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State Laws Matter  
(alternate title: State Law Matters)  
Tuesday, May 23, 2015

Ann Davis, MS, PA-C

AAPA Vice President Constituent Organization  
Outreach and Advocacy  
Featuring “The States”

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## The “Staties”



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**Your state advocacy go-to resource team!**

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# Disclosures

- All speakers are full time employees of AAPA
- Nothing additional to disclose

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## About this session

- Intended to be a combination of new information and facilitated discussion
- Feel free to ask questions or add your opinion or input during any part of the session

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# State Advocacy in Action

## PA's FOR THE WIN! A YEAR OF UNPRECEDENTED WINS

49 MADE 184

STATES AND D.C.

IMPROVEMENTS

49 states and D.C. made improvements to PA practice laws and regulations in 2014.

PA's now have **fewer barriers** to practicing at the top of their education and experience. That means patients have **increased access** to quality healthcare providers who can do more for their patients than ever before.

# No State Barriers to Full PA Practice



## The Big Four

- Every state has all of the Six Key Elements of a Modern PA Practice Act
- PAs are specifically named in all relevant health laws
- No barriers to rapid PA deployment
  - No requirement for the state to approve or know which licensed PA is working in collaboration with which licensed physician
  - A rational and rapid licensing system
- PAs included in all workforce initiatives

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# **THE SIX KEY ELEMENTS OF A MODERN PA PRACTICE ACT**

# Patient Care



## Access to Care

- No ratio restrictions
- No mandatory approval of collaborating agreements



## Access to Physicians

- No minimum chart review
- No requirement for co-signature of PA orders or prescriptions



## Highest Practice Level

- No scope restrictions
- Practice-level collaboration decisions

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# Six Key Elements

Medical  
Education

Physician  
Collaboration

Highest  
Practice  
Level

# Six Key Elements



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# **PAs SPECIFICALLY NAMED IN ALL HEALTH LAW**

## Omissions Complicate Care

Omissions in state laws can lead to road blocks in PA patient care-

- Delays in care
- Inability to provide care
- PA certified documents refused by accepting entity
- Patient inconvenience

Typical state law omissions impacting PA patient care:

- PAs ordering restraint and seclusion
- PAs certifying conditions and signing forms
- PAs defined as mental health providers
- PAs supervising LPNs and medical assistants
- PAs signing provider orders for life-sustaining treatment
- PAs in telemedicine provisions
- PAs able to use fluoro, lasers, other technology



In 2014, Oregon added PAs to 75 sections of state law that omitted PAs.

**The COOA team monitors and analyzes proposed laws and regulations on 150 terms and notifies chapter leaders of opportunities for inclusion.**

**PA inclusion in state laws increases patient access to care and allows for seamless care free from frustrating road blocks.**

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These “laws outside the PA law” are especially important to PAs in specialty practice.

Two approaches:

- Watch for laws and regs that are being amended and make sure that PAs are included
  - Being specifically named once begets being specifically named the next time...
- Find areas of law that must include PAs and tackle them head on
  - A perfect opportunity for state chapters to work with specialty organizations, federal service chapters, caucuses and special interest group leaders

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- 72 hour & mental health
- Abortion
- Ambulatory Care
- Ambulatory
- Anesthesia & Sedation
- Apology
- Athletic Trainer
- Blood (blood products)
- Concussion/Head Trauma
- Cosmetic
- Critical care
- Death
- Dialysis
- Disaster
- Emergency Detention
- EMS
- End of Life
- Expert witness
- Health Care Info Tech
- Health Care Reform
- Health Record
- Health Record Info Tech
- Hospice- Combined
- Hospital
- Immunizations
- Injection
- Informed Consent
- Laser
- Liability
- Long Term Care
- Medical Assistants
- Medical Exam

## 51 Jurisdictions 150+ terms, 365 days

- Medical Home
- Medical malpractice
- Medical Orders for Life Sustaining Treatment (MOLST)
- Mental Health
- Micropigmentation
- NICU
- Organ Transplant
- Outpatient
- Pain Management
- Physician Assistant
- Piercing
- Practice of Medicine
- Prescription
- Radiation
- Reentry to clinical practice
- Reproductive Health
- Respiratory Therapy
- Restraint and Seclusion
- Reporting of specified injuries
- Surgery
- Surgical site marking
- Tanning bed
- Tattoo
- Telemedicine (health)
- Transfusion
- Transplant-
- Vascular
- UEVHPA-
- Ultrasound
- Universal health care
- Workers Compensation
- X-ray

