

DUKE UNIVERSITY  
Department of  
Community Health Sciences

This packet was prepared in response to many requests from those interested in the "regularization" of activities of physician's assistants and like medical personnel within a given state. It contains (1) a legislative proposal which has emerged from a series of conferences held at Duke University, involving medical and legal consultants from the State of North Carolina, plus a number of legal consultants from other states; (2) a page from the rules and regulations of the Joint Commission on Hospital Accreditation, which serves as the basis for the section on hospital bylaws which follows; and (3) a section of the bylaws of Sea Level Hospital, providing for the incorporation of physician's assistants into the medical staff structure of that hospital.

The proposed statute has been submitted to a Study Commission of the North Carolina Legislature, which will introduce it to the parent body in the spring of 1971. It represents a permissive registration act, not a licensure act. It provides legal recognition and a degree of legal protection for the new group, but does not rigidly define their scope of activities at this time. These matters are discussed in detail in the summary of the legal conferences held at Duke University. This document, MODEL LEGISLATION PROJECT FOR PHYSICIAN'S ASSISTANTS, is available at a cost of \$2.00 from: Director, Physician's Assistant Program, Box 2914, Duke University Medical Center, Durham, N. C. 27706.

October 1970

Legislative Proposal for Physician's Assistants

S90-18 of the North Carolina Statutes, after prescribing the penalty for the unlicensed practice of medicine, reads:

Any person shall be regarded as practicing medicine or surgery within the meaning of this article who shall diagnose or attempt to diagnose, treat, or attempt to treat, operate or attempt to operate on, or prescribe for or administer to, or profess to treat any human ailment, physical or mental, or any physical injury to or deformity of another person: Provided, that the following cases shall not come within the definition above recited.

The proposal would be exception (14) to this definition of the practice of medicine and would read as follows:

- (14) Any act, task or function performed by an assistant to a physician licensed by the Board of Medical Examiners, provided that
  - a) such assistant is approved by the Board as one qualified by training or experience to function as an assistant to a physician, and
  - b) such act, task or function is performed at the direction and under the supervision of such physician, in accordance with rules and regulations promulgated by the Board.

## Regulations Under the Proposal

The following are submitted as possible rules and regulations according to which the proposal could be administered.

### Rule I Definitions

Section 1. The term "Board" as herein used refers to the Board of Medical Examiners of North Carolina.

Section 2. The term "Secretary" as herein used refers to the Secretary of the Board of Medical Examiners of North Carolina.

Section 3. The term "Assistant to a Physician" as herein used refers to auxiliary, paramedical personnel who are functioning in a dependent relationship with a physician licensed by the Board and who are performing tasks or combinations of tasks traditionally performed by the physician himself. Examples of such tasks would include history taking, physical examination, and treatment, such as the application of a cast. The regulations are not intended to cover or in any way prejudice the activities of assistants not engaged in direct patient contact or the performance of assistants with tasks well-defined by statute or recognized custom of medical practice.

Section 4. The term "applicant" as used herein refers to the assistant upon whose behalf an application is submitted.

### Rule II Application for Approval

Section 1. Application for approval of an assistant must be made upon forms supplied by the Board and must be submitted by the physician with whom the assistant will work and who will assume responsibility for the assistant's performance.

Section 2. Application forms submitted to the Board must be complete in every detail. Every supporting document required by the application form must be submitted with each application.

Section 3. If for any reason an assistant discontinues working at the direction and under the supervision of the physician who submitted the application under which the assistant is approved, such assistant shall so inform the Board and his approval shall terminate until such time as a new application is submitted by the same or another physician and is approved by the Board.

### Rule III Requirements for Approval

Section 1. Before being approved by the Board to perform as an assistant to a physician, an applicant shall:

- (1) Be of good moral character and have satisfied the requirements of Rule IV hereof;
- (2) Demonstrate in one of the following ways his competence to perform at the direction and under the supervision of a physician tasks traditionally performed by the physician himself:
  - (a) by giving evidence that he has successfully completed a training program recognized by the Board under Rule V hereof;
  - (b) By standing and passing an equivalency exam administered by a training program recognized by the Board under Rule V hereof;
  - (c) By standing and passing an exam administered by the Board.

Section 2. Initial approval may be denied for any of the reasons set forth in Rule VI, Section 1, hereof, as grounds for termination of approval, as well as for failure to satisfy the Board of the qualifications cited in Section 1 of this Rule.

