MEDICAL BOARD OF CALIFORNIA
LEGISLATIVE ANALYSIS

BILL NUMBER:	SB 697
AUTHOR:	Caballero
BILL DATE:	April 24, 2019, Amended
SUBJECT:	Physician Assistants: Practice Agreement: Supervision
SPONSOR:	California Academy of Physician Assistants (CAPA)
POSITION:	Support

DESCRIPTION OF CURRENT LEGISLATION:

This bill would revise the Physician Assistant Practice Act (Act) to allow multiple physicians and surgeons to supervise a physician assistant (PA), would replace the delegation of services agreement (DSA) with a practice agreement, would eliminate the existing medical records review requirement, would authorize a physician to supervise two additional PAs for a total of six, and would make other substantive and technical changes.

BACKGROUND:

The first Physician Assistant training program began in 1965 at Duke University with the admission of four ex-military corpsmen into a two-year program. California began regulating the profession in 1970 “to redress the growing shortage and geographic misdistribution of health care services in California." The PA practice act permitted the supervised delegation of certain medical services to PAs, thus freeing physicians to focus their skills on other procedures.

To become licensed in California, a PA must attend and graduate from an accredited PA program associated with a medical school that includes classroom studies and clinical experience. The professional curriculum for PA education includes basic medical, behavioral, and social sciences; introduction to clinical medicine and patient assessment; supervised clinical practice; and health policy and professional practice issues. A PA performs many of the same diagnostic, preventative, and health maintenance services as a physician. These services include, but are not limited to, the following: taking health histories; performing physical examinations; ordering X-rays and laboratory tests; ordering respiratory, occupational, or physical therapy treatments; performing routine diagnostic tests; establishing diagnoses; treating and managing patient health problems; administering immunizations and injections; instructing and counseling patients; providing continuing care to patients in the home, hospital, or extended care facility; providing referrals within the health care system; performing minor surgery; providing preventative health care services; acting as first or second assistants during surgery; and responding to life-threatening emergencies.

Existing law authorizes a PA to perform medical services under the supervision of a physician and surgeon who must be physically available to the PA. Existing law defines a DSA as the writing that delegates to a PA, from a supervising physician, the medical services the PA is authorized to perform. Existing law states that a PA acts as an agent of the supervising physician when performing any activity authorized by the Act. Existing law requires the PA and the PA's supervising physician and surgeon to establish written guidelines for adequate supervision and adhere to specific medical records review processes. Existing law authorizes a supervising physician and surgeon to delegate the authority to issue a drug order to a PA, and may limit this authority by specifying the manner in which the PA may issue delegated prescriptions by adopting a formulary and protocols that specify all criteria for the use of a particular drug or device. The drugs listed in the protocols shall constitute the formulary and shall include only drugs that are appropriate for use in the type of practice engaged in by the supervising physician and surgeon. When issuing a drug order, the PA is acting on behalf of and as an agent for a supervising physician and surgeon.

Both PAs and Nurse Practitioners (NPs) are mid-level healthcare professionals with overlapping scopes of practice. Each have distinct training and philosophies: nurses follow a patient-centered model in which they focus on disease prevention and health education, while PAs follow a disease-centered model in which they focus on the biologic and pathologic components of health. In California, a substantial differentiating factor between the two professions is the comparatively higher level of administrative duties related to supervision required by the PA's Practice Act.

Existing law limits a physician and surgeon to supervising up to four PAs at one time and up to four NPs.

NPs operate under supervision of a physician under standardized procedures and protocols. Existing law specifies that physician supervision shall not be construed to require the physical presence of the physician, but does include collaboration on the development of the standardized procedure, approval of the standardized procedure, and availability by telephonic contact at the time of patient examination by the NP. Existing law authorizes a NP to furnish or order drugs or devices when operating in accordance with standardized protocols developed by the NP and supervising physician and authorizes the physician to determine the extent of supervision necessary for an NP to furnish and order drugs.

ANALYSIS:

This bill would revise the Act's legislative intent to emphasize coordinated care between PAs and other health care professionals.

This bill would update the existing definition of a supervising physician by taking out the reference of improper use and replacing it with, prohibiting employment or supervision

of a PA. This bill would prohibit physician supervision from requiring the physical presence of the physician.

This bill would define an organized health care system to include a licensed clinic, an outpatient setting, a health facility, a county medical facility, an accountable care organization, a home health agency, a physician's office, a professional medical corporation, a medical partnership, a medical foundation, and any other organized entity that lawfully provides medical service.