# Case in point...

- DC medical board poised to adopt regulations governing “medical spas”
- Initial draft would put new restrictions on PA practice
- PA on PA advisory committee contacts DCAPA president – a PA who works in dermatology
- DCAPA president contacts AAPA and SDPA
- Quick conference call, strategy devised
- Rule draft amended – PAs specifically invited to medical board meeting



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# Lasers

Statutes

Rules

Opinions

Training

Registration

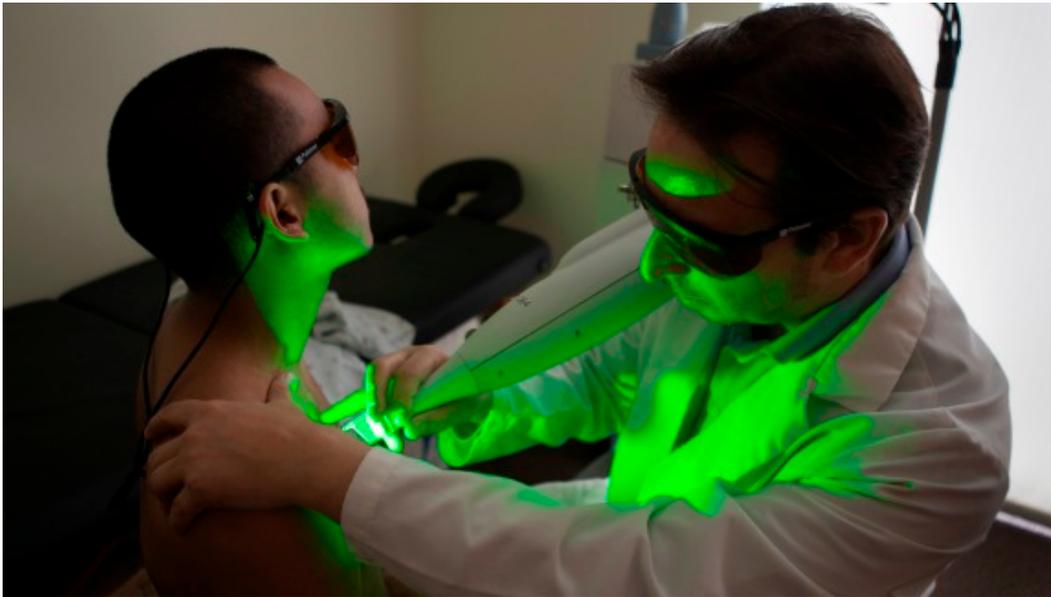
Agency

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# Lasers



*Getting Under Their Skin*

[bitly.com/pa-tattoo](http://bitly.com/pa-tattoo)

# Fluoroscopy and PAs

- PAs in a variety of specialties need to use fluoro on a regular basis.
- Issue: State Restrictions.



Photo Courtesy of FDA.gov

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# Organizational Advocacy

## Fluoroscopy Educational Framework for the Physician Assistant



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# **NO BARRIERS TO RAPID PA DEPLOYMENT**



- No requirement for the state to approve or know which licensed PA is working in collaboration with which licensed physician
- A rational and rapid state licensing system
  - Development of a Uniform Application for PAs
  - Inclusion in the Federation of State Medical Boards' Interstate Compact

**Uniform Application – Core Application**

Send this form to the state board you are applying to. Do not send this to FSMB.

Indicate your full legal name and any other names you have used in the past. If your name has changed at any time during your life and you are not using FCVS, you must submit a copy of the legal document (marriage certificate, divorce decree, etc.) supporting your name change to the Board.

Please complete all fields and indicate which address you want to use for public access and at which address you want to receive mailings from the Board. State laws vary on which address or phone number is or is not a matter of public record. Additionally, many state boards publish the Public Access address on their web sites. You may wish to contact the appropriate state licensing authority to determine which information will be a matter of public record.

If you are not using FCVS, you must submit one of the following to the Board: certified birth certificate, notarized copy of your birth certificate, original valid passport, or notarized copy of your current valid passport. Please check the state specific instructions for more information.

Be sure to list your name at the top of each following page.

Uniform Application for Physician State Licensure – Core UA (page 1 of 8)  
 Send this form to the state board you are applying to.

