

# MAINE STATE LEGISLATURE

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E.O.P.S

L.D. 1660

Date: 3/13/20

(Filing No. S-432)

**HEALTH COVERAGE, INSURANCE AND FINANCIAL SERVICES**

Reproduced and distributed under the direction of the Secretary of the Senate.

**STATE OF MAINE**

**SENATE**

**129TH LEGISLATURE**

**SECOND REGULAR SESSION**

COMMITTEE AMENDMENT "A" to S.P. 537, L.D. 1660, Bill, "An Act To Improve Access to Physician Assistant Care"

Amend the bill by striking out everything after the enacting clause and inserting the following:

**'PART A**

**Sec. A-1. 24-A MRSA §4306**, as amended by PL 2011, c. 364, §28, is further amended to read:

**§4306. Enrollee choice of primary care provider**

A carrier offering or renewing a managed care plan shall allow enrollees to choose their own primary care providers, as allowed under the managed care plan's rules, from among the panel of participating providers made available to enrollees under the managed care plan's rules. A carrier shall allow physicians, including, but not limited to, pediatricians and physicians who specialize in obstetrics and gynecology, and physician assistants licensed pursuant to Title 32, section 2594-E or section 3270-E and certified nurse practitioners who have been approved by the State Board of Nursing to practice advanced practice registered nursing without the supervision of a physician pursuant to Title 32, section 2102, subsection 2-A to serve as primary care providers for managed care plans. A carrier is not required to contract with certified nurse practitioners, physician assistants or physicians as primary care providers in any manner that exceeds the access and provider network standards required in this chapter or chapter 56, or any rules adopted pursuant to those chapters. A carrier shall allow enrollees in a managed care plan to change primary care providers without good cause at least once annually and to change with good cause as necessary. When an enrollee fails to choose a primary care provider, the carrier may assign the enrollee a primary care provider located in the same geographic area in which the enrollee resides.

**Sec. A-2. 24-A MRSA §4320-O** is enacted to read:

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**§4320-O. Coverage for services provided by a physician assistant**

**1. Services provided by a physician assistant.** A carrier offering a health plan in this State shall provide coverage for health care services performed by a physician assistant licensed under Title 32, section 2594-E or 3270-E when those services are covered services under the health plan when performed by any other health care provider and when those services are within the lawful scope of practice of the physician assistant.

**2. Limits; deductible; copayment; coinsurance.** A carrier may offer a health plan containing a provision for a deductible, copayment or coinsurance requirement for a health care service provided by a physician assistant as long as the deductible, copayment or coinsurance does not exceed the deductible, copayment or coinsurance applicable to the same service provided by other health care providers.

**3. Network participation.** A carrier shall demonstrate that the carrier's provider network includes reasonable access, in accordance with section 4303, to all covered services that are within the lawful scope of practice of a physician assistant. A carrier may not exclude a provider from participation in the carrier's provider network solely because the provider is a physician assistant as long as the provider is willing to meet the same terms and conditions as other participating providers. This subsection does not require a carrier to contract with all physician assistants or require a carrier to provide coverage under a health plan for any service provided by a participating physician assistant that is not within the health plan's scope of coverage.

**4. Billing.** A carrier shall authorize a physician assistant to bill the carrier and receive direct payment for a medically necessary service the physician assistant provides to an enrollee and identify the physician assistant as provider in the billing and claims process for payment of the service. A carrier may not impose on a physician assistant a practice, education or collaboration requirement that is inconsistent with or more restrictive than a requirement of state law or board or agency rules.

**Sec. A-3. Application.** The requirements of this Part apply to all policies, contracts and certificates executed, delivered, issued for delivery, continued or renewed in this State on or after January 1, 2021. For purposes of this Act, all contracts are deemed to be renewed no later than the next yearly anniversary of the contract date.

**Sec. A-4. Exemption from review.** Notwithstanding the Maine Revised Statutes, Title 24-A, section 2752, section 2 of this Part is enacted without review and evaluation by the Department of Professional and Financial Regulation, Bureau of Insurance.

**PART B**

**Sec. B-1. 6 MRSA §205, sub-§5,** as amended by PL 2009, c. 447, §4, is further amended to read:

**5. Administration of tests.** Persons conducting analyses of blood, breath or urine for the purpose of determining the alcohol level or drug concentration must be certified for this purpose by the Department of Health and Human Services under certification standards set by that department.

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1 Only a duly licensed physician, ~~registered physician's~~ licensed physician assistant,  
2 registered nurse or a person certified by the Department of Health and Human Services  
3 under certification standards set by that department, acting at the request of a law  
4 enforcement officer, may draw a specimen of blood to determine the alcohol level or drug  
5 concentration of a person who is complying with the duty to submit to a chemical test.  
6 This limitation does not apply to the taking of breath specimens. When a person draws a  
7 specimen of blood at the request of a law enforcement officer, that person may issue a  
8 certificate that states that the person is in fact a duly licensed or certified person as  
9 required by this subsection and that the person followed the proper procedure for drawing  
10 a specimen of blood to determine the alcohol level or drug concentration. That  
11 certificate, when duly signed and sworn to by the person, is admissible as evidence in any  
12 court of the State. It is prima facie evidence that the person was duly licensed or certified  
13 and that the person followed the proper procedure for drawing a specimen for chemical  
14 testing, unless, with 10 days' written notice to the prosecution, the defendant requests that  
15 the person testify as to licensure or certification, or the procedure for drawing the  
16 specimen of blood.

17 A law enforcement officer may take a sample specimen of the breath or urine of any  
18 person whom the officer has probable cause to believe operated or attempted to operate  
19 an aircraft while under the influence of intoxicating liquor or drugs and who is complying  
20 with the duty to submit to and complete a chemical test. The sample specimen must be  
21 submitted to the Department of Health and Human Services or a person certified by the  
22 Department of Health and Human Services for the purpose of conducting chemical tests  
23 of the sample specimen to determine the alcohol level or drug concentration of that  
24 sample.

