

Information Bulletin

SB 697 – Frequently Asked Questions

Overview

SB 697 (Chapter 707, Statutes of 2018) became effective on January 1, 2020 and made numerous changes to the Physician Assistant Practice Act (Act), which provides for licensure and regulation of physician assistants by the Physician Assistant Board (Board). Generally, the new law removes requirements that the medical record identify the responsible supervising physician and surgeon, removes requirements that the physician be physically available to the physician assistant for consultation, removes requirements for review and countersignature of patient medical records, and removes requirements that written guidelines for adequate supervision be established. The new law instead authorizes a physician assistant to perform medical services authorized by the Act if certain requirements are met, including that the medical services are rendered pursuant to a practice agreement, as defined, and the physician assistant is competent to perform the medical services.

The Act now requires that a practice agreement between a physician assistant and a physician and surgeon meet specified requirements, including that the agreement have policies and procedures to ensure adequate supervision of the physician assistant, including, but not limited to, appropriate communication, availability, consultations, and referrals between a physician and surgeon and the physician assistant in the provision of medical services. In addition, a practice agreement must establish policies and procedures to identify a physician and surgeon (with privileges to practice in that hospital) who is supervising a physician assistant rendering services in a general acute care hospital.

The prior law authorized a physician assistant, under the supervision of a physician and surgeon, to administer or provide medication to a patient, or transmit orally, or in writing on a patient's record or in a drug order, an order to a person who may lawfully furnish the medication or medical device, subject to specified requirements. The new law authorizes a physician assistant to furnish or order a drug or device subject to specified requirements, including that the furnishing or ordering be in accordance with the practice agreement and consistent with the physician assistant's educational preparation or for which clinical competency has been established and maintained, and that the physician and surgeon be available by telephone or other electronic communication method at the time the physician assistant examines the patient.

The Act now authorizes the physician assistant to furnish or order Schedule II or III controlled substances in accordance with the practice agreement or a patient-specific order approved by the treating or supervising physician and surgeon and requires completion of a controlled substances course by the PA's next renewal if the PA is

authorized by a practice agreement to furnish Schedule II controlled substances and if the PA has a DEA registration.

In addition, the new law provides that any reference to a “delegation of services agreement” in any other law means “practice agreement,” as defined. The Act now provides that supervision does not require the supervising physician and surgeon to be physically present, but does require adequate supervision as agreed to in the practice agreement and does require that the physician and surgeon be available by telephone or other electronic communication method at the time the physician assistant examines the patient. However, the Act also prohibits this provision from being construed as prohibiting the Board from requiring the physical presence of a physician and surgeon as a term or condition of a PA’s reinstatement, probation, or imposing discipline.

For more detailed information and to review the exact text of this new legislation, a copy of SB 697 is included with this information bulletin at:

http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200SB697.

The Board is providing the following information in response to questions received:

Practice Agreement

1. What is a practice agreement?

The practice agreement replaces the delegation of services agreement. The practice agreement is a written agreement developed through collaboration among one or more physicians and surgeons (“physician”) and one or more physician assistants (PA). The practice agreement defines the medical services the PA is authorized to perform pursuant to Business and Professions Code (BPC) section 3502 and grants approval for the physicians and surgeons on the staff of an “organized health care system”¹ to supervise one or more PAs in an organized health care system. (See BPC, § 3501, subd. (k).).

The practice agreement must include provisions that address the following:

- (1) The types of medical services a physician assistant is authorized to perform,
- (2) Policies and procedure to ensure adequate supervision of the PA,
- (3) The methods for continuing evaluation of the competency and qualifications of the PA,

¹ Under the new law, an “organized health care system” includes a licensed clinic, an outpatient setting, a health facility, an accountable care organization, a home health agency, a physician’s office, a professional medical corporation, a medical partnership, a medical foundation, and any other entity that lawfully provides medical services (see BPC, § 3501, subd. (j)).

