

# Notice of Agency Rulemaking Proposal

AGENCY: 02-373 Board of Licensure in Medicine; 02-383 Board of Osteopathic Licensure

CHAPTER NUMBER AND TITLE: 2 Joint Rule Regarding Physician Assistants

TYPE OF RULE (*check one*): ☒ Routine Technical ☐ Major Substantive

PROPOSED RULE NUMBER (*leave blank; to be assigned by Secretary of State*):

**BRIEF SUMMARY:** The Board of Licensure in Medicine and the Board of Osteopathic Licensure (“boards”) propose amendments to a joint rule pertaining to the licensure and practice of physician assistants. As originally proposed the amendments: amended the definition of certain terms to eliminate registration and supervision; added definitions for certain terms, including “Health Care Facility,” Health Care Team,” Inactive Status License,” and “Physician Group Practice;” eliminates registration and supervision requirements; established criteria for “Inactive Status Licenses;” established uniform continuing clinical competency requirements; amended the uniform fees; establishes criteria for collaborative agreements and practice agreements; amended the uniform notification requirements to include legal change of name; and amended the continuing medical education (CME) requirements, including 3 hours of CME every 2 years regarding opioid prescribing.

Following receipt and review of written comments to the proposed amendments to the rule, the boards made the following substantive changes to the proposed amendments to the rule: adding a definition for “physician”; amending section 6.8 to add paragraph D establishing criteria for acceptable documentation of clinical practice; amending section 6 to add a new paragraph 9 “Criteria for Reviewing Scope of Practice for Physician Assistants in Collaborative Agreements or Practice Agreements”; and amending section 12 of the rule to require that physician assistants verbally identify themselves as physician assistants whenever greeting patients during an initial encounter and whenever patients incorrectly refer to them as “doctors”.

Date, time and location of PUBLIC HEARING (*if any*): None planned. Requests to hold a public hearing by any interested person may be submitted in writing to the identified agency contact person.

COMMENT DEADLINE: Friday, October 30, 2020 at 4:30 p.m.

CONTACT PERSON FOR THIS FILING (*include name, mailing address, telephone, fax, TTY, email*):

Dennis E. Smith, Executive Director; Board of Licensure in Medicine, 137 State House Station, Augusta, ME 04333-0137; (tel) 287-3605 (fax) 287-6590; [dennis.e.smith@maine.gov](mailto:dennis.e.smith@maine.gov)

Susan E. Strout, Executive Secretary; Board of Osteopathic Licensure, 142 State House Station, Augusta, ME 04333-0142; (tel) 287-2480 (fax) 536-5811; [susan.e.strout@maine.gov](mailto:susan.e.strout@maine.gov)

CONTACT PERSON FOR SMALL BUSINESS IMPACT STATEMENT (*if different*):

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES (*if any*): Minimal

STATUTORY AUTHORITY FOR THIS RULE: 32 M.R.S. §§ 2562 and 2594-E(5); §§ 32 M.R.S. 3269(7) and 3270-E(5); 10 M.R.S. § 8003(5)(C)(4).

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED (*if different*): PL. 2020, c. 627

AGENCY WEBSITE: [www.maine.gov/md](http://www.maine.gov/md) (Board of Licensure in Medicine); [www.maine.gov/osteo](http://www.maine.gov/osteo) (Board of Osteopathic Licensure)

EMAIL FOR OVERALL AGENCY RULEMAKING LIAISON: [maureen.s.lathrop@maine.gov](mailto:maureen.s.lathrop@maine.gov) (Board of Licensure in Medicine); [susan.e.strout@maine.gov](mailto:susan.e.strout@maine.gov) (Board of Osteopathic Licensure)

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\* Check one of the following two boxes.

☒ The summary provided above is for publication in both the newspaper and website notices.

☐ The summary provided above is for the newspaper notice only. Title 5 §8053, sub-§5 & sub-§7, ¶D. A more detailed summary is attached for inclusion in the rulemaking notice posted on the Secretary of State's website. Title 5 §8053, sub-§3, ¶D & sub-§6.

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**Please approve bottom portion of this form and assign appropriate AdvantageME number.**

APPROVED FOR PAYMENT \_\_\_\_\_ DATE: \_\_\_\_\_  
(authorized signature)

Please split cost equally between the two Boards:

Board of Licensure in Medicine

FUND	AGENCY	ORG	APP	OBJ	PROGRAM	FUNDING Profile JVC	FUND Pri JVC	FUND Line JVC
014	02M	0376	01					

Board of Osteopathic Licensure

FUND	AGENCY	ORG	APP	OBJ	PROGRAM	FUNDING Profile JVC	FUND Pri JVC	FUND Line JVC
014	02C	0383	01					

# Rulemaking Fact Sheet

(5 MRSA §8057-A)

AGENCY: 02-373 Board of Licensure in Medicine; 02-383 Board of Osteopathic Licensure

NAME, ADDRESS, PHONE NUMBER, EMAIL OF AGENCY CONTACT PERSON:

Dennis E. Smith, Executive Director; Board of Licensure in Medicine, 137 State House Station, Augusta, ME 04333-0137; (tel) 287-3605 (fax) 287-6590; [dennis.e.smith@maine.gov](mailto:dennis.e.smith@maine.gov)

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CHAPTER NUMBER AND RULE TITLE: 2 Joint Rule Regarding Physician Assistants

TYPE OF RULE (*check one*):    ☒ Routine Technical    ☐ Major Substantive

STATUTORY AUTHORITY: 32 M.R.S. §§ 2562 and 2594-E(5); §§ 32 M.R.S. 3269(7) and 3270-E(5); 10 M.R.S. § 8003(5)(C)(4)

DATE, TIME AND PLACE OF PUBLIC HEARING: None planned. Requests to hold a public hearing by any interested person may be submitted in writing to the identified agency contact person.