25 Only equipment approved by the Department of Health and Human Services may be used  
26 by a law enforcement officer to take a sample specimen of the defendant's breath or urine  
27 for submission to the Department of Health and Human Services or a person certified by  
28 the Department of Health and Human Services for the purpose of conducting tests of the  
29 sample specimen to determine the alcohol level or drug concentration of that sample.  
30 Approved equipment must have a stamp of approval affixed by the Department of Health  
31 and Human Services. Evidence that the equipment was in a sealed carton bearing the  
32 stamp of approval must be accepted in court as prima facie evidence that the equipment  
33 was approved by the Department of Health and Human Services for use by the law  
34 enforcement officer to take the sample specimen of the defendant's breath or urine.

35 As an alternative to the method of breath testing described in this subsection, a law  
36 enforcement officer may test the breath of any person whom the officer has probable  
37 cause to believe operated or attempted to operate an aircraft while under the influence of  
38 intoxicating liquor or drugs, by use of a self-contained, breath-alcohol testing apparatus to  
39 determine the person's alcohol level, as long as the testing apparatus is reasonably  
40 available. The procedures for the operation and testing of self-contained, breath-alcohol  
41 testing apparatuses must be as provided by rule adopted by the Department of Health and  
42 Human Services. The result of any such test must be accepted as prima facie evidence of  
43 the alcohol level of a person in any court.

44 Approved self-contained, breath-alcohol testing apparatuses must have a stamp of  
45 approval affixed by the Department of Health and Human Services after periodic testing.  
46 That stamp of approval is valid for a limited period of no more than one year. Testimony

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1 or other evidence that the equipment was bearing the stamp of approval must be accepted  
2 in court as prima facie evidence that the equipment was approved by the Department of  
3 Health and Human Services for use by the law enforcement officer to collect and analyze  
4 a sample specimen of the defendant's breath.

5 Failure to comply with any provision of this subsection or with any rule adopted under  
6 this subsection does not, by itself, result in the exclusion of evidence of alcohol level or  
7 drug concentration, unless the evidence is determined to be not sufficiently reliable.

8 Testimony or other evidence that any materials used in operating or checking the  
9 operation of the equipment were bearing a statement of the manufacturer or of the  
10 Department of Health and Human Services must be accepted in court as prima facie  
11 evidence that the materials were of a composition and quality as stated.

12 A person certified by the Maine Criminal Justice Academy, under certification standards  
13 set by the academy, as qualified to operate approved self-contained, breath-alcohol  
14 testing apparatuses may operate those apparatuses to collect and analyze a sample  
15 specimen of a defendant's breath.

16 **Sec. B-2. 12 MRSA §10703, sub-§5, ¶A,** as amended by PL 2019, c. 452, §5, is  
17 further amended to read:

18 A. Only a physician, ~~registered physician's~~ licensed physician assistant, registered  
19 nurse or person whose occupational license or training allows that person to draw  
20 blood samples may draw a specimen of blood for the purpose of determining the  
21 blood-alcohol level or the presence of a drug or drug metabolite. This limitation does  
22 not apply to the taking of breath or urine specimens. When a person draws a  
23 specimen of blood at the request of a law enforcement officer, that person may issue  
24 a certificate that states that the person is in fact a duly licensed or certified person as  
25 required by this subsection and that the person followed the proper procedure for  
26 drawing a specimen of blood to determine an alcohol level or drug concentration.  
27 That certificate, when duly signed and sworn to by the person, is admissible as  
28 evidence in any court of the State. It is prima facie evidence that the person was duly  
29 licensed or certified and that the person followed the proper procedure for drawing a  
30 specimen of blood for chemical testing, unless, with 10 days' written notice to the  
31 prosecution, the defendant requests that the person testify as to licensure or  
32 certification, or the procedure for drawing the specimen of blood.

33 **Sec. B-3. 12 MRSA §10703, sub-§6,** as amended by PL 2019, c. 452, §6, is  
34 further amended to read:

35 **6. Liability.** Only a physician, ~~registered physician's~~ licensed physician assistant,  
36 registered nurse or person whose occupational license or training allows that person to  
37 draw blood samples or other health care provider in the exercise of due care is not liable  
38 in damages or otherwise for any act done or omitted in performing the act of collecting or  
39 withdrawing specimens of blood at the request of a law enforcement officer pursuant to  
40 this section.

41 **Sec. B-4. 18-C MRSA §5-306, sub-§1,** as amended by PL 2019, c. 276, §1, is  
42 further amended to read:

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1           **1. Evaluation; report.** In every adult guardianship matter, the respondent must be  
2 examined by a medical practitioner who is acceptable to the court and who is qualified to  
3 evaluate the respondent's alleged cognitive and functional abilities. The individual  
4 conducting the evaluation shall file a report in a record with the court at least 10 days  
5 before any hearing on the petition. Unless otherwise directed by the court, the report  
6 must contain:

- 7           A. A description of the nature, type and extent of the respondent's cognitive and
- 8           functional abilities and limitations;
- 9           B. An evaluation of the respondent's mental and physical condition and, if
- 10           appropriate, educational potential, adaptive behavior and social skills;
- 11           C. A prognosis for improvement and recommendation for the appropriate treatment,
- 12           support or habilitation plan; and
- 13           D. The date of the examination on which the report is based.

14           As used in this subsection, "medical practitioner" means a licensed physician, a registered  
15 licensed physician assistant, a certified psychiatric clinical nurse specialist, a certified  
16 nurse practitioner or a licensed clinical psychologist.