Section 3. Whenever the Board determines that an applicant has failed to satisfy the Board that he should be approved, the Board shall immediately notify such applicant of its decision and indicate in what respect the applicant has so failed to satisfy the Board. Such applicant shall be given a formal hearing before the Board upon request of such applicant, filed with or mailed by registered mail to the Secretary of the Board at Raleigh, N. C., within ten (10) days after receipt of the Board's decision, stating the reasons for such request. The Board shall within 20 days of receipt of such request notify such applicant of the time and place of a public hearing, which shall be held within a reasonable time. The burden of satisfying the Board of his qualifications for approval shall be upon the applicant. Following such hearing, the Board shall determine on the basis of these regulations whether the applicant is qualified to be approved, and this decision of the Board shall be final as to that application.

Section 4. In hearings held pursuant to this rule, the Board shall admit and hear evidence in the same manner and form as prescribed by law for civil actions.

RULE IV  
Moral Character

Section 1. Every applicant shall be of good moral character, and the applicant shall have the burden of proving that he is possessed of good moral character.

Section 2. All information furnished to the Board by an applicant, and all answers and questions upon forms furnished by the Board, shall be deemed material and such forms and information shall be and become a permanent record of the Board.

Section 3. All investigations in reference to the moral character of an applicant may be informal, but shall be thorough, with the object of ascertaining the truth. Neither the hearsay rule, nor any other technical rule of evidence need be observed.

Section 4. Every applicant may be required to appear before the Board to be examined about any matter pertaining to his moral character.

Rule V  
Requirements for Recognition of Training Programs

Section 1. Application for recognition of a training program by the Board shall be made by letter and supporting documents from the director of the program and must demonstrate to the satisfaction of the Board that such program fulfills the requirements set forth in Sections 2 through 8 of this Rule.

Section 2. The training program must be sponsored by a college or university with appropriate arrangements for the clinical training of its students, such as a hospital maintaining a teaching program. There must be evidence that the program has education as its primary orientation and objective.

Section 3. The program must be under the supervision of a qualified director, who has at his disposal the resources of competent personnel adequately trained in the administration and operation of educational programs.

Section 4. Adequate space, light, and modern equipment must be provided for all necessary teaching functions. A library, containing up-to-date textbooks, scientific periodicals, and reference material pertaining to clinical medicine, its underlying scientific disciplines, and its specialties, shall be readily accessible to students and faculty.

Section 5. The curriculum must provide adequate instruction in the basic sciences underlying medical practice to provide the trainee with an understanding of the nature of disease processes and symptoms, abnormal laboratory tests, drug actions, etc. This must be combined with instruction, observation and participation in history taking, physical examination, therapeutic procedures, etc. This should be in sufficient depth to enable the graduate to integrate and organize historical and physical findings. The didactic instruction shall follow a planned and progressive outline and shall include an appropriate mixture of classroom lectures, textbook assignments, discussions, demonstrations, and

similar activities. Instruction shall include practical instruction and clinical experience under qualified supervision sufficient to provide understanding of and skill in performing those clinical functions which the assistant may be asked to perform. There must be sufficient evaluative procedures to assure adequate evidence of competence. Although the student may concentrate his effort and his interest in a particular specialty of medicine, the program must insure that he possesses a broad general understanding of medical practice and therapeutic techniques.

Section 6. Although some variation may be possible for the individual student, dependent on aptitude, previous education, and experience, the curriculum shall be designed to require two or more academic years for completion.

Section 7. The program must have a faculty competent to teach the didactic and clinical material which comprises the curriculum. The faculty shall include at least one instructor who is a graduate of medicine, licensed to practice in the location of the school, and whose training and experience enable him to properly supervise progress and teaching in clinical subjects. He shall be in attendance for sufficient time to insure proper exposure of the student to clinical teaching and practice. The program may utilize instructors other than physicians, but sufficient exposure to clinical medicine must be provided to insure understanding of the patient, his problem, and the diagnostic and therapeutic responses to this problem.

Section 8. The program must through appropriate entrance requirements insure that candidates accepted for training possess: (1) an ability to use written and spoken language in effective communication with physicians, patients, and others; (2) quantification skills to insure proper calculation and interpretation of tests; (3) behavioral characteristics of honesty and dependability; and (4) high ethical and moral standards, in order to safeguard the interests of patients and others.

Section 9. To retain its recognition by the Board, a recognized program shall:

- (a) make available to the Board yearly summaries of case loads and educational activities done by clinical affiliates, including volume of outpatient visits, number of inpatients, and the operating budget;
- (b) maintain a satisfactory record of the entrance qualifications and evaluations of all work done by each student, which shall be available to the Board; and
- (c) notify the Board in writing of any major changes in the curriculum or a change in the directorship of the program.

