QUICK SUMMARY—WHAT YOU NEED TO KNOW:

- Colorado Medical Board (CMB) Rule 400 outlines the rules and regulations regarding the licensure of and practice by physician assistants (PAs).
- During the 2019 Colorado legislative session, House Bill 19-1095 was passed, which established requirements for the supervision of PAs in the Medical Practice Act (MPA).
- As a result of the passage of HB 19-1095, some sections of CMB Rule 400 regarding supervision and review requirements were removed because they are now included in the MPA.
- HB 19-1095 changed the MPA as follows:
  - A licensed physician can be responsible for the direction and supervision of up to eight PAs at any one time.
  - A licensed physician shall not be made responsible for the direction and supervision of more than four PAs unless the physician agrees to assume the responsibility; the physician has sole discretion to assume or refuse such responsibility; and an employer shall not require a licensed physician to assume such responsibility as a condition of employment.
  - The bill increases the number of PAs on the CMB from one to two.
- CMB Rule 400 and the MPA are interrelated and should be viewed together for all the requirements for PAs and their supervising physicians.

AREAS OF CONCERN

As the role of PAs in health care continues to expand, it is important to know that the two main areas involving medical liability claims with PAs involve clinical and supervisory areas. Clinically, allegations generally are of a delayed, missed, or wrong diagnosis; failure to obtain physician collaboration; or deviation from scope of practice. Supervisory allegations include lack of adequate physician oversight, lack of written protocols, or deviation from written protocols. Knowing these risk areas can help in the collaboration of supervisory physicians and PAs.

SUPERVISING PLANS AND PRACTICE AGREEMENTS

CMB Rule 400 was revised to state “The requirements for a Supervisory Plan or a Practice Agreement applies to all supervising physicians and physician assistants as of August 2, 2019.” In other words, a PA must be operating under either a Supervisory Plan (new PAs) or a Practice Agreement (all other PAs).

Within 30 days after a new PA completes 160 working hours, the primary supervising physician must complete an initial performance assessment and a supervisory plan for the PA.
Elements that should be incorporated in a supervisory plan may include, but are not limited to:

- Nature of the clinical practice (areas of specialty, practice sites, populations served, ambulatory and inpatient expectations, etc.);
- Specific expectations and duties of the PA;
- Expectations around physician(s) support, supervision, consultation, and back up;
- Methods and modes of communication, co-management, and collaboration;
- Specific clinical instances in which the PA should ask for physician back up;
- Plan for ongoing professional education and skills development for the PA;
- List of secondary supervisors anticipated to participate in the PA’s practice;
- Schedule of performance assessments and anticipated modalities by which the practice will be assessed and domains that will be assessed;
- Other pertinent elements of collaborative, team-based practice applicable to the specific practice or individual physician and PA.

The supervision of PAs who have practiced at least 12 months and are new to a practice area or new to Colorado, and all other experienced PAs (those who have practiced in Colorado at least three years) is determined by a practice agreement. The practice agreement must include:

- A process by which a PA and a supervising physician communicate and make decisions concerning patients’ medical treatment that utilizes the knowledge and skills of the PA and the supervising physician based on their respective education, training, and experience;
- A protocol for designating an alternative physician for consultation when the supervising physician is unavailable;
- The signatures of the PA and supervising physician;
- A termination provision that allows the PA or the supervising physician to terminate the practice agreement after providing written notice of his or her intent to do so at least 30 days before the date of termination. If a practice agreement is terminated, the PA and the PA’s new primary supervising physician must create a new practice agreement within 45 days after the date the previous practice agreement was terminated.

In addition to these components, a practice agreement may impose conditions concerning specific duties, procedures, or drugs. If the terms or conditions of a practice agreement change, both the PA and the supervising physician must sign and date the updated practice agreement.

Previously, a supervising physician was required to complete a performance assessment for an experienced PA at least annually, but now there must be a “periodic” assessment, with more frequent assessments for new PAs or those new to a practice setting (see chart below). The components of a performance evaluation have not changed in Rule 400.

### PA Supervision and Review Requirements

<table>
<thead>
<tr>
<th>Category</th>
<th>On Site Supervision</th>
<th>Supervisory Plan</th>
<th>Practice Agreement</th>
<th>Performance Evaluation/Assessment</th>
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<tr>
<td><strong>New PA</strong> (Less than 3 years)²</td>
<td>• First 160 hours</td>
<td>Within 30 days of completion of 160 hours³</td>
<td>N/A</td>
<td>Within 30 days of completion of the 160 hours; periodic thereafter⁴</td>
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<td>• At least 25% by primary supervisor²</td>
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<td><strong>New practice area</strong>³</td>
<td>• First 80 hours</td>
<td>N/A</td>
<td>Yes⁷</td>
<td>At 6 and 12 months; periodic thereafter⁸</td>
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<td>(Practiced at least 12 months. If new to CO, less than 3 years, use this standard.)</td>
<td>• At least 25% by primary supervisor⁶</td>
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<td><strong>All other experienced PAs⁹</strong></td>
<td>• Per Practice Agreement¹⁰</td>
<td>N/A</td>
<td>Within 30 days of beginning practice¹¹</td>
<td>Yes¹²</td>
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<td>(more than 3 years in CO)</td>
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ONGOING SUPERVISION AND PERFORMANCE EVALUATION
The domains of competency may be dependent upon the type of practice the PA is engaged in and may include but are not limited to:

- Medical knowledge
- Appropriate history and physical examination performance
- Manage, integrate, and understand objective data
- Clinical judgment, decision-making, and assessment of patients
- Patient management
- Communication skills
- Documentation and record keeping
- Collaborative practice and professionalism
- Procedural/technical skills

MODALITIES OF ASSESSMENT TO EVALUATE DOMAINS OF COMPETENCY MAY INCLUDE:

- Co-management of patients
- Direct observation
- Chart review
- Feedback from patients/other providers

WHAT HASN’T CHANGED AND IS STILL REQUIRED?
A PA must have at least one primary supervising physician for each employer. If the employer is a multi-specialty organization (e.g., a multi-specialty practice, hospital, hospital system or HMO), the PA must have a primary supervising physician, registered with the board, per specialty practice area. A secondary supervising physician may also delegate to a PA the authority to perform acts that constitute the practice of medicine in accordance with Rule 400. These secondary supervising physicians do not need to be registered with the board.

SPECIAL REQUIREMENTS FOR THE ACUTE CARE HOSPITAL SETTING
When PAs perform delegated medical services in an acute care hospital, supervision and direction may be performed without the physical presence of the physician if:

- The medical functions are performed where the supervising physician regularly practices or in a designated health manpower shortage area;
- The supervising physician (primary or secondary) reviews the quality of services rendered by the PA by reviewing and signing the medical records to assure compliance with the physician’s directions; and
- The performance of the delegated medical function otherwise complies with the medical board’s rules and any restrictions and protocols of the supervising physician and hospital.

PRESCRIPTION AND DISPENSING OF DRUGS
A PA may issue a prescription order for any drug or controlled substance provided that:

- Each prescription and refill order is entered on the patient’s chart.
- Each written prescription for a controlled substance must contain, in legible form, the name of the PA and the name, address, and telephone number of the supervising physician.
- For all other written prescriptions issued by a PA, the PA’s name and the address of the health facility where the PA is practicing must be imprinted on the prescription. If the health facility is a multi-specialty organization, the name and address of the specialty clinic within the health facility where the PA is practicing must be imprinted on the prescription.
- A PA may not issue a prescription order for any controlled substance unless the PA has received a registration from the United States Drug Enforcement Administration.
- For the purpose of Rule 400, electronic prescriptions are considered written prescription orders.

In addition, PAs shall not write or sign prescriptions or perform any services that the supervising physician for that particular patient is not qualified or authorized to prescribe or perform.
PHYSICIAN ASSISTANT AND SUPERVISING PHYSICIAN RESPONSIBILITIES

Physician Assistants (PAs) have the following responsibilities:

1. Compliance with Rule 400.
2. License—A PA needs an active and current license.
3. Registration—A PA needs to ensure a supervisory form is on record with the CMB, signed by both the primary supervising physician and the PA.
4. Identification as a PA—While practicing medicine, a PA needs to clearly identify himself or herself both visually and verbally as a PA.
5. Chart note—A PA needs to make a chart note for every patient he or she sees and needs to document any physician consults with the name of the physician consulted and date.
6. Documentation—A PA needs to keep documentation to assist the supervising physician in performing an adequate performance assessment.

Supervising physicians working with PAs have the following requirements and responsibilities:

1. Actively practicing medicine with a regular physical presence in Colorado.
2. Personal supervision of PAs (not done through intermediaries).
3. Adhere to a limit of being the primary supervising physician to no more than eight PAs.
4. Delegation of Medical Services—Delegated services must be consistent with the delegating physician’s education, training, experience, and active practice. Delegated services must be of the type that a reasonable and prudent physician would find within the scope of sound medical judgment to delegate to a PA. A physician may only delegate services that the physician is qualified and insured to perform and not restricted from performing. Any services performed by the PA are held to the same standard applied to the delegating physician.
5. The form on file with the CMB lists the physician as “primary supervising physician” for each PA he or she supervises.
6. Compliance with Rule 400.
7. The primary supervising physician may be responsible if a supervised PA commits unprofessional conduct by any act or omission of the PA that fails to meet generally accepted standards of medical practice or if the PA otherwise violates Rule 400.
8. The primary supervising physician is not responsible for the conduct of a PA where that PA was acting under the supervision of another primary supervising physician and there is a form in compliance with these Rules signed by that other primary supervising physician.
9. The primary supervising physician is also not responsible for the conduct of a PA where it is established by documentation or other reliable means that the PA consulted with a secondary supervising physician and that physician was clearly overseeing, or was otherwise responsible for the conduct of the PA, for an episode of care.
10. Before authorizing a PA to perform any medical service, the supervising physician should:
   a. Verify that the PA has an active and current Colorado license issued by the Board.
   b. Evaluate the PA’s education, training, and experience to perform the service safely and competently.

1 CRS 12-240-114.5(2)
2 CRS 12-240-114.5(2)(a)
3 CRS 12-240-114.5(2)(c);
   CMB Rule 400; 3 CCR 713-7.1(D)
4 CRS 12-240-114.5(2)(c)
5 CRS 12-240-114.5(4)
6 CRS 12-240-114.5(4)(a)
7 CMB Rule 400; 3 CCR 713-7.1(A)
8 CRS 12-240-114.5(4)(c)
9 CRS 12-240-114.5(3)(a)
10 CRS 12-240-114.5(3)(a)(I) – (IV)
11 CRS 12-240-114.5(3)(a)(I) – (IV);
   CRS 12-240-114.5(3)(b) and (c)
12 CMB Rule 400; CCR 713-7.1(D)