17           **Sec. B-5. 22 MRSA §1241, sub-§3,** as enacted by PL 2009, c. 533, §1, is  
18 amended to read:

19           **3. Health care professional.** "Health care professional" means an allopathic  
20 physician licensed pursuant to Title 32, chapter 48, an osteopathic physician licensed  
21 pursuant to Title 32, chapter 36, a physician assistant ~~who has been delegated the~~  
22 ~~provision of sexually transmitted disease therapy or expedited partner therapy by that~~  
23 ~~physician assistant's supervising physician~~ licensed pursuant to Title 32, chapter 36 or 48,  
24 an advanced practice registered nurse who has a written collaborative agreement with a  
25 collaborating physician that authorizes the provision of sexually transmitted disease  
26 therapy or expedited partner therapy or an advanced practice registered nurse who  
27 possesses appropriate clinical privileges in accordance with Title 32, chapter 31.

28           **Sec. B-6. 22 MRSA §1597-A, sub-§1, ¶B,** as amended by PL 1993, c. 600, Pt.  
29 B, §21, is further amended by amending subparagraph (5) to read:

30           (5) A ~~physician's~~ physician assistant ~~registered~~ licensed by the Board of  
31 Licensure in Medicine, Title 32, chapter 48;

32           **Sec. B-7. 26 MRSA §683, sub-§5, ¶B,** as amended by PL 2017, c. 407, Pt. A,  
33 §107, is further amended to read:

34           B. In the case of an employee, have a blood sample taken from the employee by a  
35 licensed physician, ~~registered physician's~~ licensed physician assistant, registered  
36 nurse or a person certified by the Department of Health and Human Services to draw  
37 blood samples. The employer shall have this sample tested for the presence of  
38 alcohol or marijuana metabolites, if those substances are to be tested for under the  
39 employer's written policy. If the employee requests that a blood sample be taken as  
40 provided in this paragraph, the employer may not test any other sample from the  
41 employee for the presence of these substances.

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(1) The Department of Health and Human Services may identify, by rules adopted under section 687, other substances for which an employee may request a blood sample be tested instead of a urine sample if the department determines that a sufficient correlation exists between the presence of the substance in an individual's blood and its effect upon the individual's performance.

(2) An employer may not require, request or suggest that any employee or applicant provide a blood sample for substance use testing purposes nor may any employer conduct a substance use test upon a blood sample except as provided in this paragraph.

(3) Applicants do not have the right to require the employer to test a blood sample as provided in this paragraph.

**Sec. B-8. 29-A MRSA §2524, sub-§1**, as amended by PL 2013, c. 459, §11, is further amended to read:

**1. Persons qualified to draw blood for blood tests.** Only a physician, ~~registered physician's~~ licensed physician assistant, registered nurse or person whose occupational license or training allows that person to draw blood samples may draw a specimen of blood for the purpose of determining the blood-alcohol level or the presence of a drug or drug metabolite.

**Sec. B-9. 32 MRSA §86, sub-§2-A, ¶A**, as amended by PL 1993, c. 152, §3, is further amended to read:

A. When a patient is already under the supervision of a personal physician or a ~~physician's~~ physician assistant or a nurse practitioner supervised by ~~that the~~ the physician and the physician, ~~physician's~~ physician assistant or nurse practitioner assumes the care of the patient, then for as long as the physician, ~~physician's~~ physician assistant or nurse practitioner remains with the patient, the patient must be cared for as the physician, ~~physician's~~ physician assistant or nurse practitioner directs. The emergency medical services persons shall assist to the extent that their licenses and protocol allow; and

**Sec. B-10. 32 MRSA §2561**, as amended by PL 2013, c. 101, §1, is further amended to read:

**§2561. Membership; qualifications; tenure; vacancies**

The Board of Osteopathic Licensure, as established by Title 5, section 12004-A, subsection 29, and in this chapter called the "board," consists of ~~10~~ 11 members appointed by the Governor. Members must be residents of this State. Six members must be graduates of a school or college of osteopathic medicine approved by the American Osteopathic Association and must be have been, at the time of appointment, actively engaged in the practice of the profession of osteopathic medicine in the State for a continuous period of at least 5 years preceding their appointment to the board. ~~One member~~ Two members must be a physician ~~assistant~~ assistants licensed under this chapter who has have been actively engaged in ~~that member's~~ the profession of physician assistant in this State for at least 5 years preceding appointment to the board. Three members must be public members. Consumer groups may submit nominations to the

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1 Governor for the members to be appointed to represent the interest of consumers. A full  
2 term of appointment is for 5 years. Appointment of members must comply with section  
3 60. A member of the board may be removed from office for cause by the Governor.

4 **Sec. B-11. 32 MRSA §2594-A**, as amended by PL 2013, c. 33, §1, is further  
5 amended to read:

6 **§2594-A. Assistants; delegating authority**

7 ~~Nothing contained in this chapter may be construed to prohibit an individual from~~  
8 ~~rendering medical services if these services are rendered under the supervision and~~  
9 ~~control of a physician and if the individual has satisfactorily completed a training~~  
10 ~~program approved by the Board of Osteopathic Licensure. Supervision and control may~~  
11 ~~not be construed as requiring the personal presence of the supervising and controlling~~  
12 ~~physician at the place where these services are rendered, unless a physical presence is~~  
13 ~~necessary to provide patient care of the same quality as provided by the physician.~~  
14 ~~Nothing in this~~ This chapter may not be construed as prohibiting a physician from  
15 delegating to the physician's employees or support staff certain activities relating to  
16 medical care and treatment carried out by custom and usage when these activities are  
17 under the direct control of the physician. The physician delegating these activities to  
18 employees or support staff, to program graduates or to participants in an approved  
19 training program is legally liable for the activities of those individuals, and any individual  
20 in this relationship is considered the physician's agent. Nothing contained in this section  
21 may be construed to apply to registered nurses acting pursuant to chapter 31 and licensed  
22 physician assistants acting pursuant to this chapter or chapter 48.

23 When the delegated activities are part of the practice of optometry as defined in  
24 chapter 34-A, then the individual to whom these activities are delegated must possess a  
25 valid license to practice optometry in Maine or otherwise may perform only as a  
26 technician within the established office of a physician and may act solely on the order of  
27 and under the responsibility of a physician skilled in the treatment of eyes as designated  
28 by the proper professional board and without assuming evaluation or interpretation of  
29 examination findings by prescribing corrective procedures to preserve, restore or improve  
30 vision.

