Regulatory Analysis

Notice of Intended Action to be published: 653—Chapter 21
"Physician Supervision of a Physician Assistant"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 17A, 147, 148C and 272C
State or federal law(s) implemented by the rulemaking: Iowa Code sections 148C.3 and 272C.3

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

November 5, 2024 9 a.m.	6200 Park Avenue Des Moines, Iowa Information on virtual participation will be available on the Department of Inspections, Appeals, and Licensing's website prior to the hearing.

Public Comment

Any interested person may submit written comments concerning this Regulatory Analysis, which must be received by the Department no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

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Purpose and Summary

This rulemaking proposes the repromulgation of Chapter 21 and implements Iowa Code section 148C.5 as amended by 2023 Iowa Acts, House File 424, in accordance with the goals and directives of Executive Order 10 (January 10, 2023). Iowa Code section 148C.3 requires the Board of Medicine (Board) to adopt joint rules with the Board of Physician Assistants requiring a licensed physician assistant to be supervised by a physician during the first two years of independent practice if the physician assistant has not previously practiced under a supervising physician or in collaboration therewith for a period of at least two years. This chapter sets minimum standards for the supervision of a physician assistant by a physician. Iowa residents, licensees and employers benefit from the chapter since it articulates the processes by which a physician assistant can practice under the supervision of a physician during the first two years of independent practice.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

- Classes of persons that will bear the costs of the proposed rulemaking:

There is no direct cost to the general public, but there is a cost to the applicant since complying with the minimum requirements to enter into the profession is at the expense of the licensee.

The cost to the Board is minimal since the staff utilized share other duties for implementation of Board rules. The cost would be for a small portion of the Board's standard meetings during which investigative reports are reviewed for action determination.

Costs to the agency are in the form of staff time to review supervisory agreements if needed, investigate complaints if necessary, and answer questions related to supervision of physician assistants. Staff salaries to support the work of the Board are covered by the Licensing and Regulation Fund established in 2023 Iowa Acts, Senate File 557.

- Classes of persons that will benefit from the proposed rulemaking:

Iowa residents, licensees, and employers benefit from the chapter since it articulates the processes by which a physician assistant can practice under the supervision of a physician during the first two years of independent practice. These requirements ensure public safety by specifying all requirements of supervisory agreements.

2. Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:

- Quantitative description of impact:

The cost to the Board is minimal since the staff utilized share other duties for implementation of Board rules. The cost would be for a small portion of the Board's standard meetings during which investigative reports are reviewed for action determination.

- Qualitative description of impact:

Iowa residents, licensees, and employers benefit from the chapter since it articulates the processes by which a physician assistant can practice under the supervision of a physician during the first two years of independent practice. These requirements ensure public safety by specifying all requirements of supervisory agreements.

3. Costs to the State:

- Implementation and enforcement costs borne by the agency or any other agency:

The cost to the Board is minimal since the staff utilized share other duties for implementation of Board rules. Costs to the agency are in the form of staff time to review supervisory agreements if needed, investigate complaints if necessary, and answer questions related to supervision of physician assistants. Staff salaries to support the work of the Board are covered by the fund.

- Anticipated effect on state revenues:

This rulemaking has no anticipated impact on state revenues. Staff salaries to support the work of the Board are covered by the fund. Licensing fees go to the fund to cover the operations of the regulated professional licensing boards.

4. Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:

The cost to the Board is minimal since the staff utilized share other duties for implementation of Board rules. The cost would be a small portion of the Board's standard meetings during which investigative reports are reviewed for action determination. The requirements in the rules ensure public safety by specifying all requirements of supervisory agreements. Without these rules, the Board would be concerned that physician assistants would not have proper training and supervision, which could cause public harm.

5. Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:

The Board has not identified a more cost-effective alternative to the physician supervision of a physician assistant. The Board believes all current requirements ensure public safety and ensure a minimum competency of care is provided to Iowans. The Board is currently working with the Board of Physician Assistants to create joint rules for supervision and collaboration pursuant to 2023 Iowa Acts, House File 424.

