the Physician Assistant occupation by licensure is appropriate and balanced and does not need modification at this time.

APPENDIX A

**STATUTES PERTAINING TO PHYSICIAN ASSISTANTS IN THE MEDICINE AND
SURGERY PRACTICE ACT**

38-2008. Approved program, defined.

Approved program means a program for the education of physician assistants which is approved by the Accreditation Review Commission on Education for the Physician Assistant or its predecessor or successor agency and which the board formally approves.

38-2010. Board, defined.

Board means the Board of Medicine and Surgery.

Source: Laws 2007, LB463, § 668.

38-2011. Committee, defined.

Committee means the Physician Assistant Committee created in section 38-2056.

Source: Laws 2007, LB463, § 669.

38-2014. Physician assistant, defined.

Physician assistant means any person who graduates from an approved program, who has passed a proficiency examination, and whom the department, with the recommendation of the board, approves to perform medical services under the supervision of a physician.

Source: Laws 1973, LB 101, § 2; R.S.Supp.,1973, § 85-179.05; Laws 1985, LB 132, § 2; Laws 1993, LB 316, § 1; Laws 1996, LB 1044, § 436; Laws 1996, LB 1108, § 8; Laws 1999, LB 828, § 92; Laws 2001, LB 209, § 8; R.S.1943, (2003), § 71-1,107.16; Laws 2007, LB296, § 338; Laws 2007, LB463, § 672; Laws 2009, LB195, § 38.

38-2015. Proficiency examination, defined.

Proficiency examination means the Physician Assistant National Certifying Examination administered by the National Commission on Certification of Physician Assistants.

Source: Laws 2007, LB463, § 673; Laws 2009, LB195, § 39.

38-2017. Supervising physician, defined.

Supervising physician means a licensed physician who supervises a physician assistant.

Source: Laws 2007, LB463, § 675; Laws 2009, LB195, § 40.

38-2018. Supervision, defined.

Supervision means the ready availability of the supervising physician for consultation and direction of the activities of the physician assistant. Contact with the supervising physician by telecommunication shall be sufficient to show ready availability.

Source: Laws 2007, LB463, § 676; Laws 2009, LB195, § 41.

38-2021. Unprofessional conduct, defined.

Unprofessional conduct means any departure from or failure to conform to the standards of acceptable and prevailing practice of medicine and surgery or the ethics of the profession, regardless of whether a person, patient, or entity is injured, or conduct that is likely to deceive or defraud the public or is detrimental to the public interest, including, but not limited to:

(1) Performance by a physician of an abortion as defined in subdivision (1) of section 28-326 under circumstances when he or she will not be available for a period of at least forty-eight hours for postoperative care unless such postoperative care is delegated to and accepted by another physician;

(2) Performing an abortion upon a minor without having satisfied the requirements of sections 71-6901 to 71-6911;

(3) The intentional and knowing performance of a partial-birth abortion as defined in subdivision (7) of section 28-326, unless such procedure is necessary to save the life of the mother whose life is endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself; and

(4) Performance by a physician of an abortion in violation of the Pain-Capable Unborn Child Protection Act.

Source: Laws 2007, LB463, § 679; Laws 2010, LB594, § 16; Laws 2010, LB1103, § 12; Laws 2011, LB690, § 1.

38-2024. Practice of medicine and surgery, defined.

For purposes of the Uniform Credentialing Act, and except as provided in section 38-2025 or as otherwise provided by law, the following classes of persons shall be deemed to be engaged in the practice of medicine and surgery:

(1) Persons who publicly profess to be physicians or surgeons or publicly profess to assume the duties incident to the practice of medicine, surgery, or any of their branches;

(2) Persons who prescribe and furnish medicine for some illness, disease, ailment, injury, pain, deformity, or any physical or mental condition, or treat the same by surgery;

(3) Persons holding themselves out to the public as being qualified in the diagnosis or treatment of diseases, ailments, pain, deformity, or any physical or mental condition, or injuries of human beings;