31 **Sec. B-12. 32 MRSA §2594-E**, as amended by PL 2017, c. 288, Pt. A, §33, is  
32 further amended to read:

33 **§2594-E. License and registration Licensure of physician assistants**

34 **1. License and registration required.** A physician assistant may not render  
35 medical services ~~under the supervision of an osteopathic physician or an allopathic~~  
36 ~~physician pursuant to a plan of supervision until the physician assistant has applied for~~  
37 ~~and obtained from either the Board of Osteopathic Licensure or the Board of Licensure in~~  
38 ~~Medicine:~~

39 A. A license, which must be renewed biennially with the board that issued the initial  
40 license; ~~and,~~

41 ~~B. A certificate of registration.~~

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1 ~~Applications~~ An application for licensure and ~~certificate of registration~~ as a physician  
2 assistant must be made to the board that licenses the physician assistant's primary  
3 supervising physician at the time the applications for initial licensure and certificate of  
4 registration are filed. ~~A physician assistant who applies for licensure without a~~  
5 ~~designated primary supervising physician may submit the application submitted~~ to either  
6 the Board of Osteopathic Licensure or the Board of Licensure in Medicine. A license  
7 granted by either the Board of Osteopathic Licensure or the Board of Licensure in  
8 Medicine authorizes the physician assistant to render medical services ~~under the~~  
9 ~~supervision of an osteopathic or allopathic physician regardless of which board issued the~~  
10 ~~license to the physician assistant.~~

11 **2. Qualification for licensure.** The board may issue to an individual a license to  
12 practice as a physician assistant under the following conditions:

- 13 A. A license may be issued to an individual who:
  - 14 (1) Graduated from a physician assistant program approved by the board;
  - 15 (2) Passed a physician assistant national certifying examination administered by
  - 16 the National Commission on Certification of Physician Assistants or its successor
  - 17 organization;
  - 18 (3) Demonstrates current clinical competency;
  - 19 (4) Does not have a license or certificate of registration that is the subject of
  - 20 disciplinary action such as probation, restriction, suspension, revocation or
  - 21 surrender;
  - 22 (5) Completes an application approved by the board;
  - 23 (6) Pays an application fee of up to ~~\$250~~ \$300; and
  - 24 (7) Passes an examination approved by the board; and

25 B. No grounds exist as set forth in section 2591-A to deny the application.

26 ~~3. Certificate of registration.~~ A physician assistant may not render medical  
27 ~~services until issued a certificate of registration by the board. The board may issue a~~  
28 ~~certificate of registration to a physician assistant under the following requirements:~~

- 29 A. ~~The physician assistant shall:~~
  - 30 (1) ~~Submit an application on forms approved by the board. The application must~~
  - 31 ~~include:~~
    - 32 (a) ~~A written statement by the proposed supervising physician taking~~
    - 33 ~~responsibility for all medical activities of the physician assistant; and~~
    - 34 (b) ~~A written statement by the physician assistant and proposed supervising~~
    - 35 ~~physician that a written plan of supervision has been established; and~~
  - 36 (2) ~~Pays an application fee of up to \$50.~~

37 B. ~~A proposed supervising physician must hold an active license to practice~~  
38 ~~medicine in the State and be in good standing.~~

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**4. Delegation by physician assistant.** A physician assistant may delegate medical acts to a ~~medical assistant employed by the physician assistant or by an employer of the physician assistant as long as that delegation is permitted in the plan of supervision established by the physician assistant and the supervising physician 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 permitted under this subsection is legally liable for the activity performed by an employee, a medical assistant, support staff or a member of a health care team.~~

**5. Rules.** The Board of Osteopathic Licensure is authorized to adopt rules regarding the ~~training and licensure and practice of physician assistants and the agency relationship between the physician assistant and the supervising physician.~~ These rules, which must be adopted jointly with the Board of Licensure in Medicine, may pertain to, but are not limited to, the following matters:

- A. Information to be contained in the application for a license ~~and certificate of registration;~~
- B. ~~Information that is required on the application for a certificate of registration filed by the proposed supervising physician;~~
- C. ~~Training and education~~ Education requirements and scope of permissible clinical medical procedures of ~~for the physician assistant and the manner and methods by which the supervising physician must supervise the physician assistant's medical services;~~
- D. ~~Scope of practice for physician assistants, including prescribing of controlled drugs;~~
- E. Requirements for ~~written plans of supervision~~ collaborative agreements and practice agreements under section 2594-F, including uniform standards and forms;
- F. Requirements for a physician assistant to notify the board regarding certain circumstances, including but not limited to any change in address, ~~any change in the identity or address of the physician assistant's employer or in the physician assistant's employment status, any change in the identity or address of the supervising physician,~~ the permanent departure of the physician assistant from the State, any criminal convictions of the physician assistant and any discipline by other jurisdictions of the physician assistant;
- G. Issuance of temporary physician assistant licenses ~~and temporary registration of physician assistants;~~
- H. Appointment of an advisory committee for continuing review of the physician assistant ~~program and rules.~~ The physician assistant ~~member~~ members of the board pursuant to section 2561 must be a ~~member~~ members of the advisory committee;
- I. Continuing education requirements as a precondition to continued licensure or licensure renewal;

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- 1 J. Fees for the application for an initial physician assistant license, which may not
- 2 exceed \$250 \$300; and
- 3 ~~K. Fees for an initial certificate of registration, which may not exceed \$100;~~
- 4 ~~L. Fees for transfer of the certificate of registration by a physician assistant from one~~
- 5 ~~supervising physician to another, which may not exceed \$50; and~~
- 6 M. Fees for the biennial renewal of a physician assistant license in an amount not to
- 7 exceed \$250.

