South Carolina
Department of Labor, Licensing and Regulation

Board of Medical Examiners

110 Centerview Drive
Post Office Box 11289
Columbia, SC 29211-1289
Phone: (803) 896-4500
FAX: (803) 896-4515

Henry D. McMaster
Governor

Emily H. Farr
Director

FREQUENTLY ASKED QUESTIONS REGARDING IMPLEMENTATION OF NEW LAW GOVERNING PA PRACTICE

1. What is the effective date of the new law, Act No. 32 of 2019 (S. 132)?

Act No. 32 has a delayed effective date of ninety days after the Governor signed the bill. Governor McMaster signed the legislation on May 13, 2019. ***Thus, Act No. 32 will take effect on August 11, 2019.***

2. Does the new law retain the requirement for physician supervision of PA practice pursuant to approved scope of practice guidelines?

Yes. Physician Assistants ("PAs") must continue to practice pursuant to scope of practice guidelines determined by the supervising physician and approved by the Board of Medical Examiners ("BME"). The timing of BME approval was adjusted (see response to FAQ No. 12), but approval is still required.

Also, the law did not change the requirements for physician supervision. Section 40-47-955(A) continues to provide that the supervising physician is responsible for all aspects of the PA's practice. The PA remains the "agent" of the supervising physician pursuant to Section 40-47-935(D) in the performance of all practice-related activities. Moreover, the new law does not amend the definition of the term "supervising" in Section 40-47-910(8) which is defined as "overseeing the activities of, and accepting responsibility for, the medical services rendered by a PA as part of a physician led team in a manner approved by the board."

3. Will scope of practice guidelines need to be revised in light of the new law?

Yes. There are specific medical acts that PAs may perform if authorized in their scope of practice guidelines, such as delegate certain tasks to unlicensed assistive personnel, execute POST forms, and sign specified documents for the supervising physician or alternate supervising physician. There are also certain medical acts set out in the new law that PAs may perform unless otherwise provided in their scope of practice guidelines. With regard to PAs practicing at an off-site location, the supervising physician must specify in the scope of practice guidelines the percentage of charts the physician will review periodically in order to ensure quality of care and patient safety.

The BME will be providing revised forms to address the additional items required under Act No. 32. Updates to the scope of practice guidelines should be in place by Monday, August 12, 2019, the first business day that the new law is in effect.

4. **What resources will the Medical Board provide to PAs and their supervising physicians regarding implementation of the new law?**

   The BME is providing resources on its website, including posting Act No. 32 and a summary of the Act. Also, the BME is providing updated forms on its website that will address the new items required by Act No. 32. The BME is posting FAQs on the provisions of the Act and its implementation and will continue to update the FAQs and to provide other guidance as necessary.

5. **How does the new law change the process for approval of scope of practice guidelines by the Board of Medical Examiners?**

   The approval process for scope of practice guidelines essentially functions in the same manner as before except that a supervising physician and PA may begin clinical practice under proposed scope of practice guidelines – or proposed changes to existing scope of practice guidelines – 10 business days after submittal to the BME if no response has been received. If approval is received within the 10-day period, the supervising physician and the PA may begin practice at that point. In the vast majority of cases, approval should be received within the 10-day period. Supervising physicians and PAs who begin clinical practice after 10 business days, but before receiving approval from the BME, must practice in accordance with the BME's determination when it is received. They are not, however, subject to disciplinary action for beginning practice. If the BME disapproves scope of practice guidelines, or a portion thereof, the BME must provide an explanation for its determination and a suggested remedy, if possible.

6. **What other changes does the new law make to facilitate PA licensure and practice?**

   Act No. 32 makes a number of changes to facilitate PA licensure and team practice with the supervising physician. Those changes include the following:

   - In a hospital practice setting, a list of alternate supervising physicians may be submitted to the BME without the signatures of the alternate supervising physicians.
   - If a PA is to be employed by a hospital system or provider group with a credentialing committee, then the credentialing committee may begin the credentialing process necessary to employ the PA

upon submittal of the proposed scope of practice guidelines to the BME.

- The requirement for a PA to take an examination on the statutes and regulations applicable to PA practice is eliminated.
- The statutory requirement for an appearance before a Board member in every instance is eliminated and left to the discretion of the BME.
- If a supervisory relationship is terminated, a current alternate supervising physician for the PA may serve as a supervising physician under the existing scope of practice guidelines for a period not to exceed 90 days until a new supervising physician is designated and new scope of practice guidelines are approved.
- Fees are eliminated for changing supervisors or adding a primary supervisor for dual employment.
- The educational requirements for PAs to prescribe controlled substances are streamlined and clarified.