Section 10. Recognition of a program may be withdrawn when, in the opinion of the Board, the program fails to maintain the educational standards described above. When a program has not been in operation for a period of two consecutive years, recognition will automatically be withdrawn. Withdrawal of recognition from a program will in no way affect the status of an assistant who graduated from such program while it was recognized and who has been approved by the Board.

Rule VI  
Termination of Approval

Section 1. The approval of an assistant shall be terminated by the Board when, after due notice and a hearing in accordance with the provisions of this Rule, it shall find:

- (a) that the assistant has held himself out or permitted another to represent him as a licensed physician;
- (b) that the assistant has in fact performed otherwise than at the direction and under the supervision of a physician licensed by the Board;
- (c) that the assistant has been delegated and performed a task or tasks beyond his competence;
- (d) that the assistant is an habitual user of intoxicants or drugs to such an extent that he is unable safely to perform as an assistant to the physician;
- (e) that the assistant has been convicted in any court, state or federal, of any felony or other criminal offense involving moral turpitude;
- (f) that the assistant has been adjudicated a mental incompetent or whose mental condition renders him unable safely to perform as an assistant to a physician; or
- (g) that the assistant has failed to comply with any of the provisions of Rule VII hereof.

Section 2. Before the Board shall terminate approval granted by it to an assistant, it will give to the assistant a written notice indicating the general nature of the charges, accusation, or complaint preferred against him and stating that the assistant will be given an opportunity to be heard concerning such charges or complaints at a time and place stated in such notice, or to be thereafter fixed by the Board, and shall hold a public hearing within a reasonable time. The burden of satisfying the Board that the charges or complaints are unfounded shall be upon the assistant. Following such hearing, the Board shall determine on the basis of these regulations whether the approval of the assistant shall be terminated.

Section 3. In hearings held pursuant to this Rule, the Board shall admit and hear evidence in the same manner and form as prescribed by law for civil action.

Rule VII  
Method of Performance

Section 1. An assistant must clearly identify himself as an assistant to a physician, a physician's assistant, or by some other appropriate designation, in order to insure that he is not mistaken for a licensed physician. This may be accomplished, for example, by the wearing of an appropriate nametag.

Section 2. The assistant must generally function in reasonable proximity to the physician. If he is to perform duties away from the responsible physician, such physician must clearly specify to the Board those circumstances which would justify this action and the written policies established to protect the patient.

Section 3. The assistant must be prepared to demonstrate upon request, to a member of the Board or to other persons designated by the Board, his ability to perform those tasks assigned to him by his responsible physician.

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praisal as patients admitted for other services.

The scope and extent of podiatric surgical procedures that each podiatrist may perform must be specifically defined and recommended in the same manner as all other surgical privileges. Podiatric surgical procedures undertaken must be under the overall supervision of the chief of surgery or his designee. The nature and degree of supervision is a matter of determination in each instance within the policy adopted by the medical staff governing the relationship and dual responsibility existing between the medical staff and the podiatrist. A physician member of the medical staff must be responsible for the care of any medical problem that may be present or that may arise during hospitalization. The podiatrist is responsible for the podiatric care of the patient, including the podiatric history and physical examination and all appropriate elements of the patient's record. The podiatrist may write orders within the scope of his license as limited by applicable statutes and as consistent with the hospital regulations.

It is recommended that the medical staff delineate in its bylaws, rules and regulations, the qualifications, status, clinical duties and responsibilities of those members of the allied health professions such as doctoral scientists and others, whose patient care activities require that their appointment and authority for specified privileges be processed through the usual medical staff channels. Such privileges should be based upon the individual's professional training, experience and demonstrated competency. Eligibility in general shall be determined on the basis of the following criteria:

- They exercise independent judgment within their areas of competence, provided that a member of the medical staff shall have the ultimate responsibility for patient care;
- They participate directly in the management of patients under the general supervision or direction of a member of the medical staff;
- They record reports and progress notes on patients' records and write orders to the extent established by the medical staff; and
- They perform consultations in conformity with the applicable provisions of the medical staff bylaws.

Members of allied health professions should be individually assigned to an appropriate clinical department as staff affiliates and should carry out their professional activities subject to departmental policies and procedures.

The medical staff should adopt rules and regulations that contain specific statements covering procedures that foster optimal achievable patient care. These statements should be appropriate for the given hospital and should be such as will be followed by the members of the medical staff. As an evidence of having read and understood the bylaws, each member must sign an agreement to abide by the medical staff bylaws, rules and regulations and by the bylaws, rules and regulations of the hospital.