8 **Sec. B-13. 32 MRSA §2594-F** is enacted to read:

9 **§2594-F. Physician assistants; scope of practice and agreement requirements**

10 **1. Definitions.** As used in this section, unless the context otherwise indicates, the

11 following terms have the following meanings.

12 A. "Collaborative agreement" means a document agreed to by a physician assistant

13 and a physician that describes the scope of practice for the physician assistant as

14 determined by practice setting and describes the decision-making process for a health

15 care team, including communication and consultation among health care team

16 members.

17 B. "Consultation" means engagement in a process in which members of a health care

18 team use their complementary training, skill, knowledge and experience to provide

19 the best care for a patient.

20 C. "Health care team" means 2 or more health care professionals working in a

21 coordinated, complementary and agreed-upon manner to provide quality, cost-

22 effective, evidence-based care to a patient and may include a physician, physician

23 assistant, advanced practice nurse, nurse, physical therapist, occupational therapist,

24 speech therapist, social worker, nutritionist, psychotherapist, counselor or other

25 licensed professional.

26 D. "Physician" means a person licensed as a physician under this chapter or chapter

27 48.

28 E. "Physician assistant" means a person licensed under section 2594-E or 3270-E.

29 F. "Practice agreement" means a document agreed to by a physician assistant who is

30 the principal clinical provider in a practice and a physician that states the physician

31 will be available to the physician assistant for collaboration or consultation.

32 G. "Prescription or legend drug" has the same meaning as "prescription drug" in

33 section 13702-A, subsection 30 and includes schedule II to schedule V drugs or other

34 substances under the federal Controlled Substances Act, 21 United States Code,

35 Section 812.

36 **2. Scope of practice.** A physician assistant may provide any medical service for

37 which the physician assistant has been prepared by education, training and experience

38 and is competent to perform. The scope of practice of a physician assistant is determined

39 by practice setting, including, but not limited to, a physician employer setting, physician

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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. 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.

**4. Consultation.** A physician assistant 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 under this subsection 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.

**5. Collaborative agreement requirements.** A physician assistant with less than 4,000 hours of clinical practice documented to the board shall work in accordance with a collaborative agreement with an active physician that describes the physician assistant's scope of practice, except that a physician assistant working in a physician group practice setting or a health care facility setting under a system of credentialing and granting of privileges and scope of practice agreement may use that system of credentialing and granting of privileges and scope of practice agreement in lieu of a collaborative agreement. A physician assistant is legally responsible and assumes legal liability for any medical service provided by the physician assistant in accordance with the physician assistant's scope of practice under subsection 2 and a collaborative agreement under this subsection. Under a collaborative agreement, collaboration may occur through electronic means and does not require the physical presence of the physician at the time or place that the medical services are provided. A physician assistant shall submit the collaborative agreement, or, if appropriate, the scope of practice agreement, to the board for approval and the agreement must be kept on file at the main location of the place of practice and be made available to the board or the board's representative upon request. Upon submission to the board of documentation of 4,000 hours of clinical practice, a physician assistant is no longer subject to the requirements of this subsection.

**6. Practice agreement requirements.** A physician assistant who has more than 400 hours of clinical practice may be the principal clinical provider in a practice that does not include a physician partner as long as the physician assistant has a practice agreement with an active physician, and other health care professionals as necessary, that describes the physician assistant's scope of practice. A physician assistant is legally

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1 responsible and assumes legal liability for any medical service provided by the physician  
2 assistant in accordance with the physician assistant's scope of practice under subsection 2  
3 and a practice agreement under this subsection. A physician assistant shall submit the  
4 practice agreement to the board for approval and the agreement must be kept on file at the  
5 main location of the physician assistant's practice and be made available to the board or  
6 the board's representative upon request. Upon any change in the parties to the practice  
7 agreement or other substantive change in the practice agreement, the physician assistant  
8 shall submit the revised practice agreement to the board for approval. Under a practice  
9 agreement, consultation may occur through electronic means and does not require the  
10 physical presence of the physician or other health care providers who are parties to the  
11 agreement at the time or place that the medical services are provided.

12 7. Construction. To address the need for affordable, high-quality health care  
13 services throughout the State and to expand, in a safe and responsible manner, access to  
14 health care providers such as physician assistants, this section must be liberally construed  
15 to authorize physician assistants to provide health care services to the full extent of their  
16 education, training and experience in accordance with their scopes of practice as  
17 determined by their practice settings.

18 **Sec. B-14. 32 MRSA §3263, first ¶,** as amended by PL 2013, c. 101, §5, is  
19 further amended to read:

20 The Board of Licensure in Medicine, as established by Title 5, section 12004-A,  
21 subsection 24, and in this chapter called the "board," consists of ~~10~~ 11 individuals who  
22 are residents of this State, appointed by the Governor. Three individuals must be  
23 representatives of the public. Six individuals must be graduates of a legally chartered  
24 medical college or university having authority to confer degrees in medicine and must  
25 have been actively engaged in the practice of their profession in this State for a  
26 continuous period of 5 years preceding their appointments to the board. ~~One individual~~  
27 Two individuals must be a physician assistant ~~assistant~~ licensed under this chapter who  
28 ~~has~~ have been actively engaged in the practice of ~~that individual's~~ the profession of  
29 ~~physician assistant~~ in this State for a continuous period of 5 years preceding appointment  
30 to the board. A full-term appointment is for 6 years. Appointment of members must  
31 comply with Title 10, section 8009. A member of the board may be removed from office  
32 for cause by the Governor.