7. What changes does the new law make to the prescriptive authority for PAs?

The new law makes several changes to prescriptive authority for PAs, particularly concerning Schedule II controlled substances. With regard the Schedule II narcotic medications, the new law makes the following changes regarding oral dosing:

- A PA may write an initial Schedule II narcotic controlled substance for up to 5 days (previously was 72 hours). The 5-day limit applies even if the PA is authorizing a refill for a patient initially seen by the physician.
- A subsequent prescription for a Schedule II narcotic controlled substance may be written for more than 5 days, but the PA must do so in consultation with and approval by the supervising physician. Such approval must be documented in the patient's chart. The requirement for the patient to be seen by the physician is eliminated.
- The PA must directly evaluate the patient; provided, however, that the PA may authorize a prescription if the PA is assigned to take call for the supervising physician or alternate supervising physician treating the patient. The 5-day limitation for an initial prescription by the PA still applies in this instance.

With regard to intravenous (parental) dosing, the following changes were made:

- The PA must directly evaluate the patient; provided, however, that the PA may authorize a medical order if the PA is assigned to take call for the supervising physician or alternate supervising physician treating the patient.
- The written prescription may not exceed a one-time administration within a 24-hour period without the approval of the supervising physician or alternate supervising physician, and such approval must be documented in the patient's chart.

Finally, with regard to all Schedules II-V medications, prescriptions must be signed or electronically submitted by the PA and must bear the PA's identification number as assigned by the BME and all prescribing numbers required by law. The preprinted prescription form shall include both the PA and supervising physician's name, address, and phone number and, if possible, the physician through the electronic system, and comply with the provisions of Section 39-24-40. Some EMRs, however, do not allow the supervising physician to be added in addition to the PA.

8. Are pharmacists responsible for verifying the PA's prescriptive authority when filling a prescription?

No. If the pharmacist is presented with a prescription that appears valid, the pharmacist is not required to verify the prescriptive authority provided in the PA's scope of practice guidelines. The PA and physician or medical staff who sign the scope of practice guidelines are responsible for ensuring that all prescriptions fully comply with the terms of the scope of practice guidelines, State and federal law, and BME policies. A pharmacist, however, is authorized by the South Carolina Pharmacy Practice Act to decline to fill a prescription.

9. Is there a list of specific medical acts that PAs may perform unless otherwise provided in their scope of practice guidelines?

Yes. Section 40-47-935(B) sets out a list of specific medical acts that a PA may perform unless otherwise provided in his or her scope of practice guidelines. The medical acts listed in this section are the only acts that fall into this "opt out" category. All other medical acts, tasks, or functions must be affirmatively addressed in the PA's scope of practice guidelines.

The supervising physician should carefully review the statutory list and determine whether these medical acts are appropriate given the PA's education, experience and training. The supervising physician may agree with the PA's performing some, all, or none of the listed

acts. The physician's review should be completed prior to the effective date of August 11th because a PA will be allowed by law to perform all of the listed medical acts if his or her scope of practice guidelines are silent on the issue.

The specified medical acts (which are the same as for APRNs) are as follows:

- provide non-controlled prescription drugs at an entity that provides free medical care for indigent patients;
- certify that a student is unable to attend school but may benefit from receiving instructions given in his home or hospital;
- refer a patient to physical therapy for treatment;
- pronounce death, certify the manner and cause of death, and sign death certificates pursuant to the provisions of Chapter 63, Title 44 and Chapter 8, Title 32;
- issue an order for a patient to receive appropriate services from a licensed hospice as defined in Chapter 71, Title 44;
- certify that an individual is handicapped and declare that the handicap is temporary or permanent for the purposes of the individual's application for a placard; and
- execute a do not resuscitate order pursuant to the provisions of Chapter 78, Title 44.

10. Does the new law address PAs' ability to delegate certain tasks to unlicensed assistive personnel?

Yes. Sections 40-47-935(C) sets out a specific list of tasks that a PA may delegate to unlicensed assistive personnel (*i.e.*, CMAs) if included in his or her scope of practice guidelines. The list is as follows:

- meeting patients' needs for personal hygiene;
- meeting patients' needs relating to nutrition;
- meeting patients' needs relating to ambulation;
- meeting the patients' needs relating to elimination;
- taking vital signs;
- maintaining asepsis; and
- observing, recording, and reporting any of the tasks enumerated in this subsection;

Because the list of tasks are set out in statute, these are the only tasks that a PA may delegate to an unlicensed assistant. For example, the list does not include point of care testing such as strep swabs or flu swabs or minor procedures such as ear irrigation. Thus, a PA may

not delegate these tasks to unlicensed assistive personnel. This section further provides that a PA may not delegate the administration of medication to unlicensed assistive personnel.

11. Are PAs allowed to execute POST forms?

Yes. This past session, the General Assembly enacted the "Physician Order for Scope of Treatment Act" ("POST"), Act No. 89 of 2019. This new law authorizes a patient's physician to execute a POST form which consists of a set of medical orders signed by the physician to address key medical decisions about end-of-life care. It is portable and valid across health care settings. The POST legislation was amended to allow PAs to execute POST forms if specifically authorized in their scope of practice guidelines. A similar provision authorizes APRNs to execute POST forms if specifically authorized in their practice agreements. The POST law took effect upon the Governor's signature on May 24, 2019.