(4) Persons who suggest, recommend, or prescribe any form of treatment for the intended palliation, relief, or cure of any physical or mental ailment of any person;

(5) Persons who maintain an office for the examination or treatment of persons afflicted with ailments, diseases, injuries, pain, deformity, or any physical or mental condition of human beings;

(6) Persons who attach to their name the title of M.D., surgeon, physician, physician and surgeon, or any word or abbreviation and who indicate that they are engaged in the treatment or diagnosis of ailments, diseases, injuries, pain, deformity, infirmity, or any physical or mental condition of human beings; and

(7) Persons who are physically located in another state but who, through the use of any medium, including an electronic medium, perform for compensation any service which constitutes the healing arts that would affect the diagnosis or treatment of an individual located in this state.

Source: Laws 1927, c. 167, § 100, p. 482; C.S.1929, § 71-1401; Laws 1943, c. 150, § 18, p. 546; R.S.1943, § 71-1,102; Laws 1969, c. 563, § 1, p. 2291; Laws 1997, LB 452, § 1; Laws 2006, LB 833, § 2; R.S.Supp.,2006, § 71-1,102; Laws 2007, LB463, § 682.

38-2025. Medicine and surgery; practice; persons excepted.

The following classes of persons shall not be construed to be engaged in the unauthorized practice of medicine:

(1) Persons rendering gratuitous services in cases of emergency;

(2) Persons administering ordinary household remedies;

(3) The members of any church practicing its religious tenets, except that they shall not prescribe or administer drugs or medicines, perform surgical or physical operations, nor assume the title of or hold themselves out to be physicians, and such members shall not be exempt from the quarantine laws of this state;

(4) Students of medicine who are studying in an accredited school or college of medicine and who gratuitously prescribe for and treat disease under the supervision of a licensed physician;

(5) Physicians who serve in the armed forces of the United States or the United States Public Health Service or who are employed by the United States Department of Veterans Affairs or other federal agencies, if their practice is limited to that service or employment;

(6) Physicians who are licensed in good standing to practice medicine under the laws of another state when incidentally called into this state or contacted via electronic or other medium for consultation with a physician licensed in this state. For purposes of this subdivision, consultation means evaluating the medical data of the patient as provided by the treating physician and rendering a recommendation to such treating physician as to the method of treatment or analysis of the data. The interpretation of a radiological image by a physician who specializes in radiology is not a consultation;

(7) Physicians who are licensed in good standing to practice medicine in another state but who, from such other state, order diagnostic or therapeutic services on an irregular or occasional basis, to be provided to an individual in this state, if such physicians do not maintain and are not furnished for regular use within this state any office or other place for the rendering of professional services or the receipt of calls;

(8) Physicians who are licensed in good standing to practice medicine in another state and who, on an irregular and occasional basis, are granted temporary hospital privileges to practice medicine and surgery at a hospital or other medical facility licensed in this state;

(9) Persons providing or instructing as to use of braces, prosthetic appliances, crutches, contact lenses, and other lenses and devices prescribed by a physician licensed to practice medicine while working under the direction of such physician;

(10) Dentists practicing their profession when licensed and practicing in accordance with the Dentistry Practice Act;

(11) Optometrists practicing their profession when licensed and practicing under and in accordance with the

Optometry Practice Act;

(12) Osteopathic physicians practicing their profession if licensed and practicing under and in accordance with sections 38-2029 to 38-2033;

(13) Chiropractors practicing their profession if licensed and practicing under the Chiropractic Practice Act;

(14) Podiatrists practicing their profession when licensed to practice in this state and practicing under and in accordance with the Podiatry Practice Act;

(15) Psychologists practicing their profession when licensed to practice in this state and practicing under and in accordance with the Psychology Interjurisdictional Compact or the Psychology Practice Act;

(16) Advanced practice registered nurses practicing in their clinical specialty areas when licensed under the Advanced Practice Registered Nurse Practice Act and practicing under and in accordance with their respective practice acts;

(17) Surgical first assistants practicing in accordance with the Surgical First Assistant Practice Act;