COMMENT DEADLINE: Friday, October 30, 2020 at 4:30 p.m.

PRINCIPAL REASON(S) OR PURPOSE FOR PROPOSING THIS RULE: [*see* §8057-A(1)(A)&(C)]

To amend an existing joint rule to implement PL 2020, c. 627, “An Act to Improve Access to Physician Assistant Care.”

IS MATERIAL INCORPORATED BY REFERENCE IN THE RULE? \_\_\_YES xNO [§8056(1)(B)]

ANALYSIS AND EXPECTED OPERATION OF THE RULE: [*see* §8057-A(1)(B)&(D)]

This is a consolidated rulemaking proceeding of the Board of Licensure in Medicine and the Board of Osteopathic Licensure (“boards”) to amend a joint rule relating to the licensure and practice of physician assistants. The proposed amendments to the joint rule will implement PL 2020, c. 627, which authorized the Board of Osteopathic Licensure and the Board of Licensure in Medicine to adopt a joint rule.

As originally proposed, the amendments to the joint rule : amended the definition of certain terms to eliminate registration and supervision; added definitions for certain terms, including “Health Care Facility,” Health Care Team,” Inactive Status License,” and “Physician Group Practice;” eliminated registration and supervision requirements; establishes criteria for “Inactive Status Licenses;” established uniform continuing clinical competency requirements; amends the uniform fees; established criteria for collaborative agreements and practice agreements; amended the uniform notification requirements to include legal change of name; and amended the continuing medical education (CME) requirements, including 3 hours of CME every 2 years regarding opioid prescribing.

Following receipt and review of written comments to the proposed amendments to the rule, the boards made the following substantive changes to the proposed amendments to the rule: adding a definition for “physician”; amending section 6.8 to add paragraph D establishing criteria for acceptable documentation of clinical practice; amending section 6 to add a new paragraph 9 “Criteria for Reviewing Scope of Practice for Physician Assistants in Collaborative Agreements or Practice Agreements”; and amending section 12 of the rule to require that physician assistants verbally identify themselves as physician assistants whenever greeting patients during an initial encounter and whenever patients incorrectly refer to them as “doctors”.

BRIEF SUMMARY OF RELEVANT INFORMATION CONSIDERED DURING DEVELOPMENT OF THE RULE (including up to 3 primary sources relied upon) [see §§8057-A(1)(E) & 8063-B] Maine statutory definitions in PL. 2020, c. 627; Maine statutory definitions for “Health Care Facility;” NCCPA requirements for continuing medical education; Laws, rules, policies and guidelines from other medical licensing boards and commissions and national organizations (Federation of State Medical Boards) and associations (Maine Medical Association) related to standards for maintaining “Continuing Clinical Competency.”

ESTIMATED FISCAL IMPACT OF THE RULE: [see §8057-A(1)(C)] Minimal

***FOR EXISTING RULES WITH FISCAL IMPACT OF \$1 MILLION OR MORE, ALSO INCLUDE:***

ECONOMIC IMPACT, WHETHER OR NOT QUANTIFIABLE IN MONETARY TERMS:  
[see §8057-A(2)(A)]

INDIVIDUALS, MAJOR INTEREST GROUPS AND TYPES OF BUSINESSES AFFECTED  
AND HOW THEY WILL BE AFFECTED: [see §8057-A(2)(B)]

BENEFITS OF THE RULE: [see §8057-A(2)(C)]

*Note: If necessary, additional pages may be used.*

# Economic Impact Statement

[5 M.R.S. § 8052(5-A)]

AGENCY: 02-373 Board of Licensure in Medicine; 02-383 Board of Osteopathic Licensure

NAME, ADDRESS, PHONE NUMBER OF AGENCY CONTACT PERSON:

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CHAPTER NUMBER AND RULE TITLE: Chapter 2 Joint Rule Regarding Physician Assistants

TYPES AND NUMBER OF SMALL BUSINESSES SUBJECT TO THE RULE: The Board of Licensure in Medicine licenses 1,003 physician assistants and the Board of Osteopathic Licensure licenses 64 physician assistants.

Title 5 M.R.S. § 8052(5-A) defines “small business” as businesses that have 20 or fewer employees. The boards do not collect sufficient information to reliably estimate the number of licensees that are small businesses as defined in 5 M.R.S. § 8052(5-A).

PROJECTED REPORTING, RECORD-KEEPING AND OTHER ADMINISTRATIVE COSTS REQUIRED FOR COMPLIANCE WITH THE PROPOSED RULE, INCLUDING THE TYPE OF PROFESSIONAL SKILLS NECESSARY FOR PREPARATION OF THE REPORT OR RECORD:

The proposed amendments to the rule do not include any record-keeping or other compliance costs that licensees do not currently bear.

PROBABLE IMPACT ON AFFECTED SMALL BUSINESSES: Minimal

LESS INTRUSIVE OR LESS COSTLY, REASONABLE ALTERNATIVE METHODS OF ACHIEVING THE PURPOSES OF THE PROPOSED RULE: None

## Re-proposal With Substantive Changes

**02**                    **DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION**

**373**                   **BOARD OF LICENSURE IN MEDICINE**

*a joint rule with*

**383**                   **BOARD OF OSTEOPATHIC LICENSURE**

**Chapter 2:        JOINT RULE REGARDING PHYSICIAN ASSISTANTS**

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**SUMMARY:** Chapter 2 is a joint rule pertaining to the licensure, scope of practice, continuing clinical competency, consultation, collaborative agreements, practice agreements, notification, and continuing education requirements for physician assistants who are licensed in Maine. Chapter 2 also establishes a Physician Assistant Advisory Committee.