12. Does the new law eliminate the geographic radius for physician supervision?

Yes. Act No. 32 eliminates the 60-mile geographic radius restriction. The supervising physician must, however, be actively practicing within the geographic boundaries of South Carolina. This requirement is also applicable to a physician supervising a PA practicing through telemedicine.

13. How does the new law change the supervision ratio requirements?

The new law establishes combined ratio requirements for PAs and APRNs. The first component of the ratio requirements deals with how many practice agreements and scope of practice guidelines a physician may enter into. A physician may not enter into scope of practice guidelines or practice agreements with more than the equivalent of 6 full-time ("FTEs") APRNs and PAs. Thus, if a physician has signed practice agreements with 6 APRN FTEs, that physician cannot sign scope of practice guidelines to supervise any PAs, and vice versa.

The second component of the ratio requirements addresses how many APRNs, PAs, or a combination of both, a physician may work with or supervise in clinical practice at any one time. That ratio is one physician to 6 APRNs, PAs, or combination of both. Thus, if a physician is supervising 6 PAs at a given time, that physician could not work with any APRNs, or vice versa.

The BME may approve exceptions to these ratio requirements upon application by the physician if the BME determines that an exception is warranted and that quality of care and patient safety will be maintained.

14. Who is responsible for the development and execution of a PA's scope of practice guidelines when the physician and PA are both employed by a hospital system or other entity?

Regardless of the employment relationship, the scope of practice guidelines establish the clinical relationship between the supervising physician and the PA and must comply with their professional standards. The scope of practice guidelines, determined by the supervising physician and approved by the BME, function as a clinical document, not an employment contract. The supervising physician should base the scope of practice guidelines upon the individual PA's education, training, and experience.

15. How does the new law change the requirements for off-site practice?

The new law shortens the time period that certain PAs have to practice on site with supervising physicians prior to moving to an off-site location. Previously, all PAs were required to have 6 months clinical experience with their supervising physician before being permitted to practice at an off-site location, although the requirement could be shortened to 3 months for more experienced PAs. The new law requires a PA with less than 2 years continuous practice or who is changing specialties to have 60 days on-site clinical experience with his or her supervising physician before practicing at an off-site location. Practice experience in other states will count in determining whether a PA has 2 years of continuous practice. The 60-day requirement, or portion thereof, may be waived by the supervising physician in writing on a form approved by the BME. Authorization by the BME, however, is no longer required for off-site practice.

The new law also revises the requirements for reviewing, initialing and dating the charts of a PA practicing at a location off site from the supervising physician. The specific requirement for review of 10% of the charts is eliminated. The supervising physician is now required to specify in the PA's scope of practice guidelines the percentage of charts that the supervising physician will review in order to ensure quality of care and patient safety. The percentage of charts reviewed may vary based on the education, training, and experience of the PA and the clinical practice of the PA and supervising physician.

16. What are the requirements for a physician to be eligible to supervise a PA?

The physician must hold a permanent, active, and unrestricted authorization to practice medicine in South Carolina or an active unrestricted academic license to practice medicine in this State. The physician must also be actively practicing within the geographic boundaries of South Carolina.

Moreover, a physician may not supervise a PA performing a medical act, task, or function that is outside the usual practice of the physician or outside of the physician's training or experience. For example, a dermatologist may not supervise a PA practicing primary care.

The BME, however, may approve exceptions to this requirement upon application by the physician if an exception is warranted and quality of care and patient safety will be maintained. For example, if a PA obtained training in administering botox injections for a patient with cerebral palsy, but the supervising neurology physician did not perform such injections or have training in doing them, the supervising physician could request an exception from the BME to allow the PA to do so.

17. Does the BME plan to audit scope of practice guidelines?

Yes. The new law authorizes the BME to conduct random audits of scope of practice guidelines.

18. Does the new law change the requirements for telemedicine practice by PAs?

No. The new law does not amend the legislation enacted as part of Act No. 234 of 2018 (the APRN changes) to authorize PAs to practice through telemedicine. PAs and their supervising physicians should be mindful, however, of the requirements that apply to telemedicine practice, including the fact that authorization to practice through telemedicine must be in the PA's scope of practice guidelines. Also, the PA must comply with the requirements of Section 40-47-37 of the Medical Practice Act, including BME approval to prescribe Schedule II and III controlled substances.

19. What is the process for adding alternate supervising physicians?

Following the enactment of Act No. 32, a listing of alternate supervising physicians will no longer appear in Licensee Lookup. Supervising physicians and PAs may continue to submit requests to the BME to add or update alternate supervising physicians and should maintain a copy of these submissions for their records.