

Dear Dr:

Thank you for contacting the Board for information with respect to a waiver of the Board's rule regarding physician assistants. Enclosed is a waiver application package. Please read all instructions first and take note of the procedures, which govern consideration of this process.

Enclosed with this package are the following:

- Board Rule 400 regarding physician assistants
- Waiver application form, page 1 and 2
- Instructions for completing the waiver application & information regarding written protocols
- A list of documents required in support of your application
- Helpful Hints/Frequently Asked Questions

If you have any questions regarding these instructions and requirements, call the Colorado Medical Board at 303-894-7719.

Sincerely,  
FOR THE COLORADO MEDICAL BOARD

Maria Soto  
Program Assistant

**COLORADO MEDICAL BOARD RULES AND REGULATIONS FOR LICENSURE OF AND PRACTICE  
BY PHYSICIAN ASSISTANTS (PAs)**

**INTRODUCTION**

**BASIS.** The authority for promulgation of Rule 400 (“these Rules”) by the Colorado Medical Board (“Board”) is set forth in Sections 12-36-104(1)(a) and 12-36-107.4, C.R.S.

**PURPOSE** The purpose of these rules and regulations is to implement the requirements of Section 12-36-107.4 and the changes resulting from House Bill 10-1260.

**SECTION 1. QUALIFICATIONS FOR LICENSURE APPLICATION**

To apply for a license, an applicant shall submit:

- A. A completed Board-approved application and required fee; and
- B. Proof of satisfactory passage of the national certifying examination for assistants to the primary care physician administered by the National Commission on Certification of Physician Assistants.

**SECTION 2. EXTENT AND MANNER IN WHICH A PHYSICIAN ASSISTANT MAY PERFORM DELEGATED TASKS CONSTITUTING THE PRACTICE OF MEDICINE UNDER PERSONAL AND RESPONSIBLE DIRECTION AND SUPERVISION**

**A. Responsibilities of the Physician Assistant**

1. Compliance with these Rules. A physician assistant and the physician assistant’s supervising physician are responsible for implementing and complying with statutory requirements and the provisions of these Rules.
2. License. A physician assistant shall insure that his or her license to practice as a physician assistant is active and current prior to performing any acts requiring a license.
3. Registration. A physician assistant shall insure that a form in compliance with Section 4 of these Rules is on record with the Board.
4. Nameplate. While performing acts defined as the practice of medicine, a physician assistant shall wear a nameplate with the non-abbreviated title “physician assistant” clearly visible.
5. Chart Note. A physician assistant shall make a chart note for every patient for whom the physician assistant performs any act defined as the practice of medicine in § 12-36-106(1), C.R.S. When a physician assistant consults with any physician about a patient, the physician assistant shall document in the chart note the name of the physician consulted and the date of the consultation.
6. Documentation. A physician assistant shall keep such documentation as necessary to assist the supervising physician in performing an adequate performance assessment as set forth below in Subsection (2)(C)(6) of these Rules.
7. Acute Care Hospital Setting
  - a. Physician assistants performing delegated medical functions in an acute care hospital setting must comply with the requirements of § 12-36-106(5)(b)(II)(A), (B) and (C), C.R.S., which provide as follows:

- (II) For purposes of this subsection (5), “personal and responsible direction and supervision” means that the direction and supervision of a physician assistant must be personally rendered by a licensed physician practicing in the state of Colorado and not through intermediaries. The extent of direction and supervision shall be determined by rules and regulations promulgated by the board and as otherwise provided in this paragraph (b); except that, when a physician assistant is performing a delegated medical function in an acute care hospital, the board shall allow supervision and direction to be performed without the physical presence of the physician during the time the delegated medical functions are being implemented if:
  - (A) Such medical functions are performed where the supervising physician regularly practices or in a designed health manpower shortage area;
  - (B) The licensed supervising physician reviews the quality of medical services rendered by the physician assistant by reviewing the medical records to assure compliance with the physicians’ directions; and
  - (C) The performance of the delegated medical function otherwise complies with the board’s regulations and any restrictions and protocols of the licensed supervising physician and hospital.

- b. For purposes of this section, “reviewing the medical records” means review and signature by the primary physician supervisor or a secondary physician supervisor.