33 **Sec. B-15. 32 MRSA §3270-A,** as amended by PL 2013, c. 33, §2, is further  
34 amended to read:

35 **§3270-A. Assistants; delegating authority**

36 ~~This chapter may not be construed to prohibit an individual from rendering medical~~  
37 ~~services if these services are rendered under the supervision and control of a physician or~~  
38 ~~surgeon and if that individual has satisfactorily completed a training program approved~~  
39 ~~by the Board of Licensure in Medicine and a competency examination determined by this~~  
40 ~~board. Supervision and control may not be construed as requiring the personal presence~~  
41 ~~of the supervising and controlling physician at the place where these services are~~  
42 ~~rendered, unless a physical presence is necessary to provide patient care of the same~~  
43 ~~quality as provided by the physician. This chapter may not be construed as prohibiting a~~  
44 ~~physician or surgeon from delegating to the physician's or surgeon's employees or support~~

# COMMITTEE AMENDMENT

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1 staff certain activities relating to medical care and treatment carried out by custom and  
2 usage when the activities are under the control of the physician or surgeon. The physician  
3 delegating these activities to employees or support staff, to program graduates or to  
4 participants in an approved training program is legally liable for the activities of those  
5 individuals, and any individual in this relationship is considered the physician's agent.  
6 This section may not be construed to apply to registered nurses acting pursuant to chapter  
7 31 and licensed physician assistants acting pursuant to this chapter and chapter 36.

8 When the delegated activities are part of the practice of optometry as defined in  
9 chapter 34-A, then the individual to whom these activities are delegated must possess a  
10 valid license to practice optometry in Maine, or otherwise may perform only as a  
11 technician within the established office of a physician, and otherwise acting solely on the  
12 order of and under the responsibility of a physician skilled in the treatment of eyes as  
13 designated by the proper professional board, and without assuming evaluation or  
14 interpretation of examination findings by prescribing corrective procedures to preserve,  
15 restore or improve vision.

16 **Sec. B-16. 32 MRSA §3270-E**, as amended by PL 2017, c. 288, Pt. A, §34, is  
17 further amended to read:

18 **§3270-E. License and registration Licensure of physician assistants**

19 **1. License and registration required.** A physician assistant may not render  
20 medical services ~~under the supervision of an osteopathic physician or an allopathic~~  
21 ~~physician pursuant to a plan of supervision~~ until the physician assistant has applied for  
22 and obtained from either the Board of Licensure in Medicine or the Board of Osteopathic  
23 Licensure:

24 A. A license, which must be renewed biennially with the board that issued the initial  
25 license; and,

26 ~~B. A certificate of registration.~~

27 ~~Applications~~ An application for licensure ~~and certificate of registration~~ as a physician  
28 assistant must be made to the board that licenses the physician assistant's primary  
29 supervising physician at the time the applications for initial licensure and certificate of  
30 registration are filed. ~~A physician assistant who applies for licensure without a~~  
31 ~~designated primary supervising physician may submit the application~~ submitted to either  
32 the Board of Osteopathic Licensure or the Board of Licensure in Medicine. A license  
33 granted by either the Board of Osteopathic Licensure or the Board of Licensure in  
34 Medicine authorizes the physician assistant to render medical services ~~under the~~  
35 ~~supervision of an allopathic or osteopathic physician regardless of which board issued the~~  
36 ~~license to the physician assistant.~~

37 **2. Qualification for licensure.** The board may issue to an individual a license to  
38 practice as a physician assistant under the following conditions:

- 39 A. A license may be issued to an individual who:  
40 (1) Graduated from a physician assistant program approved by the board;

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COMMITTEE AMENDMENT "A" to S.P. 537, L.D. 1660 (S-432)

- 1 (2) Passed a physician assistant national certifying examination administered by
- 2 the National Commission on Certification of Physician Assistants or its successor
- 3 organization;
- 4 (3) Demonstrates current clinical competency;
- 5 (4) Does not have a license or certificate of registration that is the subject of
- 6 disciplinary action such as probation, restriction, suspension, revocation or
- 7 surrender;
- 8 (5) Completes an application approved by the board;
- 9 (6) Pays an application fee of up to ~~\$250~~ \$300; and
- 10 (7) Passes an examination approved by the board; and

11 B. No grounds exist as set forth in section 3282-A to deny the application.

12 ~~3. Certificate of registration. A physician assistant may not render medical~~

13 ~~services until issued a certificate of registration by the board. The board may issue a~~

14 ~~certificate of registration to a physician assistant under the following requirements:~~

15 A. ~~The physician assistant shall:~~

16 (1) ~~Submit an application on forms approved by the board. The application must~~

17 ~~include:~~

18 (a) ~~A written statement by the proposed supervising physician taking~~

19 ~~responsibility for all medical activities of the physician assistant; and~~

20 (b) ~~A written statement by the physician assistant and proposed supervising~~

21 ~~physician that a written plan of supervision has been established; and~~

22 (2) ~~Pays an application fee of up to \$50.~~

23 B. ~~A proposed supervising physician must hold an active license to practice~~

24 ~~medicine in the State and be in good standing.~~

25 **4. Delegation by physician assistant.** A physician assistant may delegate medical

26 ~~acts to a medical assistant employed by the physician assistant or by an employer of the~~

27 ~~physician assistant as long as that delegation is permitted in the plan of supervision~~

28 ~~established by the physician assistant and the supervising physician to the physician~~

29 ~~assistant's employees or support staff or members of a health care team, including~~

30 ~~medical assistants, certain activities relating to medical care and treatment carried out by~~

31 ~~custom and usage when the activities are under the control of the physician assistant. The~~

32 ~~physician assistant who delegates an activity permitted under this subsection is legally~~

33 ~~liable for the activity performed by an employee, a medical assistant, support staff or a~~

34 ~~member of a health care team.~~

35 **5. Rules.** The Board of Licensure in Medicine is authorized to adopt rules regarding

36 the ~~training and licensure and practice~~ of physician assistants ~~and the agency relationship~~

37 ~~between the physician assistant and the supervising physician.~~ These rules, which must be

38 adopted jointly with the Board of Osteopathic Licensure, may pertain to, but are not

39 limited to, the following matters:

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COMMITTEE AMENDMENT "A" to S.P. 537, L.D. 1660 (S-432)