- (4) The furnishing or ordering of drugs or devices by a PA pursuant to Section 3502.1 (see answer to Question No. 5); and,
- (5) Any additional provisions agreed to by the PA and the supervising physician. (See BPC, § 3502.3, subd. (a)(1).)

The practice agreement must be signed by the PA and one or more physicians or a physician who is authorized to approve the practice agreement on behalf of the staff of the physicians on the staff of an organized health care system. (See BPC, § 3502.3, subd. (a)(2).)

2. Will the Board be publishing a sample/template practice agreement on its website?

No, not at this time. Further, the law does not require the Board to approve practice agreements. (BPC, § 3502.3, subd. (a)(5).)

3. Can an existing delegation of services agreement be used instead of a practice agreement?

Yes. Any delegation of services agreement in effect prior to January 1, 2020 shall be deemed to meet the requirements of BPC Section 3502.3. (See BPC, § 3502.3, subd. (a)(3).)

4. What Medical Services is a PA authorized to perform?

A PA is authorized to perform those medical services described in the practice agreement. The PA must also have the competency to perform the medical services, and the PA's education, training, and experience must have prepared the PA to render the services. (See BPC, § 3502, subd. (a).)

Finally, in addition to any other practices that meet the criteria set forth in the Act or the Board's or the Medical Board of California's regulations, a practice agreement may authorize a PA to do any of the following:

- (1) Order durable medical equipment, subject to any limitations set forth in Section 3502 of the Act (particularly competency, education training, and experience), or the practice agreement.
- (2) For individuals receiving home health services or personal care services, after consultation with a supervising physician, approve, sign, modify, or add to a plan of treatment or plan of care.
- (3) After performance of a physical examination by the PA under the supervision of a physician, certify disability pursuant to Section 2708 of the Unemployment Insurance Code. (See BPC, § 3502.3, subd. (b).)

Prescriptions

5. Are protocols and formularies for controlled substances required?

No. However, there are still criteria that need to be met to authorize a PA to furnish a controlled substance. A PA may furnish or order only those Schedule II through Schedule V controlled substances under the California Uniform Controlled Substances Act that have been agreed upon in the practice agreement, and consistent with the PA's educational preparation or for which clinical competency has been established and maintained. With respect to Schedules II or III controlled substances, the practice agreement or a patient-specific order approved by the treating or supervising physician can authorize the PA to furnish a Schedule II or III controlled substance. (See BPC, § 3502.1, subds. (a), (d)(1), and (d)(2).)

A practice agreement authorizing a PA to order or furnish a drug or device shall specify all of the following:

- (1) which PA or PAs may furnish or order a drug or device,
- (2) which drugs or devices may be furnished or ordered,
- (3) under what circumstances a drug or device will be furnished,
- (4) the extent of physician supervision,
- (5) the method of periodic review of the PA's competence, including peer review,
- (6) review of the practice agreement (BPC, § 3502.1, subd. (b)(1); and,
- (7) if the practice agreement authorizes the PA to furnish a Schedule II controlled substance, the practice agreement shall address the diagnosis of the illness, injury, or condition for which the PA may furnish the Schedule II controlled substance. (See BPC, § 3502.1, subd. (b)(2).)

To furnish any drug or device, the PA must have also completed a course in pharmacology that meets the requirements contained in section 1399.530 of Title 16 of the California Code of Regulations as that provision read on June 7, 2019. (See BPC, § 3502.1, subd. (e)(1).) For PAs that are authorized through a practice agreement to furnish Schedule II controlled substances, completion of a controlled substance education course is now mandatory, as described below.

6. Is the Controlled Substance Education Course required?

Yes. A PA who holds an active license, who is authorized through a practice agreement to furnish Schedule II controlled substances, who is registered with the U.S. Drug Enforcement Administration (DEA), and who has not completed a one-time course in compliance with sections 1399.610 and 1399.612 of Title 16 of the California Code of Regulations as those provisions read on June 7, 2019, shall complete, as part of their continuing education requirements, a course that

covers Schedule II controlled substances and the risks of addiction associated with their use, based on standards developed by the Board. Therefore, if a PA who holds an active license has not yet completed the required course, the PA needs to complete the course before renewing their license. (See BPC, § 3502.1, subd. (e)(3).)

