

December 2, 2016 Rulemaking Hearing Redline

DEPARTMENT OF REGULATORY AGENCIES

Colorado Podiatry Board

RULE 400 - COLORADO PODIATRY BOARD RULES AND REGULATIONS FOR SUPERVISION OF AND PRACTICE BY PHYSICIAN ASSISTANTS (PAs)

3 CCR 712-8

[Editor's Notes follow the text of the rules at the end of this CCR Document.]

INTRODUCTION

- A. Basis. The general authority for promulgation of rules and regulations by the Colorado Podiatry Board is set forth in C.R.S. 12-32-104(1)(a), and specific authority for these rules is set forth in C.R.S. 12-32-109.3(1) and (2).
- B. Purpose. The following rules and regulations have been adopted by the Colorado Podiatry Board in order to provide for the utilization of physician assistants by licensed podiatrists and set forth rules for delegation of podiatric tasks and supervision of physician assistants working under the supervision of licensed podiatrists.
- C. Scope. These rules govern the licensure and conduct of certified physician assistants and not persons performing delegated podiatric tasks pursuant to C.R.S. 12-32-109(7).

SECTION 1. CERTIFICATION REQUIREMENTS

In order to engage in practice as a physician assistant under the personal and responsible direction of a licensed podiatrist pursuant to the provisions of C.R.S. 12-32-109.3, a physician assistant must hold a current license to practice issued by the Colorado Medical Board.

SECTION 2. EXTENT AND MANNER IN WHICH A PA MAY PERFORM DELEGATED TASKS CONSTITUTING THE PRACTICE OF PODIATRY UNDER PERSONAL AND RESPONSIBLE DIRECTION AND SUPERVISION

- I. Mandatory standards to be applied in the direction and supervision of (PAs):
 - A. Direction and supervision of PAs must be personally rendered by a licensed podiatrist practicing in the State of Colorado and not through intermediaries.
 - B. The licensed podiatrist is responsible for the performance of delegated podiatric services by PAs. That responsibility requires that the licensed podiatrist assure that those delegated services are performed with a degree of care and skill that would be expected of the licensed podiatrist. The licensed podiatrist is accountable legally for the performance of such supervised persons operating under the podiatrist's direction and supervision.
 - C. The licensed podiatrist must provide direction to PAs in order to specify what podiatric services should be provided under the circumstances of each case. The function of the direction requirement is to assure that all decisions as to necessity, type, effectiveness and method of treatment are made by the licensed podiatrist who has the requisite skill, judgment and training to make such decisions. Such direction may be provided by written protocols, or by oral communication in person, over the telephone or by other electronic means. The burden shall be on the licensed podiatrist to assure that appropriate

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directions are given and that those directions are fully understood by the supervised person.

- D. The licensed podiatrist must provide adequate supervision of the performance of delegated podiatric services. Supervision is intended to assure that the directions given are carried out properly. Supervision may include constant over-the-shoulder inspection of the performance of the podiatric services, after-the-fact review through viewing the patient or his chart or conferring with the PA rendering the delegated podiatric services. In determining whether such supervision is adequate, under the circumstances of each case, the licensed podiatrist and the Board shall consider the following factors: (i) the complexity of the task, (ii) the risk to the patient, (iii) the background, training and skill of the person performing the podiatric services, (iv) the adequacy of the direction in terms of its form, (i.e., written or oral) and its specificity, (v) the setting in which the podiatric services are performed (e.g., office, hospital, nursing home, rural clinic or other remote sites), (vi) the availability of the licensed responsible podiatrist or other licensed podiatrists, and (vii) the necessity for immediate attention. Thus, depending on the circumstances of each case, the degree of supervision necessary may vary within the above constraints. It should be noted, however, there is a presumption that the supervising podiatrist shall routinely be present at the location where the PA practices. In circumstances where on-site supervision is not provided, the burden shall be on the podiatrist or the PA or both to establish that the lack of such supervision was reasonable under the circumstances. Specific exemption from this presumption is made for facilities operated by the State Departments of Institutions and Corrections. In addition, there is a presumption that a designated supervising podiatrist cannot adequately supervise more than ~~two-four~~ (42) PAs or ~~two-four~~ (24) non-physician health care providers or a combination thereof at one time, and it shall be the burden of any podiatrist wishing to supervise more than ~~two-four~~ such persons to establish, at the time of registration, the contrary to the Board under said podiatrist's particular circumstances. Finally, the licensed podiatrist must review the quality of medical services rendered by each PA every two working days by reviewing medical records to assure compliance with the licensed podiatrist's directions.

II. Identification of PAs

The licensed podiatrist, as part of his supervisory duties, must assure that the PA under his or her supervision (i) is identified as a non-physician to his or her patients by wearing an identification plate upon his or her person setting forth his or her name and non-abbreviated title, and (ii) is not advertised or represented in any manner which would mislead his or her patients or the public generally.

SECTION 3. PRESCRIPTION AND DISPENSING OF DRUGS

- I. No controlled substances shall be prescribed by a certified physician assistant.
- II. A certified physician assistant may issue a prescription order for any non-controlled substance so long as:
- A. The supervising podiatrist has issued written protocols specifying which non-controlled substances he uses in his practice and which may be prescribed by the PA on both a case-by-case and per patient visit basis. For purposes of this rule, "written protocol on a case-by-case basis" means instructions for prescribing by a PA for a new patient or a returning patient who presents new, different or additional signs or symptoms from those previously diagnosed and treated. For purposes of this rule, "written protocol on a per patient visit basis" means instructions for prescribing or refilling a prescription by a PA when a patient returns with recurrent signs or symptoms which have been previously diagnosed; and

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- B. The order is written, not verbal; and
 - C. Each and every prescription and refill order is entered on the patient's chart and countersigned and dated by the supervising podiatrist within two days; and
 - D. Each written prescription order is on the supervising podiatrist's prescription order form and signed by the PA and contains in printed form the name, address and telephone number of the supervising podiatrist and the name of the PA.
- III. All drugs dispensed or administered by PAs to third parties shall be prepackaged in a unit-of-use package by the supervising podiatrist, or by a pharmacist acting on the written order of the supervising podiatrist, and shall be labeled to show the name of the supervising podiatrist and the PA.
- IV. PA's shall not write or sign prescriptions or perform any services which the supervising podiatrist is not qualified or authorized to prescribe or perform.
- V. No drug which a PA is authorized to prescribe, dispense, administer or deliver shall be obtained by said PA from a source other than a supervising podiatrist or a pharmacist.

SECTION 4. REPORTING REQUIREMENTS

Each licensed supervising podiatrist shall file with the Board the information required on the forms provided by the Board within thirty days of the employment of such PA, and shall notify the Board of the termination of employment of any such supervised persons previously registered within seven days of such termination. The filing of such information shall not be deemed as an approval by the Board of the job descriptions of such supervised persons or the adequacy of their direction and supervision by the licensed podiatrist. However, such information will be maintained by the Board for the purposes of (i) investigating complaints against licensed podiatrists supervising such PA's and (ii) maintaining a registry of the licensed podiatrists and PA's.

SECTION 5. DISCIPLINE

Physician assistants are subject to the disciplinary procedures set forth in Section 12-36-118 of the Medical Practice Act.