## **B. Types of Physician Supervisors and Scope and Authority to Delegate**

1. Four Physician Assistant Limit. Except as otherwise provided in Subsection 2(E) of these Rules, no physician shall be the primary physician supervisor for more than four specific, individual physician assistants. The names of such physician assistants shall appear on the form in compliance with Section 4 of these Rules. The primary physician supervisor may supervise additional physician assistants other than those who appear on the form in compliance with Section 4 of these Rules. In other words, a primary physician supervisor may also be a secondary physician supervisor, as set forth below, for additional physician assistants so long as such supervision is in compliance with these Rules.
2. Primary Physician Supervisor. Except as set forth in Subsection (2)(B)(3) of these Rules, a physician licensed to practice medicine by the Board may delegate to a physician assistant licensed by the Board the authority to perform acts that constitute the practice of medicine only if a form in compliance with Section 4 of these Rules is on record with the Board. The physician whose name appears on the form in compliance with Section 4 of these Rules shall be deemed the “primary physician supervisor”. The supervisory relationship shall be deemed to be effective for all time periods in which a form in compliance with Section 4 of these Rules is on file with the Board.
  - a). One Primary Physician Supervisor Per Employer. A physician assistant shall not have more than one primary physician supervisor for each employer. For purposes of these Rules, any hospital system or health maintenance organization shall constitute a single employer.
3. Secondary Physician Supervisors. A physician licensed to practice medicine by the Board other than the supervisor whose name appears on the form in compliance with Section 4 of these Rules, may delegate to a physician assistant licensed by the Board, the authority to perform acts which constitute the practice of medicine only as permitted by Subsection (2)(D) of these Rules. Such physician shall be termed a “secondary physician supervisor”. Secondary physician supervisors do not need to be registered with the Board.
4. Delegation of Medical Services. Delegated services must be consistent with the delegating physician’s education, training, experience and active practice. Delegated services must be of the type that a reasonable and prudent physician would find within the scope of sound medical judgment to delegate. A physician may only delegate services that the physician is qualified and insured to perform and services that the physician has not been legally restricted from performing. Any services rendered by the physician assistant will be held to the same standard that is applied to the delegating physician.

## **C. Responsibilities of and Supervision by the Primary Physician Supervisor**

1. Compliance with these Rules. Both the supervising physician and the physician assistant are responsible for implementing and complying with the statutory requirements and the provisions of these Rules.
2. Liability for Actions of a Physician Assistant. A primary physician supervisor may supervise and delegate responsibilities to a physician assistant in a manner consistent with the requirements of these Rules. Except as provided in Subsections (2)(B)(3) and (2)(D) of these Rules, the primary physician supervisor shall be deemed to have violated these Rules if a supervised physician assistant commits unprofessional conduct as defined in § 12-36-117(1)(p), C.R.S., or if such physician assistant otherwise violates these Rules. The primary physician supervisor shall not be responsible for the conduct of a physician assistant where that physician assistant was acting under the supervision of another primary physician supervisor and there is a form in compliance with Section 4 of these Rules signed by that other primary physician supervisor. The primary physician supervisor shall also not be responsible for the conduct of a physician assistant where that physician assistant consulted with a secondary physician supervisor and documented such consultation in the chart note as required under Subsection (2)(A)(5) of these Rules.
3. License Status. Before authorizing a physician assistant to perform any medical service, the supervising physician should verify that the physician assistant has an active and current Colorado license issued by the Board.

4. Qualifications. Before authorizing a physician assistant to perform any medical service, the supervising physician is responsible for evaluating the physician assistant's education, training and experience to perform the service safely and competently.

#### 5. Supervision

##### **A New physician assistant graduates:**

- (1) For the first six months of employment and a minimum of 500 patient encounters, a physician supervisor shall review the chart for every patient seen by the physician assistant no later than 7 days after the physician assistant has performed an act defined as the practice of medicine. The physician supervisor shall document the performance of such review by signing the chart in a legible manner. In lieu of signing the chart, the physician supervisor may document the performance of such review by the use of an electronically generated signature provided that reasonable measures have been taken to prevent the unauthorized use of the electronically generated signature.
- (2). Additionally, a primary or secondary supervising physician of a new physician assistant graduate must provide on-site supervision of the new physician assistant graduate for that physician assistant's first 1000 working hours.
- (3). The supervising physician must complete a performance assessment as outlined in Subsection (2)(C)(6) of these Rules by the end of the first 6 months of employment and quarterly thereafter for the first two years of employment. After the physician assistant has been working for more than two years, performance assessments must be completed twice each 12-month period.

**B (1). Experienced Physician Assistants New to a Practice Setting:** For the first three months of employment and a minimum of 500 patient encounters, a physician supervisor shall review the chart for every patient seen by an experienced physician assistant new to a practice setting no later than 14 days after the physician assistant has performed an act defined as the practice of medicine. The physician supervisor shall document the performance of such review by signing the chart in a legible manner. In lieu of signing the chart, the physician supervisor may document the performance of such review by the use of an electronically generated signature provided that reasonable measures have been taken to prevent the unauthorized use of the electronically generated signature.

- (2). The supervising physician must complete a performance review by the end of the first six months and twice each 12-month period thereafter.