This bill would strike all reference to a DSA in the Act and replaces these references with a "practice agreement". This bill would define a practice agreement as a writing, developed through collaboration among one or more physicians, one or more PAs, and, if applicable, administrators of an organized health care system, that outlines the medical services the PA is authorized to perform and that grants approval for physicians on the staff of an organized health care system to supervise one or more PAs in the organized health care system. This bill would specify that any reference to a DSA relating to PAs in any other law shall have the same meaning as a practice agreement.

This bill would delete the medical records review definition and requirement from existing law.

This bill would delete existing law that states a PA acts as an agent of a supervising physician when performing any activity under the Act.

This bill would authorize a PA to perform the medical services set forth in the Act if the following requirements are met:

- The PA renders the services under the supervision of a physician who is not subject to a disciplinary condition imposed by the Medical Board of California (Board) or the Osteopathic Medical Board prohibiting that supervision or prohibiting the employment of a PA.
- The PA renders the services pursuant to a practice agreement.
- The PA is competent to perform the services.
- The PA's education, training, and experience have prepared the PA to render the services.

This bill would prohibit the Act from requiring a supervising physician to review or countersign a patient's medical record who was treated by a PA, unless required by the practice agreement. This bill would allow the Physician Assistant Board (PAB), as a condition of probation of a licensee, to require the review or countersignature of records of patients treated by a PA for a specified duration.

This bill would redraft the provisions of law relating to PAs ordering drugs and devices in relation to the practice agreement changes. This bill would allow a PA to furnish or order a drug or device in accordance with the practice agreement and consistent with the PA's educational preparation or for which clinical competency has been established and maintained. This bill would require the practice agreement to specify which PAs

may furnish or order a drug or device, which drugs or devices may be furnished or ordered, under what circumstances, the extent of physician supervision, the method of periodic review of the PA's competence, including peer review, and review of the practice agreement. This bill would require the PA, when furnishing or orderings drugs or devices to adhere to adequate supervision agreed to in the practice agreement. This bill would require the supervising physician to be available by telephone or other electronic communication method at the time the PA examines the patient.

This bill would allow a physician to supervise an additional two PAs at one time, for a total of six.

This bill would require the practice agreement to include the following:

- The types of medical services a PA is authorized to perform and how the services are performed.
- Policies and procedures to ensure adequate supervision of the PA, including, but not limited to, appropriate communication, availability, consultations, and referrals between a physician and the PA in the provision of medical services.
- The methods for continuing evaluation of the competency and qualifications of the PA.
- The furnishing or ordering of drugs or devices by a PA.
- Any additional provisions agreed to by the PA and physician or organized health care system.

This bill would require the practice agreement to be signed by the PA and one or more physicians or a physician who is authorized to approve the practice agreement on behalf of the staff of the physicians or the staff of an organized health care system. This bill would specify that a DSA in effect prior to January 1, 2020, shall be deemed to meet the requirements of this bill. This bill would specify that it shall not be construed to require approval of a practice agreement by the PAB.

This bill would delete existing provisions of law that conflict with the principle of multiple physician and surgeon supervision of a PA. This bill would delete outdated sections of existing law relating to the requirement that a supervising physician apply to the PAB and pay a fee and Board oversight that is outdated. This bill would also make technical changes.

This bill would specify that its provisions are severable, and if any provision of this bill or its application is held invalid, the invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

According to the author's office, "There are several disparities between PAs and other medical professionals in the same arena when it comes to the relationship between PAs and physicians. In practice, this means PAs are subject to burdensome regulations such as chart review, co-signatures, DSA requirements, and outdated ratios for prescribing purposes. These regulations incur a burden upon the physician as well, who may not be incentivized to hire a PA if a less regulated NP is available.

It is very possible that this disincentive to hire PAs may be contributing to the lack of healthcare services across our state, but especially in rural areas. If regulations were lessened on PAs to better match a NP's status, there would be little or no disparity and PAs could be better utilized by physicians in areas where health care services are lacking. This bill seeks to reduce the burdens on the physician – PA relationship, so practices can thrive and potentially expand."

The purpose of this bill is to align the PA supervision requirements to those of an NP. This bill originally would have deleted all references to physician supervision and would have made PAs independent practitioners. This current version of the bill is a result of negotiations with the author's office, sponsors and various stakeholders who were previously opposed. The Board has taken a support position on this bill.

FISCAL: None

SUPPORT: CAPA (Sponsor); America's Physician Groups; Association of California Healthcare Districts; California Association for Health Services at Home; California Medical Association; and California Psychiatric Association

OPPOSITION: California Chapter American College of Emergency Physicians (Unless Amended)