(18) Persons licensed or certified under the laws of this state to practice a limited field of the healing art, not specifically named in this section, when confining themselves strictly to the field for which they are licensed or certified, not assuming the title of physician, surgeon, or physician and surgeon, and not professing or holding themselves out as qualified to prescribe drugs in any form or to perform operative surgery;

(19) Persons obtaining blood specimens while working under an order of or protocols and procedures approved by a physician, registered nurse, or other independent health care practitioner licensed to practice by the state if the scope of practice of that practitioner permits the practitioner to obtain blood specimens;

(20) Physicians who are licensed in good standing to practice medicine under the laws of another state or jurisdiction who accompany an athletic team or organization into this state for an event from the state or jurisdiction of licensure. This exemption is limited to treatment provided to such athletic team or organization while present in Nebraska; and

(21) Other trained persons employed by a licensed health care facility or health care service defined in the Health Care Facility Licensure Act or clinical laboratory certified pursuant to the federal Clinical Laboratories Improvement Act of 1967, as amended, or Title XVIII or XIX of the federal Social Security Act to withdraw human blood for scientific or medical purposes.

Any person who has held or applied for a license to practice medicine and surgery in this state, and such license or application has been denied or such license has been refused renewal or disciplined by order of limitation, suspension, or revocation, shall be ineligible for the exceptions described in subdivisions (5) through (8) of this section until such license or application is granted or such license is renewed or reinstated. Every act or practice falling within the practice of medicine and surgery as defined in section 38-2024 and not specially excepted in this section shall constitute the practice of medicine and surgery and may be performed in this state only by those licensed by law to practice medicine in Nebraska.

Source: Laws 1927, c. 167, § 101, p. 482; C.S.1929, § 71-1402; Laws 1943, c. 150, § 19, p. 547; R.S.1943, § 71-1,103; Laws 1961, c. 337, § 12, p. 1056; Laws 1969, c. 563, § 2, p.

2291; Laws 1969, c. 564, § 1, p. 2297; Laws 1971, LB 150, § 1; Laws 1984, LB 724, § 1; Laws 1989, LB 342, § 15; Laws 1991, LB 2, § 11; Laws 1992, LB 291, § 17; Laws 1992, LB 1019, § 40; Laws 1994, LB 1210, § 55; Laws 1996, LB 414, § 3; Laws 1996, LB 1044, § 420; Laws 1997, LB 452, § 2; Laws 1999, LB 366, § 9; Laws 1999, LB 828, § 78; Laws 2000, LB 819, § 86; Laws 2000, LB 1115, § 14; Laws 2002, LB 1062, § 17; Laws 2005, LB 256, § 23; Laws 2006, LB 833, § 3; R.S.Supp.,2006, § 71-1,103; Laws 2007, LB463, § 683; Laws 2016, LB721, § 20; Laws 2018, LB1034, § 30.

38-2037. Additional grounds for disciplinary action.

In addition to the grounds for disciplinary action found in sections 38-178 and 38-179, a license to practice medicine and surgery or osteopathic medicine and surgery or a license to practice as a physician assistant may be denied, refused renewal, limited, revoked, or suspended or have other disciplinary measures taken against it in accordance with section 38-196 when the applicant or licensee fails to comply with the provisions of section 71-603.01, 71-604, 71-605, or 71-606 relating to the signing of birth and death certificates.

Source: Laws 2007, LB463, § 695; Laws 2009, LB195, § 42.

38-2046. Physician assistants; legislative findings.

The Legislature finds that:

- (1) In its concern with the geographic maldistribution of health care services in Nebraska it is essential to develop additional health personnel; and
- (2) It is essential to encourage the more effective utilization of the skills of physicians by enabling them to delegate health care tasks to qualified physician assistants when such delegation is consistent with the patient's health and welfare. It is the intent of the Legislature to encourage the utilization of such physician assistants by physicians.