- 1 A. Information to be contained in the application for a license and certificate of
- 2 registration;
- 3 B. ~~Information that is required on the application for a certificate of registration filed~~
- 4 ~~by the proposed supervising physician;~~
- 5 C. ~~Training and education~~ Education requirements and scope of permissible clinical
- 6 ~~medical procedures of~~ for the physician assistant and the manner and methods by
- 7 ~~which the supervising physician must supervise the physician assistant's medical~~
- 8 ~~services;~~
- 9 D. ~~Scope of practice for physician assistants, including prescribing of controlled~~
- 10 ~~drugs;~~
- 11 E. Requirements for ~~written plans of supervision~~ collaborative agreements and
- 12 practice agreements under section 3270-G, including uniform standards and forms;
- 13 F. Requirements for a physician assistant to notify the board regarding certain
- 14 circumstances, including but not limited to any change in address, ~~any change in the~~
- 15 ~~identity or address of the physician assistant's employer or in the physician assistant's~~
- 16 ~~employment status, any change in the identity or address of the supervising~~
- 17 ~~physician, the permanent departure of the physician assistant from the State, any~~
- 18 ~~criminal convictions of the physician assistant and any discipline by other~~
- 19 ~~jurisdictions of the physician assistant;~~
- 20 G. Issuance of temporary physician assistant licenses ~~and temporary registration of~~
- 21 ~~physician assistants;~~
- 22 H. Appointment of an advisory committee for continuing review of the physician
- 23 assistant ~~program and rules. The physician assistant member~~ members of the board
- 24 pursuant to section ~~2564~~ 3263 must be ~~a member~~ members of the advisory
- 25 committee;
- 26 I. Continuing education requirements as a precondition to continued licensure or
- 27 licensure renewal;
- 28 J. Fees for the application for an initial physician assistant license, which may not
- 29 exceed ~~\$250~~ \$300; and
- 30 K. ~~Fees for an initial certificate of registration, which may not exceed \$100;~~
- 31 L. ~~Fees for transfer of the certificate of registration by a physician assistant from one~~
- 32 ~~supervising physician to another, which may not exceed \$50; and~~
- 33 M. Fees for the biennial renewal of a physician assistant license in an amount not to
- 34 exceed \$250.

35 **Sec. B-17. 32 MRSA §3270-G is enacted to read:**

36 **§3270-G. Physician assistants; scope of practice and agreement requirements**

37 **1. Definitions. As used in this section, unless the context otherwise indicates, the**

38 **following terms have the following meanings.**

39 **A. "Collaborative agreement" means a document agreed to by a physician assistant**

40 **and a physician that describes the scope of practice for the physician assistant as**

# COMMITTEE AMENDMENT

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COMMITTEE AMENDMENT "A" to S.P. 537, L.D. 1660 (S-439)

1 determined by practice setting and describes the decision-making process for a health  
2 care team, including communication and consultation among health care team  
3 members.

4 B. "Consultation" means engagement in a process in which members of a health care  
5 team use their complementary training, skill, knowledge and experience to provide  
6 the best care for a patient.

7 C. "Health care team" means 2 or more health care professionals working in a  
8 coordinated, complementary and agreed-upon manner to provide quality, cost-  
9 effective, evidence-based care to a patient and may include a physician, physician  
10 assistant, advanced practice nurse, nurse, physical therapist, occupational therapist,  
11 speech therapist, social worker, nutritionist, psychotherapist, counselor or other  
12 licensed professional.

13 D. "Physician" means a person licensed as a physician under this chapter or chapter  
14 36.

15 E. "Physician assistant" means a person licensed under section 2594-E or 3270-E.

16 F. "Practice agreement" means a document agreed to by a physician assistant who is  
17 the principal clinical provider in a practice and a physician that states the physician  
18 will be available to the physician assistant for collaboration or consultation.

19 G. "Prescription or legend drug" has the same meaning as "prescription drug" in  
20 section 13702-A, subsection 30 and includes schedule II to schedule V drugs or other  
21 substances under the federal Controlled Substances Act, 21 United States Code,  
22 Section 812.

23 **2. Scope of practice.** A physician assistant may provide any medical service for  
24 which the physician assistant has been prepared by education, training and experience  
25 and is competent to perform. The scope of practice of a physician assistant is determined  
26 by practice setting, including, but not limited to, a physician employer setting, physician  
27 group practice setting or independent private practice setting, or, in a health care facility  
28 setting, by a system of credentialing and granting of privileges.

29 **3. Dispensing drugs.** Except for distributing a professional sample of a prescription  
30 or legend drug, a physician assistant who dispenses a prescription or legend drug:

31 A. Shall comply with all relevant federal and state laws and federal regulations and  
32 state rules; and

33 B. May dispense the prescription or legend drug only when:

- 34 (1) A pharmacy service is not reasonably available;
- 35 (2) Dispensing the drug is in the best interests of the patient; or
- 36 (3) An emergency exists.

37 **4. Consultation.** A physician assistant shall, as indicated by a patient's condition,  
38 the education, competencies and experience of the physician assistant and the standards  
39 of care, consult with, collaborate with or refer the patient to an appropriate physician or  
40 other health care professional. The level of consultation required under this subsection is

# COMMITTEE AMENDMENT

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1 determined by the practice setting, including a physician employer, physician group  
2 practice, or private practice, or by the system of credentialing and granting of privileges  
3 of a health care facility. A physician must be accessible to the physician assistant at all  
4 times for consultation. Consultation may occur electronically or through  
5 telecommunication and includes communication, task sharing and education among all  
6 members of a health care team.