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### **SECTION 1.    DEFINITIONS**

1.        “AAPA” means the American Academy of Physician Assistants.
2.        “Active Unrestricted Physician License” means an active Maine physician license to practice medicine that does not include any restrictions or limitations on the scope of practice or ability to consult with or collaborate with physician assistants.
3.        “Administratively Complete Application” is a uniform application for licensure as developed by the Boards, which when submitted to one of the Boards has: a) all questions on the application completely answered; b) signature and date affixed; c) all required notarizations included; d) all required supplemental materials provided in correct form; e) all requests for additional information submitted; and f) all fees, charges, costs or fines paid.
4.        “AMA” means the American Medical Association.
5.        “AOA” means the American Osteopathic Association.
6.        “Board” means the Board of Licensure in Medicine or the Board of Osteopathic Licensure.
7.        “BOL” means the Board of Osteopathic Licensure as defined in 32 M.R.S. §2561.
8.        “BOLIM” means the Board of Licensure in Medicine as defined in 32 M.R.S. §3263.
9.        “Collaborative Agreement” means a document agreed to by a physician assistant and a physician that describes the scope of practice for the physician assistant as determined by the practice setting and describes the decision-making process for a health care team, including communication and consultation among health care team members. A collaborative agreement is subject to review and approval by the Board.

10. “Consultation” means engagement in a process in which members of a health care team use their complimentary training, skill, knowledge and experience to provide the best care for a patient.
11. “Health care facility” means a facility, institution or entity licensed pursuant to State law that offers healthcare to persons in this State, including hospitals and any clinics or offices affiliated with hospitals that have a system of credentialing and granting of privileges to perform health care services and that follows a written professional competence review process.
12. “Health care team” means 2 or more health care professionals working in a coordinated, complementary and agreed upon manner to provide quality, cost-effective, evidence-based care to a patient and may include a physician, physician assistant, advance practice nurse, nurse, physical therapist, occupational therapist, speech therapist, social worker, nutritionist, psychotherapist, counselor or other licensed professional.
13. “Inactive Status License” means the physician assistant has an inactive license and cannot render medical services in Maine.
14. “License” means a document issued by the Board to a physician assistant that identifies the physician assistant as qualified by training and education to render medical services.
15. “NCCPA” means the National Commission on Certification of Physician Assistants.
16. “Physician” means a person licensed as a physician by the Maine Board of Licensure in Medicine or the Maine Board of Osteopathic Licensure.
176. “Physician Assistant” means a person who has graduated from a physician assistant program accredited by the American Medical Association Committee on Allied Health Education and Accreditation, or the Commission for Accreditation of the Allied Health Education Programs, or the Accreditation Review Commission on Education for the Physician Assistant (ARC-PA) or their successors; and/or who has passed the certifying examination administered by the National Commission on Certification of Physician Assistants (NCCPA) or its successor and possesses a current license issued by the Board. Only physician assistants who are currently certified by the NCCPA may use the initials PA-C.
187. “Physician Group Practice” means an entity composed of 2 or more physicians that offers healthcare to persons in this State and that has a system of credentialing and granting of privileges to perform health care services and that follows a written professional competence review process.
198. “Practice agreement” means a document agreed to by a physician assistant who is the principal clinical provider in a practice and a physician that states the physician will be available to the physician assistant for collaboration or consultation. A practice agreement is subject to review and approval by the Board.

## SECTION 2. UNIFORM QUALIFICATIONS FOR LICENSURE

### 1. License Required

An individual must hold an active license issued by the Board in order to render medical services as a physician assistant in the State of Maine.

### 2. Uniform Application for Licensure

A. The Boards shall develop a uniform application form for licensure.

B. Applicants for physician assistant licensure shall complete the Board-approved application forms, and submit them to the Board together with all required fees and required documentation.

### 3. Uniform Requirements for Temporary/New Graduate License

A. The Board, or if delegated, Board staff may issue a one-time, non-renewable temporary license to practice as a physician assistant to an applicant who:

- (1) Submits an administratively complete application;
- (2) Pays the appropriate uniform licensure fee;
- (3) Has successfully completed an educational program for physician assistants accredited by the American Medical Association Committee on Allied Health Education and Accreditation, or the Commission for Accreditation of the Allied Health Education Programs, or their successors;
- (4) Has no license, certification or registration as a physician assistant, or any other type or classification of health care provider license, certification or registration under current discipline, revocation, suspension, restriction or probation;
- (5) Has no cause existing that may be considered grounds for disciplinary action or denial of licensure as provided by law;
- (6) Passes, at the time of license application, a jurisprudence examination administered by the Board; and
- (7) Is currently scheduled to take, but has not yet taken, the national certifying examination administered by the NCCPA (NCCPA examination) or its successor organization, or has taken the NCCPA examination and is awaiting the results. **An applicant who has taken the NCCPA examination and failed to pass is not eligible to apply for a temporary license.**

B. In the event that the Board delegates licensing decisions to Board staff and there is any question regarding the applicant's qualifications, Board staff shall consult



with the Board Secretary, Board Chair, or their designee who may approve the application or defer action on the application to the full Board.