**C. All other Physician Assistants:** The supervising physician shall meet with the physician assistant a minimum of two times during each 12-month period and conduct a performance assessment as set forth in Subsection (2)(C)(6) of these Rules.

#### 6. Performance Assessment

A. A physician who supervises a physician assistant shall develop and carry out a periodic performance assessment as required by these Rules to assist in evaluating and maintaining the quality of care provided by a physician assistant. The performance assessment must include but need not be limited to:

1. An assessment of the medical competency of the physician assistant;
2. A review and initialing of selected charts;
3. An assessment of a representative sample of the referrals or consultations made by the physician assistant with other health professionals as required by the condition of the patient;
4. An assessment of the ability of the physician assistant to take a medical history from and perform an examination of patients representative of those cared for by the physician assistant; and
5. Maintenance by the supervising physician of accurate records and documentation of the performance assessments for each physician assistant supervised.

B. The Board may audit a supervising physician's performance assessment records. Upon request, the supervising physician shall produce records of the performance assessments as required by the Board.

#### 7. Availability of the physician supervisor

The supervising physician must provide adequate means for communication with the physician assistant. If not physically on site with the physician assistant, the primary or secondary physician supervisor must be readily available by telephone, radio, pager, or other telecommunication device.

#### **D. Responsibilities of the Secondary Physician Supervisor**

1. If a physician who is not the primary physician supervisor consults with a physician assistant regarding a particular patient, the physician is a secondary physician supervisor. The physician assistant must document the consultation date and name of all physicians consulted in the patient chart. Such physician shall be deemed to be responsible for any action or omission involving the practice of medicine supervised by the secondary physician supervisor involving the particular patient.

#### **E. Waiver of Provisions of these Rules**

1. Criteria for Obtaining Waivers. Upon a showing of good cause, the Board may permit waivers of these Rules. It is anticipated that waivers may be granted to permit a physician supervisor to supervise more than four physician assistants provided the Full Time Employee Equivalent is not more than 4 FTE and the physician is not supervising more than four physician assistants at any one time. Other waivers may be granted. Factors to be considered in granting such waivers include, but are not limited to: whether the physician assistant is located in an underserved or rural area distant from the physician supervisor; the quality of protocols setting out the responsibilities of a physician assistant in the particular practice; any disciplinary history on the part of the physician supervisor or the physician assistant; and whether the physician assistants in question work less than a full schedule. All such waivers shall be in the sole discretion of the Board. All waivers shall be strictly limited to the terms provided by the Board. No waivers shall be granted if in conflict with state law.
2. Procedure for Obtaining Waivers. Applicants for waivers must submit a written application on forms approved by the Board detailing the basis for the waiver request and addressing the pertinent factors listed in Subsection (2)(E)(1) of these Rules. The applicant should also submit a copy of any written protocols in place for the supervision of physician assistants. Upon receipt of the waiver request and documentation, the matter will be considered at the next available Board meeting. If a waiver to the four physician assistant limit is granted, the primary supervising physician must submit a revised form in compliance with Section 4 of these Rules containing the names of all physician assistants to be supervised before the waiver shall become effective.

### **SECTION 3. PRESCRIPTION AND DISPENSING OF DRUGS.**

- A. A physician assistant may issue a prescription order for any drug or controlled substance provided that:
  1. Each prescription and refill order is entered on the patient's chart.
  2. Each written prescription order shall be signed by the physician assistant and shall contain in legible form the name, address and telephone number of the supervising physician and the name of the physician assistant.
  3. Nothing in this Section 3 of these Rules shall prohibit a physician supervisor from restricting the ability of a supervised physician assistant to prescribe drugs or controlled substances.
4. A physician assistant may not issue a prescription order for any controlled substance unless the physician assistant has received a registration from the United States Drug Enforcement Administration. B. Physician assistants shall not write or sign prescriptions or perform any services that the supervising physician for that particular patient is not qualified or authorized to prescribe or perform.
- C. No drug that a physician assistant is authorized to prescribe, dispense, administer or deliver shall be obtained by said physician assistant from a source other than a supervising physician, pharmacist or pharmaceutical representative.
- D. No device that a physician assistant is authorized to prescribe, dispense, administer or deliver shall be obtained by said physician assistant from a source other than a supervising physician, pharmacist or pharmaceutical representative.

#### **SECTION 4. REPORTING REQUIREMENTS**

Any person wishing to form a supervisory relationship in conformance with these Rules shall file with the Board a form as required by the Board. The form shall be signed by the primary physician supervisor and the physician assistant or assistants for whom the physician intends to be the primary physician supervisor. Except as provided by Board waiver, no primary physician supervisor shall be a primary physician supervisor for more than four specific, individual physician assistants. Except as provided by Board waiver, the names of no more than four individual physician assistants shall appear on the form in compliance with this Section of these Rules. The supervisory relationship acknowledged in the form shall be deemed to continue for purposes of these Rules until specifically rescinded by either the physician assistant or the primary physician supervisor in writing.