**Full Name**

Last name: \_\_\_\_\_  
 First name: \_\_\_\_\_  
 Middle name: \_\_\_\_\_ Suffix: \_\_\_\_\_  
 Maiden name (if applicable): \_\_\_\_\_  
 All other names used/identified as: \_\_\_\_\_

**Practice Address**

Public Access  
 Mailings for Medical Board

Street: \_\_\_\_\_  
 City: \_\_\_\_\_  
 State/Province: \_\_\_\_\_  
 Zip code: \_\_\_\_\_ Country: \_\_\_\_\_  
 Practice phone: \_\_\_\_\_ Practice fax: \_\_\_\_\_  
 Alternate phone: \_\_\_\_\_ Alternate fax: \_\_\_\_\_  
 Practice email: \_\_\_\_\_

**Home Address**

Public Access  
 Mailings for Medical Board

Street: \_\_\_\_\_  
 City: \_\_\_\_\_  
 State/Province: \_\_\_\_\_  
 Zip code: \_\_\_\_\_ Country: \_\_\_\_\_  
 Home phone: \_\_\_\_\_ Home fax: \_\_\_\_\_  
 Alternate phone: \_\_\_\_\_ Alternate fax: \_\_\_\_\_  
 Home email: \_\_\_\_\_

**Identification**

Date of birth: \_\_\_\_\_ (mm/dd/yyyy) Gender: \_\_\_\_\_ Birth city: \_\_\_\_\_  
 Birth state/province: \_\_\_\_\_ Birth country: \_\_\_\_\_  
 Social Security number\*: \_\_\_\_\_ (9 digits) NPI number\*\*: \_\_\_\_\_ (10 digits) U.S. Citizen?  Yes  No

\*Your social security number is required to facilitate reporting to the federal Healthcare Integrity & Protection Data Bank (42 U.S.C. Sections 1320a-7e(b), 5 U.S.C. Section 552a, and 45 C.F.R. pt. 61) and for accurate identification under the federal and state child support enforcement law (42 U.S.C. Section 656 and applicable state law). It may also be used for reporting to the National Practitioner Data Bank (42 U.S.C. Section 11101 and 45 C.F.R. pt. 63) and for other investigative/enforcement purposes in compliance with state laws governing physician discipline or as otherwise required by state or federal law.

\*\*The National Provider Identifier (NPI) is a Health Insurance Portability and Accountability Act (HIPAA) Administrative Simplification Standard. For more information on the NPI, visit <http://www.cms.hhs.gov/NationalProviderIdentifier>

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Keisha Pitts

# **PAs INCLUDED IN ALL WORKFORCE INITIATIVES**

# Loan Repayment Programs

- Everyone is a winner
  - PAs: education is expensive
  - Patients: access to care
  - States: retain and attract talent; address workforce shortage issues
- Recent local victory: Maryland HB 459 effective Oct. 1, 2014
  - Maryland Loan Assistance Repayment Program for Physicians expanded its scope to provide education loan repayments to PAs practicing medicine in primary care in regions of the state where there is a provider shortage.

# Tax Credits

- Increased interest in providing tax credits to PAs
- Impetus in part due to introduction of legislation similar to SB 391 in GA last year that provided a tax break (up to \$1,000 deduction on state taxes) for physicians who precept med students, PA and NP students.
- 2015: GA HB 463

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA: 6 SECTION 1. 7 Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to income taxes, is amended by revising paragraph (13.2) of subsection (a) of Code Section 48-7-27, relating to computation of taxable net income, as follows:

"(13.2)(A) An amount equal to \$1,000.00 for any ~~physician~~ preceptor who served as the community based faculty ~~physician~~ preceptor for a medical core clerkship provided by community based faculty.

(B) An amount equal to \$1,000.00 for any ~~physician~~ preceptor who served as the community based faculty ~~physician~~ preceptor for a physician assistant core clerkship provided by community based faculty.

(C) An amount equal to \$1,000.00 for any ~~physician~~ preceptor who served as the community based faculty ~~physician~~ preceptor for a nurse practitioner core clerkship provided by community based faculty.

(D) As used in this paragraph, the term: 20 (i) 'Community based faculty ~~physician~~ preceptor ...

- AAPA has a draft model legislation language available to our COs as a similar measure would be extremely beneficial to PA programs facing increasing competition for clinical training.

