

GUIDANCE REGARDING PHYSICIAN ASSISTANT PRACTICE AGREEMENTS PENDING ISSUANCE OF RULES REFLECTING CHANGES TO VERMONT LAW IN ACT 123

Act 123 of 2020 made significant changes to the requirements for physician assistant supervision and the documentation that must be filed by a PA to practice in Vermont. Many may have heard about the bill when it was referred to as S.128, the number assigned while it was being considered. The text of the law is available online at: <https://legislature.vermont.gov/bill/status/2020/S.128>.

The effective date of the law was July 1, 2020, but the law creates a gradual transition by making it apply to "all physician assistant licenses issued or renewed on and after that date." Act 123, Section 5. The law does not address situations in which practice circumstances change between July 1, 2020, and the end of the licensing cycle in January 2022, for PAs who are currently licensed and working under a delegation agreement. For those PAs who would be required to file a revised delegation agreement because of a change in supervisor, change in employment, or change in duties, the Board began accepting practice agreements beginning on July 1, 2020.

Unless a PA falls under one of the exceptions in the law (26 V.S.A. § 1734c(b) or 26 V.S.A. § 1735a(e))¹, a PA must have filed a practice agreement with the Board of Medical Practice before practicing in Vermont. 26 V.S.A. § 1735a(a). Or, for PAs already working under a valid delegation agreement as of July 1, 2020 who do not need to revise supervision documentation, they will continue to work under the existing documentation for the rest of this current licensing cycle, which ends on January 31, 2022.

REQUIREMENTS FOR PHYSICIAN SIGNING PRACTICE AGREEMENT AS THE PARTICIPATING PHYSICIAN

A sole practitioner may act as the participating physician only if the physician's area of specialty is similar to or related to the PA's area of specialty. 26 V.S.A. § 1735a(a)(1).

A physician may act as the participating physician on behalf of a physician group or a health care facility only if one or more physicians at the group or facility has an area of specialty similar to or related to the PA's area of specialty. 26 V.S.A. § 1735a(a)(2).

CONTENTS OF THE PRACTICE AGREEMENT

The requisite contents of a practice agreement are listed in 26 V.S.A. § 1735a(b). A document that does not meet the requirements of 26 V.S.A. § 1735a is not a practice agreement; a PA working without a valid practice agreement engages in unprofessional conduct. 26 V.S.A. § 1732(10), 26 V.S.A. § 1736(b)(3).

The Board's acceptance of a practice agreement for filing does not indicate approval of the document. 26 V.S.A. § 1736(b)(3). The law prevents the Board from requesting or requiring any modifications of the document. 26 V.S.A. § 1735a(f). Accordingly, PAs and participating physicians are advised to carefully review practice agreements before signing and filing them.

¹ Note that each of the sections referenced in this document is modified in Act 123. To see the exceptions referred to here, until the statutes are updated sometime in late 2020, one must look at the text of the Act, which is available at the link above.

A practice agreement must contain all the elements set forth in 26 V.S.A. § 1735a:

- (1) Processes for physician communication, availability, decision-making, and periodic joint evaluation of services delivered when providing medical care to a patient.
- (2) An agreement that the physician assistant's scope of practice shall be limited to medical care that is within the physician assistant's education, training, and experience. Specific restrictions, if any, on the physician assistant's practice shall be listed.
- (3) A plan to have a physician available for consultation at all times when the physician assistant is practicing medicine.
- (4) The signatures of the physician assistant and the participating physician; no other signatures shall be required.

PERIODIC REVIEW OF THE PRACTICE AGREEMENT

The law requires that the PA and either the participating physician or a representative of a practice, group, or facility, as may be applicable, review the practice agreement no less frequently than at the time of the PA's license renewal. 26 V.S.A. § 1735a(e). If the practice agreement is not updated at that time, it is recommended that the review be documented on the practice agreement.

UNANTICIPATED UNAVAILABILITY OF A PARTICIPATING PHYSICIAN WHO IS A SOLE PRACTITIONER

If a sole practitioner participating physician becomes unexpectedly unavailable due to serious illness or death, the PA may continue to practice for up to 30 days without having entered into a new practice agreement.

QUESTIONS ABOUT THE NEW STANDARDS

Questions about the new provisions should be submitted to the Board of Medical Practice

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