Due to the state government alignment, this Board is now part of the Department. The Department's Licensing Division continues to assess and implement opportunities to increase efficiencies and standardize board processes across all professional licensing boards. The changes to this chapter support this effort.

6. Alternative methods considered by the agency:

- Description of any alternative methods that were seriously considered by the agency:

The Board has not identified alternative methods for physician supervision of a physician assistant. The Board is currently working with the Board of Physician Assistants to create joint rules for supervision and collaboration pursuant to the changes made from 2023 Iowa Acts, House File 424.

Due to the state government alignment, this Board is now part of the Department. The Department's Licensing Division continues to assess and implement opportunities to increase efficiencies and standardize Board processes across all professional licensing boards.

- Reasons why alternative methods were rejected in favor of the proposed rulemaking:

The Board is currently working with the Board of Physician Assistants to create joint rules for supervision and collaboration pursuant to the changes made from 2023 Iowa Acts, House File 424.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

The proposed chapter relates to high-stakes public safety concerns that are present whether the business is a small business or a large organization. The chapter is meant to ensure public safety in terms of licensing requirements for physicians. While some physicians likely are running a small business of their own, some also work for large corporations and hospitals. To exempt small businesses from adhering to this chapter would jeopardize any member of the public who sought services from that small business. The risk to the public is greater than the potential harm or cost to the small business. Additionally, if a licensee subject to this chapter is a small business and has identified a rule that is overly burdensome and the goals of which could be achieved in a manner that would reduce the impact on the small business, the licensee could utilize the Department's established waiver process.

Text of Proposed Rulemaking

ITEM 1. Rescind 653—Chapter 21 and adopt the following **new** chapter in lieu thereof:

CHAPTER 21
PHYSICIAN SUPERVISION OF A PHYSICIAN ASSISTANT

653—21.1(148,272C) Ineligibility determinants. A physician with an active permanent, special, or temporary Iowa license who is actively engaged in the practice of medicine in Iowa may supervise a physician assistant. A physician is ineligible to supervise a physician assistant for any of the following reasons:

21.1(1) The physician does not hold an active, permanent, special or temporary Iowa medical license.

21.1(2) The physician is subject to a disciplinary order of the board that restricts or rescinds the physician's authority to supervise a physician assistant. The physician may supervise a physician assistant to the extent that the order allows.

21.1(3) The physician does not have a written supervisory agreement in place with each physician assistant supervised by the physician.

21.1(4) The physician is already supervising five physician assistants.

653—21.2(148,272C) Exemptions from this chapter. This chapter does not apply to the following:

21.2(1) A physician working in a federal facility or under federal authority when the provisions of this chapter conflict with federal regulations.

21.2(2) A physician who supervises a physician assistant providing medical care created by an emergency or a state or local disaster pursuant to Iowa Code section 148C.4.

653—21.3(148) Board notification. A physician who supervises a physician assistant shall notify the board of the supervisory relationship within 60 days of the provision of initial supervision and at the time of the physician's license renewal.

653—21.4(148,272C) Supervisory agreements.

21.4(1) A physician who supervises a physician assistant shall establish a written supervisory agreement prior to supervising a physician assistant. The purpose of the supervisory agreement is to define the nature and extent of the supervisory relationship and the expectations of each party. The supervisory agreement shall take into account the physician assistant's demonstrated skills, training and experience, proximity of the supervising physician to the physician assistant, and the nature and scope of the medical practice. The supervising physician shall maintain a copy of the supervisory agreement and provide a copy of the agreement to the board upon request. The supervisory agreement shall, at a minimum, address the following provisions:

a. Review of requirements. The supervising physician and the physician assistant shall review all of the requirements of physician assistant licensure, practice, supervision, and delegation of medical services as set forth in Iowa Code section 148.13 and chapter 148C, these rules, and 481—Chapters 780 through 784.

b. Assessment of education, training, skills, and experience. Each supervising physician shall assess the education, training, skills, and relevant experience of the physician assistant prior to providing supervision. Each supervising physician and physician assistant shall ensure that the other party has the appropriate education, training, skills, and relevant experience necessary to successfully collaborate on patient care delivered by the team. The method for assessing and providing feedback regarding the physician assistant's education, training, skills, and experience shall be reflected in the supervisory agreement.