C. A temporary license is valid until one of the following occurs:

- (1) A period not to exceed six (6) months from the date of issuance has elapsed;
- (2) The Board and/or physician assistant receive notice of the failure to pass the NCCPA examination; or
- (3) Board staff receives notice of the passage of the NCCPA examination, upon which Board staff shall issue a full license so long as all other qualifications have been met and no cause exists that may be considered grounds for disciplinary action or denial of licensure as provided by law.

D. **Incomplete Application**

Any application for a temporary license that has been on file without action for three (3) months shall be deemed administratively incomplete and shall be discarded. The applicant must restart the application process in order to proceed to licensure.

4. **Uniform Requirements for Full License**

A. The Board, or if delegated, Board staff may issue a full license as a physician assistant to an applicant who:

- (1) Submits an administratively complete application form;
- (2) Pays the appropriate uniform licensure fee;
- (3) Has successfully completed an educational program for physician assistants accredited by the American Medical Association Committee on Allied Health Education and Accreditation, or the Commission for Accreditation of the Allied Health Education Programs, or their successors;
- (4) Has no license, certification or registration as a physician assistant, or any other type or classification of health care provider license, certification or registration under current discipline, revocation, suspension, restriction or probation;
- (5) Has no cause existing that may be considered grounds for disciplinary action or denial of licensure as provided by law;
- (6) Passes, at the time of license application, a jurisprudence examination administered by the Board; and
- (7) Has passed the NCCPA certification examination and holds a current certification issued by the NCCPA that has not been subject to

disciplinary action by the NCCPA at the time the license application is acted upon by the Board.

- (8) Demonstrates current clinical competency as required by this rule.
- (9) A new licensee who is scheduled to renew three (3) months or less from the date of original licensure will be issued a license through the next renewal cycle.

B. In the event that the Board delegates licensing decisions to Board staff and there is any question regarding the applicant's qualifications, Board staff shall consult with the Board Secretary, Board Chair, or their designee who may approve the application or defer action on the application to the full Board.

C. **Incomplete Application**

Any application that has been on file without action for one (1) year shall be deemed administratively incomplete and shall be discarded. The applicant must restart the application process in order to proceed to licensure.

**SECTION 3. UNIFORM REQUIREMENTS FOR RENEWAL/INACTIVE STATUS/REINSTATEMENT/ WITHDRAWAL OF LICENSE**

1. **License Expiration and Renewal**

Except for temporary licenses, the license of every physician assistant born in an odd-numbered year expires at midnight on the last day of the month of the physician assistant's birth every odd-numbered year. The license of every physician assistant born in an even-numbered year expires at midnight on the last day of the month of the physician assistant's birth every even-numbered year. The physician assistant must renew the license every two (2) years prior to the expiration of the license by submitting an administratively complete application to the Board on forms approved by the Board.

2. **Renewal Notification**

At least sixty (60) days prior to the expiration of a current license, the Board shall notify each licensee of the requirement to renew the license. If an administratively complete re-licensure application has not been submitted prior to the expiration date of the existing license, the license immediately and automatically expires. A license may be reinstated up to 90 days after the date of expiration upon payment of the renewal fee and late fee. If an administratively complete renewal application is not submitted within 90 days of the date of the expiration of the license, the license immediately and automatically lapses. The Board may reinstate a license pursuant to law.

3. **Criteria for Active License Renewal**

- A. The Board, or if delegated, Board staff may renew the active license of a physician assistant who meets the following requirements:
- (1) Submits an administratively complete license renewal application form;
  - (2) Pays the appropriate license renewal fee and/or late fee (if any);
  - (3) Affirms that the licensee has met the CME requirements. In the event that the required CME is not complete, the physician assistant may request an extension of time for good cause to complete the CME. The Board Secretary, Board Chair, or their designee has the discretion to grant or deny a request for an extension of time to complete the required CME credits;
  - (4) Demonstrates continuing clinical competency as required by this rule;
  - (5) Successfully completes the Board's jurisprudence examination when directed by the Board; and
  - (6) Has no cause existing that may be considered grounds for disciplinary action or denial of renewal of licensure as provided by law.
- B. In the event that the Board delegates licensing decisions to Board staff and there is any question regarding the applicant's qualifications, Board staff shall consult with the Board Secretary, Board Chair, or their designee who may approve the application or defer action on the application to the full Board.
- C. **Timeliness of Application**
- If an application for renewal of license is not administratively complete and postmarked or received electronically by the date of expiration of the license, the late fee shall be assessed.

4. **Criteria for Inactive License Renewals**

- A. The Board, or if delegated, Board staff may renew the inactive license of a physician assistant who meets all of the following requirements:
- (1) Submits an administratively complete license application form;
  - (2) Pays the appropriate license renewal fee and/or late fee (if any); and
  - (3) Has no cause existing that may be considered grounds for disciplinary action or denial of renewal of licensure as provided by law.

**B. Timeliness of Application**

If an application for renewal of license is not administratively complete and postmarked or received electronically by the date of expiration of the license, the late fee shall be assessed.

**5. License Status Conversions Between Scheduled Renewal Dates**

**A. Process for Conversion from Active to Inactive License**

A physician assistant may convert an active license to an inactive license between scheduled renewal dates by filing a written request with the Board. Upon receipt of a written request, the Board staff shall convert the active license to an inactive license. The biennial renewal date remains unchanged.

**B. Process for Conversion from Inactive to Active License**

The Board, or if delegated, Board staff may convert the status of a physician assistant's license from inactive to active for an applicant who:

- (1) Files an administratively complete application with the Board;
- (2) Pays the appropriate conversion fee;
- (3) Provides evidence of having met the Board's requirements for CME;
- (4) Demonstrates continuing clinical competency as required by this rule;
- (5) Meets the jurisprudence examination requirement; and
- (6) Has no cause existing that may be considered grounds for disciplinary action or denial of licensure as provided by law.