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Adam Peer

# **REVISING AAPA'S MODEL STATE LEGISLATION**

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# From HOD Policy to State Law



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# The Purpose of a Model Law

- Articulate policy and best practices
- Seize the high ground (she who gets to paper first wins!)
- Promote consistency
- Keep bad language from travelling
- Achieve regulatory efficiency
- Define the grail

# What's Different?

- PA education
- Health systems
- Diversity of employers
- Physician expectations
- Technology
- House of Delegates Policy
- The language we use to describe the profession
- PA expectations
- Employer expectations
- We know more – studies confirm PA quality

# New HOD Policy

## HP-3100.3.0 Role HP-3100.3.1

PAs are health professionals licensed or, in the case of those employed by the federal government, credentialed to practice medicine in collaboration with physicians. PAs are qualified by graduation from an accredited PA educational program and/or certification by the National Commission on Certification of Physician Assistants. Within the physician-PA relationship, PAs provide patient-centered medical care services as a member of a health care team. PAs practice with defined levels of autonomy and exercise independent medical decision making within their scope of practice.

[Adopted 1995, reaffirmed 2000, 2005, 2010, amended 1996, **2014**]

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## Invitation in Medical Watch for Drafting Workgroup

Melinda Gottschalk  
Medical Oncology  
Texas



James Cannon  
U.S. Coast Guard  
Virginia



Fielding Mercer  
Emergency Medicine  
Hawaii

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Heather Trafton  
Director of  
Performance at  
AQC Solution  
Massachusetts



Nick Vance  
Emergency Medicine  
West Virginia



Kurt Schmeckpeper  
Orthopaedics  
Nebraska



Peter Stevens  
Orthopaedics  
Louisiana

# Getting Started

- Assembled the brain trust
- Agreed on a process
  - Workgroup recommendations return to Advocacy Commission
- Reviewed relevant policy
  - AAPA
  - VA Directive on PA Practice
  - Federation of State Medical Boards
  - Physician organizations
- Scrubbed and gloved

# Definitions

## Current version

“Physician assistant” means a health professional who meets the qualifications defined in this chapter and is licensed under this chapter to practice medicine with physician supervision.

## Revised

“Physician assistant (PA)” means a healthcare professional who meets the qualifications defined in this chapter and is licensed under this chapter.

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# “Supervising” or “Collaborating” Physicians

## Current version

“Supervising physician” means an M.D. or D.O. licensed by the board who supervises physician assistants.

## Revised

“Collaborating physician” means an M.D. or D.O. licensed by the board who collaborates with PAs.

# Supervision and Collaboration

## Current version

“Supervision” means overseeing the activities of, and accepting responsibility for, the medical services rendered by a physician assistant. The constant physical presence of the supervising physician is not required as long as the supervising physician and physician assistant are or can be easily in contact with each other by telecommunication.

## Revised

“Collaboration” means the process in which PAs and physicians jointly contribute to the healthcare and medical treatment of patients with each collaborator performing actions he or she is licensed or otherwise authorized to perform. Collaboration shall be continuous but shall not be construed to require the physical presence of the physician at the time and place that services are rendered.

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“accepting responsibility for...”

Let's discuss...

# Exemption from Licensure

## Current version

Nothing herein shall be construed to require licensure under this Act of

- 1) a physician assistant **student** enrolled in a physician assistant educational program accredited by the Accreditation Review Commission on Education for the Physician Assistant;
- 2) a **physician assistant employed in the service of the federal government** while performing duties incident to that employment; or
- 3) **technicians** or other assistants or employees of physicians who perform physician delegated tasks but who are not rendering services as a physician assistant or identifying themselves as a physician assistant.

## Revised

Nothing herein shall be construed to require licensure under this Act of

- 1) a PA **student** enrolled in a physician assistant educational program accredited by the Accreditation Review Commission on Education for the Physician Assistant; or
- 2) a **PA employed in the service of the federal government** while performing duties incident to that employment unless licensure is required by the federal employer.

# Scope of Practice, Delegation

## Current version

Physician assistants practice medicine with **physician supervision**. Physician assistants may perform those duties and responsibilities, including the ordering, prescribing and dispensing, and administration of drugs and medical devices that are **delegated** by their supervising physician(s). Physician assistants may provide any medical service that is **delegated** by the supervising physician when the service is within the PA's skills, forms a component of the **physician's scope of practice**, and is provided with supervision. A physician assistant may perform a task not within the scope of practice of the supervising physician as long as the supervising physician has adequate training, oversight skills, and supervisory and referral arrangements to ensure competent provision of the service by the PA.

