

10.32.~~[04]~~16 [~~Delegation of Duties by a Licensed Physician-Psychiatrist to a Psychiatrist's Assistant~~] *Psychiatric Assistants*

.01 Scope.

This chapter concerns the registration of psychiatrist's assistants before October 1, 1993, and re-registration and discipline of psychiatrist's assistants currently registered by the Board of Physicians.

.02 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Applicant" [~~means the registered psychiatrist's assistant and supervisory psychiatrist who applied to the Board on or before October 1, 1993, for approval of duties and supervision~~] *means an individual applying for initial licensure or registration, renewal, or reinstatement pursuant to Health Occupations, Titles 14 and 15, Annotated Code of Maryland.*

(2) "Board" [~~means the Board of Physicians~~] *has the meaning stated in Health-Occupations Article §, 14-101, Annotated Code of Maryland.*

(3) [~~"Facility" means a:~~

(a) ~~Hospital;~~

(b) ~~Nursing home;~~

~~(c) Health maintenance organization;~~

~~(d) Community health center;~~

~~(e) Public health clinic;~~

~~(f) Similar institution; or~~

~~(g) Medical office of more than one psychiatrist.]~~

(3) "Health care facility" has the meaning stated in Health-General Article, §19-114, Annotated Code of Maryland.

(4) "Psychiatrist" means an individual licensed to practice medicine in Maryland who has completed the psychiatric residency requirements in a program approved by the American Board of Psychiatry and Neurology or who has received, or is eligible for, certification by the American Board of Psychiatry and Neurology.

(5) "Psychiatrist's assistant" means an individual who applied for registration on or before October 1, 1993, and was registered by the Board to perform medical duties which would normally be performed by a psychiatrist.

.03 Permitted Assignment of Duties.

A psychiatrist may assign duties which constitute the practice of medicine to a psychiatrist's assistant in accordance with these regulations.

.04 Standards for Psychiatrist Supervision of Psychiatrist's Assistants.

A. The psychiatrist shall personally examine, diagnose, and establish a treatment plan for each patient before assigning a patient to a psychiatrist's assistant.

B. Adequate supervision of a psychiatrist's assistant in the performance of medical acts under these regulations requires the personal presence of the psychiatrist or the psychiatrist's

participation through telephone contact, chart review, or other means as approved by the Board, or all of the above.

C. Adequate supervision does not necessarily require on-site supervision in all cases.

D. When in the performance of his medical duties, a psychiatrist's assistant finds a significant, new undiagnosed condition or a significant change in an existing diagnosed illness, the psychiatrist's assistant shall immediately apprise the supervising psychiatrist of the condition or change. The supervising psychiatrist shall then direct appropriate treatment and shall be available to promptly attend the patient.

E. A psychiatrist may not employ more than two full-time psychiatrist's assistants in a non institutional practice.

.05 Registration and Re-registration.

A. After October 1, 1993, the Board may not accept or approve any application for registration.

B. An individual who has been registered by the Board as a psychiatrist's assistant pursuant to this chapter shall renew the registration every 2 years on the date specified by the Board by re-registration and payment of the appropriate fees. A registrant shall meet all the requirements of this chapter at re-registration.

C. A psychiatrist's assistant shall notify the Board in writing of a change in the psychiatrist's assistant name or address within ~~[60]~~ 30 days after the change.

D. Notice of the required re-registration shall be given by the Board to the psychiatrist's assistant at the address as shown on the records of the Board.

E. The psychiatrist's assistant shall complete this re-registration by the date specified by the Board.

F. If a psychiatrist's assistant does not receive notice of re-registration it shall be the responsibility of the psychiatrist's assistant to contact the Board in order to complete this re-registration before the expiration of the current registration.

G. A psychiatrist's assistant whose registration has expired for failure to renew is unregistered. A registration which has expired shall be considered permanently expired.

H. For purposes of the re-registration, appropriate standards for continuing medical education for psychiatrist's assistants may be promulgated by the Board.

I. When the registration expires, the approval of duties and supervision becomes invalid.

.06 Approval of Duties and Supervision.

A. When a physician or *health care* facility and a psychiatrist's assistant have agreed to the psychiatrist's assistant's employment, the two parties shall provide the Board with a written application for approval of duties and supervision before the psychiatrist's assistant begins his duties.

B. A psychiatrist's assistant may not begin employment until a notice of approval of duties and supervision is issued by the Board to the physician or health care facility and the psychiatrist's assistant.

C. Application for Approval of Duties and Supervision.

(1) The application shall be made on a form supplied by the Board and shall include:

(a) A complete list and description of the duties to be assigned to the psychiatrist's assistant.