C. In the event that the Board delegates licensing decisions to Board staff and there is any question regarding an applicant's qualifications, Board staff shall consult with the Board Secretary, Board Chair, or their designee who may approve the application or defer action on the application to the full Board.

**6. Uniform Process for Withdrawal of License or Withdrawal of an Application for License**

- A. A physician assistant may request to withdraw a license by submitting an administratively complete renewal application which states the reason for requesting the withdrawal of the license.
- B. An applicant may request to withdraw their application for a license by submitting a written request which states the reason for requesting to withdraw the application.
- C. The Board staff may approve an application to withdraw a license or a request to withdraw an application if the Board has no open investigation or complaint regarding the applicant, and no cause exists that may be considered grounds for disciplinary action or denial or licensure as provided by law.
- D. If a request to withdraw a license or an application for a license is presented to the Board, the Board shall determine whether to grant the request and whether the request was made while the applicant was under investigation by the Board.

**7. Requirements for License Reinstatement**

- A. The Board, or if delegated, Board staff may reinstate a lapsed or withdrawn license of a physician assistant who meets all of the following requirements:
  - (1) Submits an administratively complete reinstatement application;
  - (2) Pays the appropriate reinstatement fee(s);
  - (3) Provides a written statement explaining why he/she withdrew or allowed the license to lapse and a detailed listing of his/her activities since that time;
  - (4) Held a Maine physician assistant license or was deemed to have held a valid Maine physician assistant license prior to filing an application for reinstatement;
  - (5) Passes, at the time of license application, a jurisprudence examination administered by the Board;
  - (6) Has passed the NCCPA certification examination and holds a current certification issued by the NCCPA that has not been subject to disciplinary action by the NCCPA at the time the license application is acted upon by the Board;
  - (7) Demonstrates current clinical competency as required by this rule; and
  - (8) Has no cause existing that may be considered grounds for disciplinary action or denial of license reinstatement as provided by law.

- B. In the event that the Board delegates licensing decisions to Board staff and there is any question regarding reinstatement of the license, Board staff shall consult with the Board Secretary, Board Chair, or their designee who may approve the application or defer action on the application to the full Board.
- C. A physician assistant whose license has lapsed or been withdrawn for more than five (5) years shall apply for a new license.
- D. The applicant's license may not be reinstated if the applicant has not provided evidence satisfactory to the Board of having actively engaged in active rendering of medical services continuously for at least the past 12 months under the license of another jurisdiction of the United States or Canada unless the applicant has first satisfied the Board of the applicant's current competency by passage of written examinations or practical demonstrations as the Board may prescribe, including but not limited to meeting the continued clinical competency requirements of this rule.

#### **SECTION 4. UNIFORM CONTINUING CLINICAL COMPETENCY REQUIREMENTS**

##### **1. Requirements**

###### **A. General**

If an applicant has not engaged in the active rendering of medical services during the 24 months immediately preceding the filing of the application, the Board may determine on a case by case basis in its discretion whether the applicant has adequately demonstrated continued competency to render medical services.

###### **B. Demonstrating Current Competency**

The Board may require an applicant to submit to any competency assessment(s) or evaluation(s) conducted by a program approved by the Board. If the assessment/evaluation identifies gaps or deficiencies, the applicant must complete an educational/remedial program to address them or engage in supervised practice as required by the Board. The Board retains the discretion regarding the method of determining continued competency based upon the applicant's specific circumstances. The methodology may include but is not limited to successful passage of examination(s), completion of additional training, and successful completion of a formal reentry to practice plan approved by the Board.

- C. If the Board determines that an applicant requires a period of supervised practice and/or the completion of an educational or training program, the Board may at its

discretion issue the applicant a probationary license pursuant to a consent agreement or issue an applicant a temporary license in conjunction with a reentry to practice plan.

- D. All expenses, including but not limited to, expenses associated with the assessment, evaluation, test, supervision and/or training requirements are the sole responsibility of the applicant.

## **SECTION 5. UNIFORM FEES**

- A. Board staff shall collect the following fees prior to the issuance of any license or certificate:

(1)	Initial License Application	\$300
(2)	Late Fee	\$50
(3)	License Renewal	\$250
(4)	License Reinstatement after Withdrawal	\$200
(5)	License Reinstatement after Lapse	\$400

- B. Board staff may prorate the fees for any license that will expire less than six (6) months after its issuance.

## **SECTION 6. UNIFORM SCOPE OF PRACTICE FOR PHYSICIAN ASSISTANTS**

### **1. General**

A physician assistant may provide any medical service for which the physician assistant has been prepared by education, training and experience and is competent to perform. The scope of practice of a physician assistant is determined by the practice setting. Physician assistant scope of practice delineated in collaborative agreements or practice agreements are subject to review and approval by the Board.

### **2. Practice Setting**

A physician assistant may render medical services in the following settings including, but not limited to a physician employer setting, physician group practice setting or independent private practice setting, or in a health care facility setting, by a system of credentialing and granting of privileges.

### **3. Consultation**

Physician assistants shall, as indicated by a patient's condition, the education, competencies and experience of the physician assistant and the standards of care, consult with, collaborate with or refer the patient to an appropriate physician or other health care professional. The level of consultation required is determined by the practice setting, including a physician employer, physician group practice, or private practice, or by the system of credentialing and granting of privileges of a health care facility. A physician

must be accessible to the physician assistant at all times for consultation. Consultation may occur electronically or through telecommunication and includes communication, task sharing and education among all members of a health care team. Upon request of the Board, a physician assistant shall identify the physician who is currently available or was available for consultation with the physician assistant.