## Revised

PAs practice medicine in collaboration with physicians. PAs may provide any medical service that is within the PA's skills, education and training. This includes the ordering, prescribing and dispensing and administration of drugs and medical devices. PAs may pronounce death and may authenticate with their signature any form that may be authenticated by a physician's signature.

# Agency

## Current version

Physician assistants shall be considered the agents of their supervising physicians in the performance of all practice-related activities including, but not limited to, the ordering of diagnostic, therapeutic, and other medical services.

## Revised

Deleted

# Prescriptive Authority

## Current version

A physician assistant may prescribe, dispense, and administer drugs and medical devices to the extent **delegated** by the supervising physician.

Prescribing and dispensing of drugs may include Schedule II through V substances as described in [the state controlled drug act] and all legend drugs.

All dispensing activities of physician assistants shall

1) comply with appropriate federal and state regulations;

and 2) occur when pharmacy services are not reasonably available, or when it is in the best interest of the patient, or when it is an emergency. Physician assistants may request, receive, and sign for professional samples and may distribute professional samples to patients.

Physician assistants authorized to prescribe and/or dispense controlled substances must register with the federal Drug Enforcement Administration [and any applicable state controlled substance regulatory authority].

## Revised

A PA may prescribe, dispense, and administer drugs and medical devices.

Prescribing and dispensing of drugs may include Schedule II through V substances as described in [the state controlled drug act] and all legend drugs.

All dispensing activities of PAs shall

1) comply with appropriate federal and state regulations; and

2) occur when pharmacy services are not reasonably available, or when it is in the best interest of the patient, or when it is an emergency.

PAs may request, receive, and sign for professional samples and may distribute professional samples to patients.

PAs authorized to prescribe and/or dispense controlled substances must register with the federal Drug Enforcement Administration [and any applicable state controlled substance regulatory authority].

# Supervision/Collaboration

## Supervision

Supervision shall be continuous but shall not be construed as necessarily requiring the physical presence of the supervising physician at the time and place that the services are rendered. It is the obligation of each team of physician(s) and physician assistant(s) to ensure that the physician assistant's scope of practice is identified; that delegation of medical tasks is appropriate to the physician assistant's level of competence; that the relationship of, and access to, the supervising physician is defined; and that a process for evaluation of the physician assistant's performance is established.

## Collaboration

Collaboration shall be continuous but shall not be construed to require the physical presence of the physician at the time and place that services are rendered. It is the obligation of each team of physician(s) and PA(s) to ensure that the PA's scope of practice is identified and appropriate to the PA's skill, education and training and that the relationship of, and access to, the collaborating physician is defined.

## Supervising physician

A physician wishing to supervise a physician assistant must

1) be licensed in this state;

2) be free from any restriction on his or her ability to supervise a physician assistant that has been imposed by board disciplinary action;

3) maintain a written agreement with the physician assistant. The agreement must state that the physician will exercise supervision over the physician assistant in accordance with this act and any rules adopted by the board and will retain professional and legal responsibility for the care rendered by the physician assistant. The agreement must be signed by the physician and the physician assistant and updated annually. The agreement must be kept on file at the practice site and made available to the board upon request.

A physician supervising a physician assistant practicing in a federal jurisdiction is not required to meet the licensing requirements under this section, but must meet the licensing requirements of the federal agency.

## Collaborating physician

A physician who collaborates with a PA must

1) be licensed in this state;

2) be free from any restriction on his or her ability collaborate with a PA that has been imposed by board disciplinary action;

A physician collaborating with a PA practicing in a federal jurisdiction is not required to meet the licensing requirements under this section, but must meet the licensing requirements of the federal agency.

# Satellite Settings

## **Current version**

Nothing contained herein shall be construed to prohibit the rendering of services by a physician assistant in a setting geographically remote from the supervising physician.

## **Revised**

Deleted

## Exclusions of Limitation on Employment

### Current version

Nothing herein shall be construed to limit the employment arrangement of a physician assistant licensed under this Act.

### Revised

No current proposed change.

