



October 30, 2020

Dennis E. Smith, Executive Director; Board of Licensure in Medicine  
137 State House Station  
Augusta, ME 04333- 0137

Susan E. Strout, Executive Secretary; Board of Osteopathic Licensure  
142 State House Station  
Augusta, ME 04333- 0142

**Re: Chapter 2 Reproposal**

Dear Mr. Smith and Ms. Strout,

On behalf of the American Academy of PAs (AAPA) and the more than 1,000 PAs licensed in Maine, thank you for this opportunity to comment on the reproposed changes to Chapter 2 published on Sept. 30, 2020, that seek to implement the changes made to PA practice in Maine by LD 1660. AAPA is the national professional organization for all PAs (physician assistants) that advocates and educates on behalf of the profession. AAPA represents a profession of more than 140,000 PAs across all medical and surgical specialties and has extensive experience with state regulation of PA practice.

AAPA has serious concerns with the reproposed revisions to the PA regulations as they inaccurately capture the intent of LD 1660, the title of which was “An Act to Improve Access to Physician Assistant Care.” In fact, the regulations as reproposed may do just the opposite and restrict access to PA care. *These concerns are all related to the provisions regarding collaborative and practice agreements.*

**Combining Collaborative Agreements and Practice Agreements**

The law makes it clear that collaborative agreements and practice agreements are intended for differently situated PAs. Combining them as though the providers are the same is inappropriate and could lead to consequences unintended by LD 1660.

**AAPA recommends separating collaborative agreements and practice agreements into distinct sections.**

As written, the reproposed regulation would not draw the appropriate distinctions between collaborative agreements and practice agreements. Simply put, collaborative agreements are for PAs with less than 4,000 hours of practice and practice agreements are for PAs with more than 4,000 of practice who are the primary provider in a practice without a physician partner.

*The two are not the same, and should not, in any section, be treated as such.*

## Requirements of Collaborative/Practice Agreements

The below requirements, which did not appear in the originally proposed revisions, have the potential to greatly restrict PA practice in Maine and limit access to PA-provided care. While the Board may use its discretion in requesting these items, many of the items listed or proposed are not broadly appropriate, not broadly applicable, unnecessarily onerous, or prohibit a PA from practicing.

### ***9. Criteria for Reviewing Scope of Practice for Physician Assistants in Collaborative Agreements or Practice Agreements***

*A. In reviewing a proposed scope of practice delineated in a collaborative agreement or a practice agreement, the Board may request any of the following from the physician assistant:*

- (1) Documentation of at least 24 months of clinical practice within a particular medical specialty during the 48 months immediately preceding the date of the collaborative agreement or practice agreement;*
- (2) Copies of previous plans of supervision, together with physician reviews;*
- (3) Copies of any credentialing and privileging scope of practice agreements, together with any employment or practice reviews;*
- (4) Letter(s) from a physician(s) attesting to the physician assistant's competency to render the medical services proposed;*
- (5) Completion of Specialty Certificates of Added Qualifications (CAQs) in a medical specialty obtained through the NCCPA or its successor organization;*
- (6) Preparation of a plan for rendering medical services for a period of time under the supervision of a physician;*
- (7) Successful completion of an educational and/or training program approved by the Board.*

**AAPA recommends deletion of this entire section.**

Many of these requirements would pose significant challenges and run counter to the intent of the new law. Examples include:

*REQUIREMENT: Documentation of at least 24 months of clinical practice within a particular medical specialty during the 48 months immediately preceding the date of the collaborative agreement or practice agreement;*

CONCERN: This requirement would prohibit new PAs from practicing in Maine. PAs with less than 4,000 hours are required to submit a collaborative agreement for approval; for these PAs, many of whom are recent graduates and entering the workforce for the first time, providing this documentation is impossible.

An additional concern is requiring a PA to provide specific documentation of practice within a specified specialty, as it does not take into account the inherent flexibility of the PA profession. PAs, unlike physicians, are able to practice in multiple specialties and are not pigeonholed to just one. A PA may have extensive education and training in a particular specialty; without documentation or recent practice under an agreement, will the Board deny the PA the ability to practice? Many fields, such as mental health and primary care, are in need of qualified providers to provide care to patients; this arbitrary requirement may stifle care.

*REQUIREMENT: Copies of previous plans of supervision, together with physician reviews*

CONCERN: This requirement, like the first, presents issues for recent graduates. Recent graduates will not have previous plans of supervision. Further, PAs may not have kept previous plans of supervision, let alone documentation of the physician reviews of said plans. This would eventually be inapplicable in general – as plans of supervision have been eliminated entirely by LD 1660.