7. Can a PA furnish or order Schedule II or III controlled substances?

Yes. A PA may furnish or order Schedule II or III controlled substances in accordance with the practice agreement or a patient-specific order approved by the treating or supervising physician. (See BPC, § 3502.1, subd. (d)(2).) However, continuing education and practice agreement requirements also need to be met to maintain compliance with the Act (see answers to Question Nos. 5 and 6 above).

8. Is supervising physician contact information required on PA prescriptions?

No. PA prescription pads are no longer required to list the name, address, and telephone number of their supervising physician. Further, a PA's drug order that is authorized to be issued under the Act must be treated in the same manner as a prescription of a supervising physician, and the signature of a PA on a drug order issued in accordance with the Act is deemed to be the signature of a prescriber for purposes of the Business and Professions Code and the Health and Safety Code. (See BPC, § 3502.1, subd. (g).)

Supervision

9. Are PAs required to identify their supervising physician for each episode of care in the patient's medical record?

Not anymore. The legislation removed the requirement that each episode of care for a patient identify the physician responsible for the supervision of the physician assistant. (See BPC, § 3502, as amended.)

10. Does the supervising physician still need to review or countersign my charts?

No. Unless the practice agreement requires it, the supervising physician no longer must review or countersign the medical records of a patient treated by a PA. The Board may, as a condition of probation or reinstatement of a licensee, require the review or countersignature of records of patients treated by a PA for a specified duration. (See BPC, § 3502, subd. (c).)

11. What are the Responsibilities of a Supervising Physician?

Under the new law, a supervising physician must provide adequate supervision of a PA as agreed to in the practice agreement. A supervising physician need not be physically present while the PA provides medical services but must be available by telephone or other electronic communication method at the time the PA examines the patient. (See BPC, § 3501, subd. (f)(1)(A)-(B).) However, the Board may require the physical presence of the supervising physician as a term or condition of a PA's reinstatement, probation, or imposing discipline. (See BPC, § 3501, subd. (f)(2).)

Supervision means that a physician oversees and accepts responsibility for the medical services provided by the PA. (See BPC, § 3501, subd. (f)(1).) While the PA is also no longer an agent of the supervising physician, the PA and the supervising physician can agree via practice agreement, that the PA is designated as an agent of the supervising physician. (See BPC, § 3502.3, subd. (a)(4).)

If rendering services in a general acute care hospital as defined in Health and Safety Code section 1250, the PA must be supervised by a physician who has privileges to practice in that hospital. Within a general acute hospital, the practice agreement shall establish policies and procedures to identify a physician who is supervising the PA. (See BPC, § 3502, subd. (f).)

However, amendments to the new law did not change the following requirements for physician supervision:

- (a) a physician assistant licensed by the board shall be eligible for employment or supervision by a physician who is not subject to a disciplinary condition imposed by the Medical Board of California prohibiting that employment or supervision.
- (b) Except as provided in Business and Professions Code section 3502.5 (state of war or emergency), a physician shall not supervise more than four physician assistants at any one time.
- (c) The Medical Board of California may restrict a physician and surgeon to supervising specific types of physician assistants including, but not limited to, restricting a physician and surgeon from supervising physician assistants outside of the field of specialty of the physician and surgeon. (See BPC, § 3516.)

Miscellaneous

12. Can a PA now own a majority share in a medical practice?

No. The new law did not change the Moscone-Knox Professional Corporation Act's ban on the owning of a majority of shares of a professional medical corporation. Under this prohibition a PA cannot own more than 49% of a professional medical corporation. (See Corp. Code, § 13401.5, subd. (a)(7).)

Form: PAB SB 697 FAQ Sheet .docx

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