**4. Delegation by Physician Assistants**

A physician assistant may delegate to the physician assistant's employees or support staff or members of a health care team, including medical assistants, certain activities relating to medical care and treatment carried out by custom and usage when the activities are under the control of the physician assistant. The physician assistant who delegates an activity is legally liable for the activity performed by the employee, medical assistant, support staff or a member of a health care team.

**5. Dispensing Drugs**

Except for distributing a professional sample of a prescription or legend drug, a physician assistant who dispenses a prescription or legend drug:

- A. Shall comply with all relevant federal and state laws and federal regulations and state rules; and
- B. May dispense the prescription or legend drug only when:
  - (1) A pharmacy service is not reasonably available;
  - (2) Dispensing the drug is in the best interests of the patient; or
  - (3) An emergency exists.

**6. Legal Liability**

A physician assistant is legally liable for any medical service rendered by the physician assistant.

**7. Collaborative Agreements/Practice Agreements**

Physician assistants who are required to have either a collaborative agreement or a practice agreement with an actively licensed Maine physician shall conform their scope of practice to that which has been reviewed and approved by the Board. Such agreements must be kept on file at the physician assistant's main location of practice and be made available to the Board or the Board's representative upon request. Upon any change to the parties in a practice agreement or other substantive change to the practice agreement, the physician assistant shall submit the revised practice agreement to the Board for review and approval.



8. **Criteria for Requiring Collaborative Agreements or Practice Agreements**

- A. **Collaborative Agreement.** Physician assistants with less than 4,000 hours of documented clinical practice must have one (1) of the following in order to render medical services under their Maine license:
- (1) A Board-approved collaborative practice agreement with a Maine physician holding an active, unrestricted physician license; or
  - (2) A scope of practice agreement through employment with a health care system or physician group practice as defined by this rule that has a system of credentialing and granting of privileges.
- B. **Practice Agreement.** Physician assistants with more than 4,000 hours of documented clinical practice as determined by the Board and who are the principal clinical provider without a physician partner or who own and/or operate an independent practice must have the following in order to render medical services under their Maine license:
- (1) A Board-approved practice agreement with a Maine physician holding an active, unrestricted physician license.
- C. Physician assistants with more than 4,000 hours of documented clinical practice as determined by the Board and are employed with a health care facility or physician group practice as defined by this rule under a system of credentialing and granting of privileges and scope of practice agreement are not required to have either a collaborative agreement or a practice agreement.
- D. Acceptable documentation of clinical practice includes, but is not limited to the following:
- (1) Copies of previous plans of supervision, together with physician reviews;
  - (2) Copies of any credentialing and privileging scope of practice agreements, together with any employment or practice reviews;
  - (3) Letter(s) from a physician(s) attesting to the physician assistant's competency to render the medical services proposed;
  - (4) Attestation of completion of 4,000 hours of clinical practice, together with an employment history;
  - ~~(4)~~(5) Verification of active licensure in the State of Maine or another jurisdiction for 24 months or longer.

9. **Criteria for Reviewing Scope of Practice for Physician Assistants in Collaborative Agreements or Practice Agreements**

A. In reviewing a proposed scope of practice delineated in a collaborative agreement or a practice agreement, the Board may request any of the following from the physician assistant:

- (1) Documentation of at least 24 months of clinical practice within a particular medical specialty during the 48 months immediately preceding the date of the collaborative agreement or practice agreement;
- (2) Copies of previous plans of supervision, together with physician reviews;
- (3) Copies of any credentialing and privileging scope of practice agreements, together with any employment or practice reviews;
- (4) Letter(s) from a physician(s) attesting to the physician assistant's competency to render the medical services proposed;
- (5) Completion of Specialty Certificates of Added Qualifications (CAQs) in a medical specialty obtained through the NCCPA or its successor organization;
- (6) Preparation of a plan for rendering medical services for a period of time under the supervision of a physician;
- (7) Successful completion of an educational and/or training program approved by the Board.

B. Physician assistants who work outside of a health care facility or physician group practice may not render medical services until their scope of practice is reviewed and approved by the Board.

## **SECTION 7. UNIFORM ELEMENTS OF WRITTEN COLLABORATIVE AND PRACTICE AGREEMENTS**

1. All written collaborative agreements and practice agreements shall include at a minimum:
  - A. The physician assistant's scope of practice and practice setting, including the types of patients and patient encounters common to the practice, a general overview of the role of the physician assistant in the practice setting, and the tasks that the physician assistant ~~will~~may be delegating to medical assistants.
  - B. Identify any and all active Maine physician(s) who are signatories to a collaborative or practice agreement that describes the physician assistants' scope of practice;
  - C. Identify the method(s) of consultation with the active Maine physicians who are signatories to a collaborative or practice agreement, and any limitations regarding the ability of the physician(s) to provide consultation, including limitations as to scope of practice or availability. The physician(s) who are signatories to a

collaborative or practice agreement shall provide consultation only within their scope of practice and must be available for consultation with the physician assistant at all times and for all medical services rendered by the physician assistant.

**D. Maintenance and production of collaborative and practice agreements**

- (1) Physician assistants licensed to practice in accordance with these rules must prepare and have on file in the main administrative office of the practice or practice location a written, dated collaborative or practice agreement that is signed by both the physician(s) and the physician assistant and contains the elements as required by this rule.
- (2) Failure to have a current written collaborative or practice agreement on file and/or failure to produce a current collaborative or practice agreement upon request of the Board or Board staff shall result in a citation and/or possible disciplinary action.