Source: Laws 1973, LB 101, § 1; R.S.Supp.,1973, § 85-179.04; Laws 1985, LB 132, § 1; R.S.1943, (2003), § 71-1,107.15; Laws 2007, LB463, § 704.

38-2047. Physician assistants; services performed; supervision requirements.

- (1) A physician assistant may perform medical services that (a) are delegated by and provided under the supervision of a licensed physician, (b) are appropriate to the level of competence of the physician assistant, (c) form a component of the supervising physician's scope of practice, and (d) are not otherwise prohibited by law.
- (2) A physician assistant shall be considered an agent of his or her supervising physician in the performance of practice-related activities delegated by the supervising physician, including, but not limited to, ordering diagnostic, therapeutic, and other medical services.

(3) Each physician assistant and his or her supervising physician shall be responsible to ensure that (a) the scope of practice of the physician assistant is identified, (b) the delegation of medical tasks is appropriate to the level of competence of the physician assistant, (c) the relationship of and access to the supervising physician is defined, and (d) a process for evaluation of the performance of the physician assistant is established.

(4) A physician assistant may pronounce death and may complete and sign death certificates and any other forms if such acts are within the scope of practice of the physician assistant, are delegated by his or her supervising physician, and are not otherwise prohibited by law.

(5) In order for a physician assistant to practice in a hospital, (a) his or her supervising physician shall be a member of the medical staff of the hospital, (b) the physician assistant shall be approved by the governing board of the hospital, and (c) the physician assistant shall comply with applicable hospital policies, including, but not limited to, reasonable requirements that the physician assistant and the supervising physician maintain professional liability insurance with such coverage and limits as established by the governing board of the hospital.

(6) For physician assistants with less than two years of experience, the department, with the recommendation of the board, shall adopt and promulgate rules and regulations establishing minimum requirements for the personal presence of the supervising physician, stated in hours or percentage of practice time, and may provide different minimum requirements for the personal presence of the supervising physician based on the geographic location of the supervising physician's primary and other practice sites and other factors the board deems relevant.

(7) A physician assistant may render services in a setting geographically remote from the supervising physician, except that a physician assistant with less than two years of experience shall comply with standards of supervision established in rules and regulations adopted and promulgated under the Medicine and Surgery Practice Act. The board may consider an application for waiver of the standards and may waive the standards upon a showing of good cause by the supervising physician. The department may adopt and promulgate rules and regulations establishing minimum requirements for such waivers.

Source: Laws 1973, LB 101, § 3; R.S.Supp.,1973, § 85-179.06; Laws 1985, LB 132, § 3; Laws 1993, LB 316, § 2; Laws 1996, LB 1108, § 9; R.S.1943, (2003), § 71-1,107.17; Laws 2007, LB463, § 705; Laws 2009, LB195, §43.

38-2048. Physician assistants; trainee; services performed.

Notwithstanding any other provision of law, a trainee may perform medical services when he or she renders such services within the scope of an approved program.

Source: Laws 1973, LB 101, § 4; R.S.Supp.,1973, § 85-179.07; Laws 1985, LB 132, § 4; R.S.1943, (2003), § 71-1,107.18; Laws 2007, LB463, § 706.

38-2049. Physician assistants; licenses; temporary licenses; issuance; military spouse; temporary license.

(1) The department, with the recommendation of the board, shall issue licenses to persons who are graduates of an approved program and have passed a proficiency examination.

(2) The department, with the recommendation of the board, shall issue temporary licenses under this subsection to persons who have successfully completed an approved program but who have not yet passed a proficiency examination. Any temporary license issued pursuant to this subsection shall be issued for a period not to exceed one year and under such conditions as determined by the department, with the recommendation of the board. The temporary license issued under this subsection may be extended by the department, with the recommendation of the board.

(3) Physician assistants approved by the board prior to April 16, 1985, shall not be required to complete the proficiency examination.

(4) An applicant who is a military spouse applying for a license to practice as a physician assistant may apply for a temporary license as provided in section 38-129.01.