## Violations, Penalty, Disasters, Volunteering

- Violations are generally parallel to medical practice act
- Adequate disciplinary penalties
- Ability to provide care in disasters (collaboration not required when PA providing emergency field response)
- Ability to volunteer (collaboration not required when PA volunteering)

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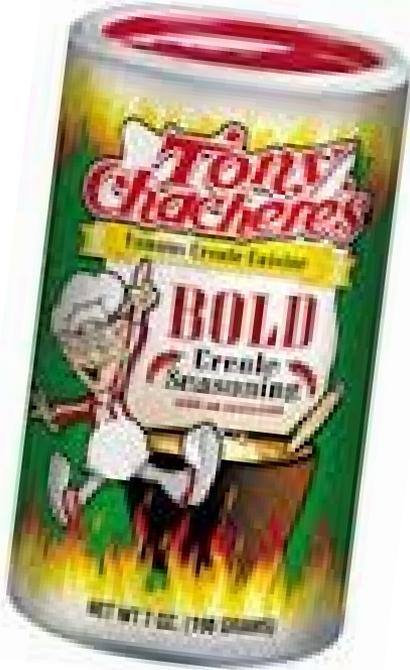
# **STRATEGIES FOR 2015-2016**

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# 2015: A year to be **BOLD!**



- ACA implementation giving us a tailwind
- Reject the elaborate work-around
- Identify and challenge the status quo
- Commit to removing practice barriers

# Planning for Success

- **Start Early**
  - Invite legislators to your clinic or hospital
  - Show them the value you provide to patients
  - Volunteer as a campaign worker



# Planning for Success

- **Surprise No One**
  - Communicate
  - Clarify the opposition
  - Weigh the pros and cons of negotiation
  - Know the votes (supporters vs. opposition)



# Planning for Success

- **Have Friends**
  - Remember me? The time to make friends is before you need them
  - Political Action Committee
  - Identify key stakeholder groups with aligned missions



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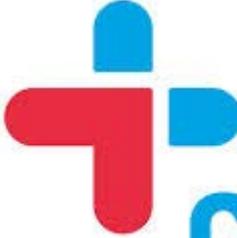
[KnowYourDose.org](http://KnowYourDose.org)  
Acetaminophen Awareness Coalition



CALIFORNIA ACADEMY OF  
FAMILY PHYSICIANS  
**STRONG MEDICINE FOR CALIFORNIA**

**FARM  
BUREAU**  
INSURANCE®

Auto • Home • Life

 **minute  
clinic®**

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# Sometimes you have to play defense...



## Legislation introduced in MO to allow medical board to license medical graduates who had not entered post graduate training to be licensed as “assistant physicians”

- MOAPA leaders told that bill was not likely to pass
- Amended into moving legislation and passed 6 hours before *sine die*
- MOAPA and AAPA worked together on governor letter, media response
- AMA HOD passed resolution opposing
- MOAPA and AAPA working to address implementation
- AAPA working with other stakeholders to oppose this happening in other states
- CO diligence needed to identify problematic legislation and to educate legislators that “assistant physicians” are not the answer.

## **Regulations supported by NV Medical association sought to:**

- Require PA to notify physician of each patient seen within 24 hours
- Limit the number of physicians with whom the PA could practice
- Require the PA to note name of physician in each chart note
- Require 10% chart co-signature

## **NAPA and AAPA worked together to oppose:**

- Physician notification, limitation of number of physicians and naming of physician deleted from the proposal
- 5% chart co-signature adopted

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# A Brief Note on the Regulatory Agency --

- The PAs on the regulatory board (medical board, PA board, or PA committee) are appointed to protect the public, not to represent the profession

## *ERGO*

- The PA society needs to send an observer to every meeting of the PA regulatory agency



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North Carolina Dental Board  
Vs  
US Federal Trade Commission

The Supreme Court ruled on  
the side of the FTC

Implications for regulation of  
health professions



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# Collaboration



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# We're Here to Help!



(Stephanie Radix, COOA Director and  
VAPA Board of Directors)

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## AAPA is Eager to Help with Your Media Advocacy



Media Advocacy

- Op-eds, Letters to the Editor (LTEs) and other venues can support your advocacy efforts
- Use PA Day
- Case in point: New York Times article got most things right – a few things wrong. AAPA worked with AFPPA, PAs in Psychiatry, PAs in Dermatology and PAs in Plastic Surgery to support a LTE strategy
- New York Times published clarifying LTE addressing all three specialties!

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# We are all in this together..

- Academy leadership and staff are committed to partnership in advocacy
- Staff can supply background information (summaries, policy from relevant organizations, fact sheets, issue documents)
- COOA staff can assist with strategy development – with great respect for local realities
- Every PA benefits when a state law improves
- And it is all about providing great patient care!