**SECTION 8. UNIFORM NOTIFICATION REQUIREMENTS FOR PHYSICIAN ASSISTANTS**

**1. Change of Collaborative Agreement or Practice Agreement**

A physician assistant licensed by the Board shall notify the Board in writing within ten (10) calendar days of any change to a collaborative agreement or practice agreement by submitting a revised collaborative agreement or practice agreement to the Board for review and approval.

**2. Termination of Collaborative or Practice Agreement**

A physician assistant licensed by the Board shall notify the Board in writing within ten (10) calendar days regarding the termination of any collaborative or practice agreement. Such notification shall include the reason for the termination.

**3. Change of Contact Information**

A physician assistant licensed by the Board shall notify the Board in writing within ten (10) calendar days of any change in work or home address, email, phone, or other contact information.

**4. Death/Departure of Collaborating Physician**

A physician assistant licensed by the Board shall notify the Board in writing within ten (10) calendar days of the death or permanent or long-term departure of a collaborating physician who is a signatory to either a collaborative agreement or a practice agreement.

**5. Failure to Pass NCCPA Examination**

A physician assistant issued a temporary license by the Board shall notify the Board in writing within ten (10) calendar days of the failure to pass the NCCPA examination.

**6. Criminal Arrest/Summons/Indictment/Conviction**

A physician assistant shall notify the Board in writing within ten (10) calendar days of being arrested, summonsed, charged, indicted or convicted of any crime.

**7. Change in Status of Employment or Hospital Privileges**

A physician assistant shall notify the Board in writing within ten (10) calendar days of termination of employment, or any limitation, restriction, probation, suspension, revocation or termination of hospital privileges.

**8. Disciplinary Action**

A physician assistant shall notify the Board in writing within ten (10) calendar days of disciplinary action taken by any licensing authority including, but not limited to, warning, reprimand, fine, suspension, revocation, restriction in practice or probation.

**9. Material Change**

A physician assistant shall notify the Board in writing within ten (10) calendar days of any material change in qualifications or the information and responses provided to the Board in connection with the physician assistant's most recent application.

**10. Name Change**

A physician assistant licensed by the Board shall notify the Board in writing within thirty (30) calendar days regarding any legal change in her/his name and provide the Board with a copy of the pertinent legal document (e.g. marriage certificate or court order).

**SECTION 9. UNIFORM CITATION**

1. The board, or if delegated, board staff may issue citations in lieu of taking disciplinary action for:

A. The failure to have a current written collaborative or practice agreement that conforms to the requirements of this rule on file at the location specified. The administrative fine for each violation is \$200; or

B. The failure to file a written notification form with the relevant Board as required by this rule. The administrative fine for each violation is \$100.

**2. Service of Citation**

The citation may be served on the licensee by mail sent from the Board office.

**3. Right to Hearing**

The citation shall inform the licensee that the licensee may pay the administrative fine or request in writing a hearing before the Board regarding the violation. If the licensee requests a hearing, the citation shall be processed in the same manner as a complaint

pursuant to 32 M.R.S. §3282-A, or 32 M.R.S. §2591-A except that the licensee's written response to the citation must be filed at the same time as the written request for hearing.

**4. Time for Payment or Request for Hearing**

The licensee shall either pay the administrative fine within thirty (30) days following issuance of the citation or request a hearing in writing within thirty (30) days following issuance of the citation. Failure to take either action within this thirty-day (30-day) period is a violation of the Board's rules that may subject the licensee to further disciplinary action by the Board for unprofessional conduct, including but not limited to an additional fine and action against the license.

**5. Citation Violations Not Reportable**

Administrative fines paid solely in response to citations issued pursuant to this rule do not constitute discipline or negative action or finding and shall not be reported to the Federation of State Medical Boards or the National Practitioner Databank or to any other person, organization, or regulatory body except as allowed by law. Citation violations and administrative fines are public records within the meaning of 1 M.R.S. §402 and will be available for inspection and copying by the public pursuant to 1 M.R.S. §408-A.

**SECTION 10. CONDUCT SUBJECT TO DISCIPLINE**

Violation of this rule by a physician assistant constitutes unprofessional conduct and is grounds for discipline of a physician assistant's license.

**SECTION 11. UNIFORM CONTINUING MEDICAL EDUCATION (CME) REQUIREMENTS AND DEFINITIONS**

In order to qualify to renew a license, a physician assistant must meet the following CME requirements:

**1. Requirements**

- A. Each physician assistant who possesses an active license shall complete, during each biennial licensing period, a minimum of one hundred (100) credit hours of continuing medical education subject to the following:
  - (1) At least fifty (50) hours must be in Category 1 (as defined by this rule);
  - (2) The total one hundred (100) hours may be in Category 1.
  - (3) Fifty (50) credit hours may be in Category 2 (as defined by this rule).
- B. If the required CME is not completed and submitted, then an inactive status license renewal will be issued unless the Board has granted an extension of time or deferment as described in Subsection 2C below.

- C. Proof of current NCCPA certification at the time an application for renewal is submitted satisfies CME requirements.

- D. **CME for Opioid Prescribing**

Physician assistants must complete 3 hours of Category 1 credit CME every two years on the prescribing of opioid medication as required by Board Rule Chapter 21 “Use of Controlled Substances for Treatment of Pain.”