21.4(2) The supervisory agreement between the physician assistant and the physician shall address all of the following:

a. The medical services the supervising physician delegates to the physician assistant. The medical services and medical tasks delegated to and provided by the physician assistant shall be in compliance with 481—subrule 781.1(1). All delegated medical services shall be within the scope of practice of the supervising physician and the physician assistant.

b. Methods for communication between the physician assistant and the physician and whether the physician assistant practices at the same site or a remote site. Each supervising physician and physician assistant shall conduct ongoing discussions and evaluation of the supervisory agreement, including supervision; expectations for both parties; assessment of education, training, skills, and relevant experience; review of delegated services; review of the medical services provided by the physician assistant; and the types of cases and situations when the supervising physician expects to be consulted.

(1) The plan for completing and documenting chart reviews. A licensed physician within the same facility or health care system as the physician assistant shall conduct an ongoing review of a representative sample of the physician assistant's patient charts encompassing the scope of the physician assistant's practice. The finding of the review shall be discussed with the physician assistant in a manner determined by the practice in consultation with the physician assistant's primary supervising physician.

(2) Remote medical site. "Remote medical site" means a medical clinic for ambulatory patients that is more than 30 miles away from the main practice location of the supervising physician and in which the supervising physician is present less than 50 percent of the time when the remote medical site is open. "Remote medical site" will not apply to nursing homes, patient homes, hospital outpatient departments, outreach clinics, or any location at which medical care is incidentally provided (e.g., diet center, free clinic, site for athletic physicals, jail facility). The supervisory agreement shall include a provision that ensures that the supervising physician visits the remote medical site, or communicates with a physician assistant at the remote medical site via electronic communications, at least every two weeks to provide additional medical direction, medical services and consultation specific to the medical services provided at the remote medical site. For purposes of this subparagraph, communication may consist of but is not limited to in-person meetings or two-way, interactive communication directly between the supervising physician and the physician assistant via the telephone, secure messaging, electronic mail, or chart review. The board may only grant a waiver of this provision if substantially equal protection of public health, safety, and welfare will be afforded by a means other than that prescribed in this subparagraph.

(3) The expectations and plan for alternate supervision. The supervising physician will ensure that the alternate supervising physician is available for a timely consultation and will ensure that the physician assistant is notified of the means by which to reach the alternate supervising physician.

653—21.5(148,272C) Grounds for discipline. A physician may be subject to disciplinary action for supervising a physician assistant in violation of these rules or the rules found in 653—Chapter 23 or 481—Chapters 780 and 781, which relate to duties and responsibilities for physician supervision of physician assistants. Grounds for discipline also include:

21.5(1) The physician supervises a physician assistant when the physician does not have sufficient training or experience to supervise a physician assistant in the area of medical practice in which a physician assistant is to be utilized.

21.5(2) A physician supervises more than five physician assistants at the same time.

21.5(3) The physician fails to ensure that the physician assistant is adequately supervised, including being available in person or by telecommunication to respond to the physician assistant.

21.5(4) The physician fails to adequately direct and supervise a physician assistant or fails to comply with the minimum standards of supervision in accordance with this chapter, Iowa Code section 148.13 and chapter 148C, and 481—Chapters 780 through 784.

653—21.6(148,272C) Disciplinary sanction. The board may restrict or rescind a physician's authority to supervise a physician assistant as part of a disciplinary sanction following a contested case proceeding, if the reason for the disciplinary action impacts the ability of the physician to supervise a physician assistant. The board shall notify the board of physician assistants when it takes a disciplinary action against a physician's license that affects the physician's authority to supervise a physician assistant.

653—21.7(148,272C) Communication with physician assistant supervisees. The physician shall notify all physician assistant supervisees within one workday upon receiving disciplinary action from the board or any other change in status that affects the physician's eligibility to supervise a physician assistant.

653—21.8(17A,147,148,272C) Waiver requests. Waiver requests shall be submitted in conformance with 481—Chapter 6.

These rules are intended to implement Iowa Code sections 148C.3 and 272C.3.