*REQUIREMENT: Copies of any credentialing and privileging scope of practice agreements, together with any employment or practice reviews;*

CONCERN: This requirement is unclear in whether it means current or previous agreements. Because of the general lack of specificity in this requirement, it could also be incredibly onerous on the PA to compile this information from an employer who may or may not still be in practice.

*REQUIREMENT: Letter(s) from a physician(s) attesting to the physician assistant's competency to render the medical services proposed;*

CONCERN: This incredibly broad requirement would significantly delay PAs ability to practice, thus harming consumers. Tracking down one letter from one physician is potentially onerous and time consuming; requesting multiple letters from multiple physicians would inevitably delay a PA's ability to practice in Maine.

Further, a physician may not be in the best position to attest to the competency of a PA, depending on their experience, the practice relationship, and specialty. This requirement presupposes that a physician would be in the best position to attest to a PA's competency on a particular subject, and does not consider the way modern care is delivered as part of a diverse team of providers.

*REQUIREMENT: Completion of Specialty Certificates of Added Qualifications (CAQs) in a medical specialty obtained through the National Commission On Certification Of Physician Assistants (NCCPA) or its successor organization.*

CONCERN: By the NCCPA’s own definition, a CAQ “is a voluntary credential that Certified PAs can earn in seven specialties.”<sup>1</sup> Three major concerns here are that the Boards may very well be requiring an additional certification that is voluntary, is only available in seven specialties (only a fraction of the total number of specialties and subspecialties), and a PA can only receive a CAQ after a certain number years of practice in that specialty.

*REQUIREMENT: Preparation of a plan for rendering medical services for a period of time under the supervision of a physician.*

CONCERN: LD 1660 eliminated supervision of PAs from statute. The Boards, here, appear to require PAs submitting either a collaborative or practice agreement to include a plan for supervision. **This is in direct conflict with LD 1660, and would be a major step in unnecessarily limiting patients’ access to PAs.**

*REQUIREMENT: Successful completion of an educational and/or training program approved by the Board.*

CONCERN: This requirement is redundant and unnecessary. PAs are already required to graduate from a PA program approved by the board as a first condition of licensure.<sup>2</sup>

### **When Agreements are Required**

The language in the below excerpt from the repropoed rules is of concern, as it appears to define those PAs who do not require either a collaborative agreement or a practice agreement. However, if read as such, it is an incomplete definition and has the potential to cause misinterpretation and confusion. The language does not include PAs who work in a solo physician practice and who have more than 4,000 hours of collaborative practice. These PAs would also be exempt from either a collaborative agreement or a practice agreement.

#### ***8. Criteria for Requiring Collaborative Agreements or Practice Agreements***

*[...]*

*C. Physician assistants with more than 4,000 hours of documented clinical practice as determined by the Board and are employed with a health care facility or physician group practice as defined by this rule under a system of credentialing and granting of privileges and scope of practice agreement are not required to have either a collaborative agreement or a practice agreement.*

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<sup>1</sup> National Commission on Certification of Physician Assistants, “About Specialty Certifications of Added Qualifications (CAQs),” <https://www.nccpa.net/specialty-caqs>.

<sup>2</sup> ME. REV. STAT. tit. 32, § 3270-E(2)

Another point of concern from the excerpt is that the statute simply requires the submission of documentation of 4,000 hours of clinical practice. However, the repropoed regulations state, “*Physician assistants with more than 4,000 hours of documented clinical practice as determined by the Board.*” This would imply that the Board has the discretion to make this determination – an implication not founded in statute. The Academy recommends the following version be inserted for clarity:

***C. Physician assistants with more than 4,000 hours of documented clinical practice submitted to the Board, and who are not the primary caregiver in a solo practice are not required to have either a collaborative agreement or a practice agreement.***

The Academy once again thanks the Boards for their leadership in this process and consideration of these concerns. However, it is clear from the above concerns, that the Boards are overreaching their statutory authority, and proposing requirements not grounded in concern for public safety of patients. The Academy believes these concerns must be addressed or else access to PA-provided care, especially in areas of great need, will be greatly impacted and the profession will face a competitive disadvantage in the state.

Best regards,

A handwritten signature in blue ink that reads "Tillie Fowler". The signature is written in a cursive, flowing style.

Tillie Fowler, JD  
Senior Vice President, Advocacy and Government Relations  
American Academy of PAs