## 2. **Definitions of CME Categories**

- A. Category 1 CME includes:

- (1) CME programs sponsored or co-sponsored by an organization or institution accredited by: the American Academy of Physician Assistants (AAPA); the American Medical Association Council on Medical Education (AMA); the Accreditation Council for Continuing Medical Education (ACCME); the American Academy of Family Practice (AAFP); the Committee on Continuing Medical Education of the Maine Medical Association (MMA); the American Osteopathic Association (AOA); or the Maine Osteopathic Association (MOA). Programs will be properly identified as such by approved sponsoring or co-sponsoring organizations. VALUE: One (1) credit hour per hour of participation. VERIFICATION: Certificate of completion, if requested by the Board as part of a CME audit.
- (2) Papers or articles published in peer reviewed medical journals (journals included in Index Medicus) VALUE: Ten (10) credit hours for each article. Limit one article per year. VERIFICATION: Copy of first page of article, if requested by the Board as part of a CME audit.
- (3) Poster preparation for an exhibit at a meeting designated for AMA/AOA/AAPA category 1 credit, with a published abstract. VALUE: Five (5) credit hours per poster. Limit one poster per year. VERIFICATION: Copy of program with abstract and presenter identified, if requested by the Board as part of CME audit.
- (4) Teaching or presentation in activities designated for AMA/AOA/AAPA category 1 Credit, VALUE: Two (2) credit hours for each hour of preparation and presentation of new and original material. Limit ten (10) hours per year. VERIFICATION: Copy of program from activity, if requested by the Board as part of CME audit.
- (5) Medically related degrees, i.e. MPH, Ph.D. VALUE: Twenty-five (25) credit hours per year. VERIFICATION: Certified copy of diploma or transcript, if requested by the Board as part of CME audit.
- (6) Postgraduate training or advanced specialty training. VALUE: Fifty (50) credit hours per year. VERIFICATION: Certified copy of diploma or transcript, if requested by the Board as part of CME audit.

- (7) Other programs developed or approved from time to time by the Board.  
VALUE: Determined by the Board at the time of approval.  
VERIFICATION: Determined by the Board at the time of approval.

**B. Category 2 CME includes:**

- (1) CME programs with non-accredited sponsorship, i.e. those not meeting the definition of Category 1 as defined in Subsection 2(A) above.  
VALUE: One (1) credit hour per hour of participation.
- (2) Medical teaching of medical students, interns, residents, fellows, practicing physicians, or allied professionals. VALUE: One (1) credit hour per hour of teaching.
- (3) Authoring papers, publications, books, or book chapters, not meeting the definition of Category 1 as defined in Subsection 2(A) above. VALUE: Ten (10) credit hours per publication. Limit ten (10) hours per year.
- (4) Non-supervised individual activities, i.e. journal reading, peer review activities, self-assessment programs which are not sponsored by an accredited Category 1 organization. VALUE: One (1) credit hour per hour of participation.

**C. Exceptions to CME requirements**

- (1) The Board, at its discretion, may grant an extension of time or deferment to a licensee who because of prolonged illness, undue hardship, or other extenuating circumstances has been unable to meet the requirements of CME.
- (2) CME will be prorated during the first licensure period.
- (3) CME requirements will be stayed for physician assistants called to active military duty according to current Board policy.

**D. Evidence of completion**

Board staff shall perform random audits of CME.

## **SECTION 12. IDENTIFICATION REQUIREMENTS**

~~Physician assistants licensed under these rules shall keep their license available for inspection at the location where they render medical services and shall, when rendering medical services, wear a name tag identifying themselves as a physician assistant.~~

1. Physician assistants licensed under this rule shall:

- A. Keep their licenses available for inspection at the location where they render medical services;
- B. When rendering medical services, wear a name tag identifying themselves as physician assistants; and
- C. Verbally identify themselves as physician assistants whenever greeting patients during initial patient encounters and whenever patients incorrectly refer to them as “doctors.”

### **SECTION 13. PHYSICIAN ASSISTANT ADVISORY COMMITTEE**

1. The Boards shall appoint a Physician Assistant Advisory Committee (the Advisory Committee) comprised of such persons as it deems appropriate, but the Advisory Committee shall include at least two physicians and two physician assistants licensed by either the BOLIM or the BOL. The PA members of the BOL and the BOLIM shall also be members of the committee. The Boards may also appoint such Advisory Committee members it deems appropriate.
2. The duties of the Advisory Committee shall be to review matters and make recommendations pertaining to physician assistants which the Boards request the Advisory Committee to consider.
3. Members of the Advisory Committee shall be appointed by the Boards for terms of up to four years. A member may be appointed by the Board for a second, and final four-year term. If a member is appointed to complete a term created by the premature departure of another member, the appointed member may still serve two full terms. The Boards may, at their discretion, remove any member from the Advisory Committee.
4. Members of the Advisory Committee shall not hold a leadership position or be an officer in a professional association regarding any professional occupation(s) licensed or regulated by the Boards.
5. The Chairperson of the Advisory Committee shall be a physician assistant member and shall not be a regular member of the Board of Licensure in Medicine or the Board of Osteopathic Licensure, and shall be elected by a vote of the members of the Advisory Committee. The Chairperson shall serve for a term of two years and may not be re-elected.
6. The Advisory Committee shall meet at the request of either Board. Five (5) members of the Advisory Committee shall constitute a quorum for the purpose of holding a meeting and conducting business.

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STATUTORY AUTHORITY: 32 M.R.S. §§ 2562 and 2594-E(5); §§ 32 M.R.S. 3269(7) and 3270-E(5); 10 M.R.S. §8003(5)(C)(4).

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