Source: Laws 1973, LB 101, § 5; R.S.Supp.,1973, § 85-179.08; Laws 1985, LB 132, § 5; Laws 1996, LB 1108, § 10; R.S.1943, (2003), § 71-1,107.19; Laws 2007, LB463, § 707; Laws 2009, LB195, § 44; Laws 2017, LB88, § 64.

38-2050. Physician assistants; supervision; supervising physician; requirements; agreement.

(1) To be a supervising physician, a person shall:

(a) Be licensed to practice medicine and surgery under the Uniform Credentialing Act;

(b) Have no restriction imposed by the board on his or her ability to supervise a physician assistant; and

(c) Maintain an agreement with the physician assistant as provided in subsection (2) of this section.

(2)(a) An agreement between a supervising physician and a physician assistant shall (i) provide that the supervising physician will exercise supervision over the physician assistant in accordance with the Medicine and Surgery Practice Act and the rules and regulations adopted and promulgated under the act relating to such agreements, (ii) define the scope of practice of the physician assistant, (iii) provide that the supervising physician will retain professional and legal responsibility for medical services rendered

by the physician assistant pursuant to such agreement, and (iv) be signed by the supervising physician and the physician assistant.

(b) The supervising physician shall keep the agreement on file at his or her primary practice site, shall keep a copy of the agreement on file at each practice site where the physician assistant provides medical services, and shall make the agreement available to the board and the department upon request.

(3) Supervision of a physician assistant by a supervising physician shall be continuous but shall not require the physical presence of the supervising physician at the time and place that the services are rendered.

(4) A supervising physician may supervise no more than four physician assistants at any one time. The board may consider an application for waiver of this limit and may waive the limit upon a showing that the supervising physician meets the minimum requirements for the waiver. The department may adopt and promulgate rules and regulations establishing minimum requirements for such waivers.

Source: Laws 1973, LB 101, § 6; R.S.Supp.,1973, § 85-179.09; Laws 1985, LB 132, § 6; Laws 1993, LB 316, §3; R.S.1943, (2003), § 71-1,107.20; Laws 2007, LB463, § 708; Laws 2009, LB195, § 45.

38-2052. Physician assistants; misrepresentation; penalty.

Any person who has not been licensed by the department, with the recommendation of the board, and who holds himself or herself out as a physician assistant, or who uses any other term to indicate or imply that he or she is a physician assistant, shall be guilty of a Class IV felony.

Source: Laws 1973, LB 101, § 7; R.S.Supp.,1973, § 85-179.10; Laws 1977, LB 39, § 319; Laws 1985, LB 132, § 7; R.S.1943, (2003), § 71-1,107.21; Laws 2007, LB463, § 710.

38-2053. Physician assistants; negligent acts; liability.

Any physician or physician groups utilizing physician assistants shall be liable for any negligent acts or omissions of physician assistants while acting under their supervision and control.

Source: Laws 1973, LB 101, § 14; R.S.Supp.,1973, § 85-179.17; Laws 1985, LB 132, § 13; R.S.1943, (2003), § 71-1,107.28; Laws 2007, LB463, § 711.

38-2054. Physician assistants; licensed; not engaged in unauthorized practice of medicine.

Any physician assistant who is licensed and who renders services under the supervision and control of a licensed physician as provided by the Medicine and Surgery Practice Act shall not be construed to be engaged in the unauthorized practice of medicine.

Source: Laws 1973, LB 101, § 15; R.S.Supp.,1973, § 85-179.18; Laws 1985, LB 132, § 14; Laws 1996, LB 1108, § 13; R.S.1943, (2003), § 71-1,107.29; Laws 2007, LB463, § 712.

38-2055. Physician assistants; prescribe drugs and devices; restrictions.

A physician assistant may prescribe drugs and devices as delegated to do so by a supervising physician. Any limitation placed by the supervising physician on the prescribing authority of the physician assistant shall be recorded on the physician assistant's scope of practice agreement established pursuant to rules and regulations adopted and promulgated under the Medicine and Surgery Practice Act. All prescriptions and prescription container labels shall bear the name of the physician assistant and, if required for purposes of reimbursement, the name of the supervising physician. A physician assistant to whom has been delegated the authority to prescribe controlled substances shall obtain a federal Drug Enforcement Administration registration number.