7 **5. Collaborative agreement requirements.** A physician assistant with less than  
8 4,000 hours of clinical practice documented to the board shall work in accordance with a  
9 collaborative agreement with an active physician that describes the physician assistant's  
10 scope of practice, except that a physician assistant working in a physician group practice  
11 setting or a health care facility setting under a system of credentialing and granting of  
12 privileges and scope of practice agreement may use that system of credentialing and  
13 granting of privileges and scope of practice agreement in lieu of a collaborative  
14 agreement. A physician assistant is legally responsible and assumes legal liability for any  
15 medical service provided by the physician assistant in accordance with the physician  
16 assistant's scope of practice under subsection 2 and a collaborative agreement under this  
17 subsection. Under a collaborative agreement, collaboration may occur through electronic  
18 means and does not require the physical presence of the physician at the time or place that  
19 the medical services are provided. A physician assistant shall submit the collaborative  
20 agreement, or, if appropriate, the scope of practice agreement, to the board for approval  
21 and the agreement must be kept on file at the main location of the place of practice and be  
22 made available to the board or the board's representative upon request. Upon submission  
23 to the board of documentation of 4,000 hours of clinical practice, a physician assistant is  
24 no longer subject to the requirements of this subsection.

25 **6. Practice agreement requirements.** A physician assistant who has more than  
26 4,000 hours of clinical practice may be the principal clinical provider in a practice that  
27 does not include a physician partner as long as the physician assistant has a practice  
28 agreement with an active physician, and other health care professionals as necessary, that  
29 describes the physician assistant's scope of practice. A physician assistant is legally  
30 responsible and assumes legal liability for any medical service provided by the physician  
31 assistant in accordance with the physician assistant's scope of practice under subsection 2  
32 and a practice agreement under this subsection. A physician assistant shall submit the  
33 practice agreement to the board for approval and the agreement must be kept on file at the  
34 main location of the physician assistant's practice and be made available to the board or  
35 the board's representative upon request. Upon any change in the parties to the practice  
36 agreement or other substantive change in the practice agreement, the physician assistant  
37 shall submit the revised practice agreement to the board for approval. Under a practice  
38 agreement, consultation may occur through electronic means and does not require the  
39 physical presence of the physician or other health care providers who are parties to the  
40 agreement at the time or place that the medical services are provided.

41 **7. Construction.** To address the need for affordable, high-quality health care  
42 services throughout the State and to expand, in a safe and responsible manner, access to  
43 health care providers such as physician assistants, this section must be liberally construed  
44 to authorize physician assistants to provide health care services to the full extent of their  
45 education, training and experience in accordance with their scopes of practice as  
46 determined by their practice settings.

# COMMITTEE AMENDMENT



R.O.P.S

COMMITTEE AMENDMENT "A" to S.P. 537, L.D. 1660 (S-432)

1 Initiative: Provides one-time appropriation and allocation for technology changes  
2 required to allow physician assistants to be reimbursed directly for services.

3	<b>GENERAL FUND</b>	<b>2019-20</b>	<b>2020-21</b>
4	All Other	\$26,139	\$0
5			
6	<b>GENERAL FUND TOTAL</b>	<u>\$26,139</u>	<u>\$0</u>

7	<b>FEDERAL EXPENDITURES FUND</b>	<b>2019-20</b>	<b>2020-21</b>
8	All Other	\$78,418	\$0
9			
10	<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<u>\$78,418</u>	<u>\$0</u>
11			

12 Amend the bill by relettering or renumbering any nonconsecutive Part letter or  
13 section number to read consecutively.

14 **SUMMARY**

15 This amendment replaces the bill and does the following.

16 In Part A, the amendment requires health insurance carriers to allow physician  
17 assistants to serve as primary care providers under managed care plans. It also specifies  
18 that carriers are required to provide coverage for services provided by physician assistants  
19 if those services are within a physician assistant's scope of practice and are covered  
20 services under a health plan and makes that provision applicable to contracts issued or  
21 renewed on or after January 1, 2021.

22 In Part B, the amendment makes the following changes to the laws governing the  
23 licensing and scope of practice of physician assistants.

24 1. It increases the membership of the Board of Osteopathic Licensure and the Board  
25 of Licensure in Medicine from 10 to 11 members by changing the number of members on  
26 each board who are physician assistants from one member to 2 members.

27 2. It establishes provisions for the scope of practice of physician assistants based on  
28 practice setting.

29 3. It removes registration and physician supervisory requirements and establishes  
30 requirements for physician assistants to have collaborative agreements and practice  
31 agreements with physicians and other health care professionals.

32 4. It clarifies that physician assistants are legally responsible for any medical  
33 services provided in accordance with collaborative and practice agreements and  
34 authorizes the licensing boards to adopt rules related to requirements for collaborative  
35 and practice agreements.

36 5. It changes the fee for an application for initial licensure from up to \$250 to up to  
37 \$300.

**COMMITTEE AMENDMENT**





# 129th MAINE LEGISLATURE

LD 1660

LR 1174(02)

## An Act To Improve Access to Physician Assistant Care

Fiscal Note for Bill as Amended by Committee Amendment "A" (S-432)  
Committee: Health Coverage, Insurance and Financial Services  
Fiscal Note Required: Yes

### Fiscal Note

	FY 2019-20	FY 2020-21	Projections FY 2021-22	Projections FY 2022-23
<b>Net Cost (Savings)</b>				
General Fund	\$26,139	\$0	\$0	\$0
<b>Appropriations/Allocations</b>				
General Fund	\$26,139	\$0	\$0	\$0
Federal Expenditures Fund	\$78,418	\$0	\$0	\$0
<b>Revenue</b>				
Federal Expenditures Fund	\$78,418	\$0	\$0	\$0
Other Special Revenue Funds	\$0	(\$51,000)	(\$51,000)	(\$51,000)

#### Fiscal Detail and Notes

The bill includes a one-time General Fund appropriation to the Department of Health and Human Services of \$26,139 in fiscal year 2019-20 for technology changes required to allow physician assistants to be reimbursed directly for services. A one-time Federal Expenditures Fund allocation is also included for the FMAP match.

The impact of the change in certain application and registration fees is a net reduction in dedicated revenue of \$35,000 annually to the Board of Licensure in Medicine and \$16,000 annually to the Board of Osteopathic Licensure, both affiliated boards of the Department of Professional and Financial Regulation.