Effective: 12/30/83; Revised: 05/30/85; Revised: 12/30/85; Revised: 8/30/92;  
Revised: 11/30/94; Revised: 12/1/95; Revised: 12/14/95; Revised: 3/30/96;  
Revised: 3/30/97; Revised: 9/30/97; Revised: 3/30/98; Revised: 9/30/98;  
Revised: 06/30/00; Revised 12/30/01; Revised: 9/30/04; Revised 2/9/06; Effective 3/31/06; Revised  
08/19/10; Effective 10/15/10

## INSTRUCTIONS/REQUIREMENTS

1. Read Rule 400 in its entirety before beginning this waiver request.
2. Answer all questions on the application and provide all information requested to complete the application.
3. The Board requires a copy of your written clinical protocols be submitted for review before it will consider your request. (See below for further information regarding written clinical protocols.)

## INFORMATION REGARDING WRITTEN CLINICAL PROTOCOLS

You must submit a copy of the written clinical protocols used by the physician assistant (PA) under your supervision.

These protocols may be developed specifically for your practice, or they may be adapted from a medical practice textbook.

Upon your request, the Board will return the protocols following its review.

## HELPFUL HINTS & FREQUENTLY ASKED QUESTIONS

### Must I attend the Board meeting in order to get a waiver?

The supervising physician (as the party requesting the waiver), and the physician assistant(s) may choose to attend the Board meeting when the waiver application is to be reviewed. Attendance is not mandatory, but it may prove valuable in expediting the Board's decision if the physician or physician assistant is present to answer questions.

### Where is it documented that there is a requirement to have a waiver?

Rule 400, Sections (2.5)(a) and (2.5)(b) provides that the Board may grant waivers to the requirements of this rule and specifically explains how to apply for a waiver. You may wish to refer to this rule prior to completing the waiver application.

### When will my waiver request be considered by the Board?

These applications can only be reviewed by the entire Medical Board. The Full Board meets quarterly in February, May, August and November. Prior to presenting the waiver request to the Board, the written clinical protocols must be reviewed. Therefore, your completed application package must be received in our office approximately six weeks prior to the Full Board meeting date.

### Our written clinical protocols are in a large bound volume. Do we need to make a copy for the Board, or will you return the original to us?

You may send the originals of your protocols, but please be aware that we will not be able to return these protocols until after the Board meets to review your waiver request.

### Who should apply for the waiver, the physician, physician assistant or the clinic/facility?

The waiver is applied for and awarded to the primary supervising physician.

# APPLICATION FOR WAIVER OF PHYSICIAN ASSISTANT RULE (RULE 400)

Colorado Medical Board  
1560 Broadway, #1300, Denver CO 80202-5140  
(303) 894-7690 FAX (303) 894-7692 [medical@dora.state.co.us](mailto:medical@dora.state.co.us)  
[www.dora.state.co.us/medical](http://www.dora.state.co.us/medical)

Physician Name: _____	License Number: _____
Practice Name: _____	Specialty: _____
Address: _____	Phone: ( ) _____
_____	Fax: ( ) _____
_____	E-mail: _____
_____	

Respond to the following questions and provide additional information on an attached sheet if necessary:

1. Have you read Rule 400? (Copy is enclosed.) Yes \_\_\_\_\_ No \_\_\_\_\_
2. From which portion of Rule 400 are you requesting a waiver? Provide a written explanation as to why you are requesting this waiver. Include all information you wish the Board to consider in support of your request.

3. Please list the PA's for whom you are currently registered with the Board as the primary supervising physician? (Include full names and license numbers.)

4. If this waiver request is for the authorization to be the primary supervising physician for more than 4 PA's, please specify the maximum number of PA's you wish to supervise and indicate why you believe you should be granted a waiver.

5. Will you and the PA(s) be located primarily in the same office? If no, please describe the practice location of the PA(s).

6. How often will a supervising physician review patient charts?

7. Describe how the PA(s) under your supervision will have immediate access to either you (as the primary supervisor) or a secondary supervising physician should the PA(s) need immediate consultation or assistance. (E.g. via phone, fax, pager or other telecommunications device.)

I, \_\_\_\_\_ (print name) have read the foregoing information in this packet titled: "*Instructions/Requirements*"; "*Information Regarding Written Clinical Protocols*" and "*Board Rule 400*", and attest that the enclosed information is true and accurate to the best of my knowledge.

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Physician Signature

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Date