Source: Laws 1985, LB 132, § 15; Laws 1992, LB 1019, § 41; Laws 1999, LB 379, § 4; Laws 1999, LB 828, § 94; Laws 2005, LB 175, § 1; R.S.Supp.,2006, § 71-1,107.30; Laws 2007, LB463, § 713; Laws 2009, LB195, § 46.

38-2056. Physician Assistant Committee; created; membership; powers and duties; per diem; expenses.

(1) There is hereby created the Physician Assistant Committee which shall review and make recommendations to the board regarding all matters relating to physician assistants that come before the board. Such matters shall include, but not be limited to, (a) applications for licensure, (b) physician assistant education, (c) scope of practice, (d) proceedings arising pursuant to sections 38-178 and 38-179, (e) physician assistant licensure and supervising physician requirements, and (f) continuing competency. The committee shall be directly responsible to the board.

(2) The committee shall be appointed by the State Board of Health and shall be composed of two physician assistants, one supervising physician, one member of the Board of Medicine and Surgery, and one public member. The chairperson of the committee shall be elected by a majority vote of the committee members.

(3) At the expiration of the four-year terms of the members serving on December 1, 2008, appointments shall be for five-year terms. Members shall serve no more than two consecutive full five-year terms. Reappointments shall be made by the State Board of Health.

(4) The committee shall meet on a regular basis and committee members shall, in addition to necessary traveling and lodging expenses, receive a per diem for each day actually engaged in the discharge of his or her duties, including compensation for the time spent in traveling to and from the place of conducting business. Traveling and lodging expenses shall be reimbursed on the same basis as provided in sections 81-

1174 to 81-1177. The compensation shall not exceed fifty dollars per day and shall be determined by the committee with the approval of the department.

Source: Laws 1973, LB 101, § 11; R.S.Supp.,1973, § 85-179.14; Laws 1985, LB 132, § 10; Laws 1996, LB 1108, § 11; Laws 1999, LB 828, § 93; Laws 2002, LB 1021, § 18; R.S.1943, (2003), § 71-1,107.25; Laws 2007, LB463, § 714.

STATUTES PERTAINING TO THE UNIVERSITY OF NEBRASKA

85-179.01. College of Medicine; physicians' assistants and associates; program for education and training; establish.

Subject to statutory authorization and approval by the Coordinating Commission for Postsecondary Education pursuant to sections 85-1413 and 85-1414, the University of Nebraska through its College of Medicine may establish, develop, implement, and from time to time amend, change, and modify a general plan or program for the education and training of physicians' assistants and physicians' associates and to accomplish such purpose may:

- (1) Establish a separate curriculum to be supervised and carried out by the faculty of the College of Medicine;
- (2) Employ such additional faculty members and otherwise procure and contract for such professional and technical assistance as may be necessary or advisable;
- (3) Acquire by purchase, lease, or gift such personal property as may be required or useful in connection with such program and the implementation thereof; and
- (4) Cooperate and contract with other governmental agencies and subdivisions of government, both state and federal, and funding organizations.

Source: Laws 1972, LB 985, § 1; Laws 1991, LB 663, § 69.

85-179.02. College of Medicine; physicians' assistant or associate, defined.

For purposes of sections 85-179.01 to 85-179.03, unless the context otherwise requires, physicians' assistant or physicians' associate shall mean a person who is qualified by training and experience to act as an assistant to, or an associate of, a licensed physician.

Source: Laws 1972, LB 985, § 2.

85-179.03. College of Medicine; physicians' assistants or associates; Board of Regents; powers.

The power and authority granted by sections 85-179.01 to 85-179.03 may be exercised in whole or in part and from time to time as the Board of Regents of the University of Nebraska may in its discretion determine.

Source: Laws 1972, LB 985, § 3.