(b) A detailed description of the supervisory relationship between the psychiatrist and the psychiatrist's assistant or the psychiatrists in a *health care* facility and the psychiatrist's assistant. The description of the supervisory relationship shall include a schedule of patient reviews.

(2) *Health care facility* [Facility] employers of psychiatrist's assistants shall submit to the Board for approval:

(a) The name of a principal psychiatrist who will be responsible for the assigned duties and supervision of all psychiatrist's assistants;

(b) The total number of psychiatrist's assistants to be employed.

(3) The application shall be signed by the psychiatrist and the psychiatrist's assistant or, if a *health care* facility, by the principal psychiatrist and all supervising psychiatrists and the psychiatrist's assistant.

D. The Board shall notify the psychiatrist's assistant and the psychiatrist or facility of its approval or disapproval of the duties and supervisory relationship within 60 days of receipt of the notice of employment.

E. The Board may approve an application in whole or in part, based upon the applicant's education and experience.

F. The Board shall have the authority to review the practice and supervisory relationship of a psychiatrist's assistant and psychiatrist or *health care* facility's psychiatrist at any time for conformance with these regulations.

.07 Termination of Employment.

Notice shall be given to the Board by the psychiatrist or the *health care* facility and the psychiatrist's assistant within 10 days of termination of employment.

.08 Responsibility of the Psychiatrist.

A. A record of patient reviews with the psychiatrist's assistant shall be kept on file and shall include a summary of the psychiatrist's observations and recommendations.

B. A psychiatrist may not assign the ultimate responsibility for diagnosis or therapy to a psychiatrist's assistant.

C. Notwithstanding any provision contained in these regulations, a psychiatrist may not assign to a psychiatrist's assistant the duty of independently prescribing or dispensing drugs.

.09 Psychiatrist's Responsibility to Patient not to be Limited by Assignment.

When the Board approves a psychiatrist's assistant's duties and supervisory relationship with a psychiatrist, that approval does not relieve the psychiatrist from the primary responsibility for the care and treatment of the patient. Medical services rendered to a patient by a psychiatrist's

assistant shall be, with respect to the obligation of the psychiatrist, the same as if those services had been rendered directly by the psychiatrist.

~~[.10 Fees.~~

~~The Board shall establish fees for application, registration, re-registration, late registration, and reinstatement of psychiatrist's assistants.]~~

~~[.11] .10 Identification of the Psychiatrist's Assistant.~~

~~[A. The psychiatrist's assistant shall wear a tag or badge with lettering clearly visible to the patient, bearing his name and the title "Registered Psychiatrist's Assistant". The use of any other degree designation either on the badge or in any other phase of practice as a psychiatrist's assistant is prohibited.]~~

~~[B] A. A patient calling or walking in for an appointment shall be clearly notified at that time whether he will be seeing the psychiatrist or the psychiatrist's assistant.~~

~~[C] B. A psychiatrist's assistant may not represent ~~himself~~ *themselves* as a psychiatrist's assistant in any employment unless an application for approval of duties and supervision has been approved by the Board.~~

~~[D] C. The Board shall maintain a registry of psychiatrist's assistants.~~

~~[.12] .11 Hearings Following Denial of Application or Re-Registration.~~

~~A. If the Board disapproves an application for approval of duties and supervision, it shall give notice to the applicant and set forth the specific reasons for the denial. The applicant shall have the right to appear before the Board and be heard.~~

B. If the applicant desires to be heard, he shall make a written request for a hearing within 10 days of the receipt of the notice of disapproval of his application. The hearing shall be held within 60 days after the written request has been filed.

C. At the hearing, the applicant may be represented by counsel and may present witnesses and other evidence on his behalf.

D. The Board shall affirm, reverse, or modify its previous disapproval and give the applicant written notice of the action which it has taken within 30 days after the hearing, unless the applicant agrees to a longer period.

~~[.13 Prohibited Conduct, Hearings, and Appeals.~~

~~A. For the commission of a prohibited act, subject to the hearing provisions of Health Occupations Article, §14-405, Annotated Code of Maryland, on the affirmative vote of a majority of its full, authorized membership, the Board may:~~

- ~~(1) Reprimand any psychiatrist's assistant;~~
- ~~(2) Place any psychiatrist's assistant on probation; or~~
- ~~(3) Suspend or revoke the registration of a psychiatrist's assistant.~~

~~B. The following are prohibited acts:]~~

- ~~(1) Fraudulently or deceptively obtaining, or attempting to obtain, a registration for the applicant or certified individual or for another;~~
- ~~(2) Fraudulently or deceptively using a registration;~~
- ~~(3) Being guilty of unprofessional or immoral conduct in the practice of psychiatry as a psychiatrist's assistant;~~
- ~~(4) Being professionally, physically, or mentally incompetent;~~
- ~~(5) Habitually being intoxicated;~~

~~(6) Being addicted to, or habitually abusing, any narcotic or controlled dangerous substance as defined in Criminal Law Article, Annotated Code of Maryland;~~

~~(7) Providing professional services while:~~

~~(a) Under the influence of alcohol, or~~

~~(b) Using any narcotic or controlled dangerous substance, as defined in Criminal Law Article, Annotated Code of Maryland, or other drug that is in excess of therapeutic amounts or without valid medical indication;~~

~~(8) Willfully making or filing a false report or record in the practice of psychiatry as a psychiatrist's assistant or aiding another individual to do so;~~

~~(9) Willfully failing to file or record any report as required under law, willfully impeding or obstructing the filing or recording of a report, or inducing another to fail to file or record a report;~~

~~(10) Making a willful misrepresentation in treatment;~~

~~(11) Practicing as a psychiatrist's assistant with an unauthorized individual or aiding an unauthorized individual in practice as a psychiatrist's assistant;~~

~~(12) Being disciplined by a licensing or disciplinary authority or being convicted or disciplined by a court of any state or country or disciplined by any branch of the United States uniformed services or the Veterans' Administration for an act that would be grounds for disciplinary action under this regulation;~~

~~(13) Failing to meet appropriate standards for the delivery of quality performance as a psychiatrist's assistant in this State;~~

~~(14) Willfully submitting false statements to collect fees for which services are not provided;~~

~~(15) Knowingly failing to report suspected child abuse in violation of Family Law Article, §5-903, Annotated Code of Maryland;~~

~~(16) Selling, prescribing, giving away, or administering medical prescription drugs, narcotics, or controlled dangerous substances, as defined in Criminal Law Article, Annotated Code of Maryland, for illegal or illegitimate medical purposes;~~

~~(17) Breaching patient confidentiality;~~

~~(18) Practicing beyond the authorized scope of practice;~~

~~(19) Performing delegated medical acts other than under the supervision of a psychiatrist approved by the Board;~~

~~(20) Refusing, withholding from, denying, or discriminating against a patient with regard to the provision of professional services for which the psychiatrist's assistant is registered and qualified to render because the patient may be HIV positive;~~

~~(21) Practicing or attempting to practice any delegated act as a psychiatrist's assistant without having received education, internship, training, or experience in the performance of that procedure;~~

~~(22) Soliciting professional patronage through an agent or other individuals or profits from the acts of an individual who is represented as an agent of the psychiatrist's assistant;~~

~~(23) Paying or agreeing to pay any sum to an individual for bringing or referring a patient or accepting or agreeing to accept any sum from an individual for bringing or referring a patient;~~

~~(24) Failing to comply with these regulations;~~

~~(25) On proper request, failing to provide, in writing, details of a patient's records to another health care provider, institution, or hospital; and~~

~~(26) Except in an emergency life-threatening situation, failing to comply with the Centers for Disease Control's guidelines on universal precautions.~~

~~[C] B. Crimes Involving Moral Turpitude:~~

~~(1) Subject to the Administrative Procedure Act, the Board shall order the suspension of a registration of a psychiatrist's assistant if the psychiatrist's assistant is convicted of or pleads guilty or nolo contendere with respect to a crime involving moral turpitude whether or not any appeal or other proceeding is pending to have the conviction or plea set aside.~~

~~(2) After completion of the appellate process, if the conviction has not be reversed or the plea has not been set aside with respect to a crime involving moral turpitude, the Board shall order the revocation of a psychiatrist's assistant's registration subject to the hearing provisions of Health Occupations Article, §14-405, Annotated Code of Maryland.~~

~~[D. Surrender. Unless the Board agrees to accept the surrender of a registration, a psychiatrist's assistant may not surrender the registration nor may the registration lapse by operation of law while the psychiatrist's assistant is under investigation or while charges are pending against the assistant.]~~

~~E Unprofessional Conduct. Unprofessional conduct in the practice of medicine, under as defined by Health Occupations Article, §14-404(a)(3), Annotated Code of Maryland, includes the failure of a physician to comply with the statute and regulations governing supervising physicians and psychiatrist's assistants.~~

~~F. Complaints. Individuals may refer complaints alleging prohibited conduct to the Board to be investigated according to the Board's procedures.]~~

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