

Issue-in-Brief

The Case for Separate PA Regulatory Boards

In the U.S., the licensing, regulation and oversight of professions is carried out by the states.ⁱ Each state establishes rules that must be followed by individuals within a profession, including the qualifications, responsibilities and ethical obligations that must be met by licensees.

In the late nineteenth and early twentieth centuries, states enacted licensure laws to regulate physiciansⁱⁱ in order to protect patients from the unlawful, incompetent, improper, and unprofessional practice of medicine.ⁱⁱⁱ The PA (physician assistant) profession was added to the medical workforce in 1967 when the inaugural class of PAs graduated from the Duke PA program. By the early 1970s, over half of the states had enacted laws to authorize PA practice.^{iv} Within forty years, all states and territories, with the exception of Puerto Rico, had passed laws to authorize and regulate the practice of medicine by PAs.^v

Role and Composition of Regulatory Boards

Regulatory boards are generally part of the executive branch of state government, with board members who are appointed by the governor and professional staff who are state employees. Regulatory boards are commonly comprised of a majority of members under regulation. This system allows the most knowledgeable people—those who work within the profession—to have the largest impact on the standards to which they will be held. At the same time, the typical inclusion of individuals who are not members of the regulated profession, as well as the public nature of board meetings, ensures that the regulatory process remains open, transparent and accountable to the public.

State laws charge medical regulatory boards with issuing licenses and ensuring the individuals they license are properly educated, practice ethically, and remain up to date on current knowledge and practice standards. They also collect and evaluate patient complaints about practitioners, and discipline them when necessary.

Current Regulation of PA Profession

The board or agency responsible for regulating the PA profession varies from state to state. PAs practice medicine, so when the profession started, PA regulation was almost always delegated to medical boards. The practice of nursing is regulated by state boards of nursing, the preponderance of whose members are nurses. While physicians and nurses may be assured that the majority of the members of their regulatory boards are physicians and nurses who have current knowledge of their profession, PAs have no such assurance. In fact, there are only five states where PAs are regulated by separate PA boards (Arizona, Iowa, Massachusetts, Rhode Island, and Utah) and the majority of medical boards either have no PA or minimal PA representation on them. A handful of states regulate PAs through multidisciplinary “healing arts” boards, which regulate physicians, podiatrists, PAs, and others.

In the vast majority of states and the District of Columbia, the board regulating PAs is the medical board, composed of a majority of physicians, who may or may not have current knowledge of PA practice. In addition, physician board members may view PAs as market competitors. This can lead the medical board to adopt regulations or board policies that are anti-competitive and not evidenced-based. Such rules and policies not only threaten PA practice, but also jeopardize patient access and outcomes.

In order to ensure informed regulation of the PA profession and avoid unnecessary restrictions imposed with anticompetitive intent, the preferred structure for regulating PAs is a separate PA board with a majority of PA members. Ideally, board members should include representation of a broad spectrum of PA practice and settings—primary and specialty care, large institutional and smaller office practice settings. This structure provide PAs with meaningful participation in the regulation of their profession, akin to what is already afforded to physicians, nurses, pharmacists, physical therapists, and other professionals in healthcare and other fields.

Empowering the Profession to Self-Govern

The creation of state PA boards would empower the profession to self-govern, which is part of the natural evolution of any highly skilled and well-regarded profession. Self-governance is not inconsistent with the PA profession’s continued commitment to team-based, patient-centered practice in collaboration with their physician colleagues, nor is it a framework for independent practice. Dating back to its inception in the 1960s, the PA profession has been based on a culture of teamwork and collaboration. The profession continues to be committed to the preservation and enhancement of these values.

Potential Alternatives to Separate PA Boards

The creation of a separate state PA board may not always be feasible as states, in recent years, have considered, and occasionally implemented, legislative and regulatory proposals to consolidate professional licensing boards and commissions. The rationale for these mergers has varied from the need to save money or streamline processes in light of diminishing resources to the pursuit of more coordinated public policy, regulatory efficiency and licensure alignment. In such instances, state regulation of PAs may be administered by a multidisciplinary board. It is essential, however, that PAs and physicians who are knowledgeable about PA practice participate as full voting members of the board.

References

¹ See U.S. CONST. amend. X.

² Hooker RS, Crawley JF, Asprey DP. *Physician Assistants: Policy and Practice*. 3rd ed. Philadelphia, PA: F.A. Davis; 2010.

³ See *Dent v. West Virginia*, 129 U.S. 114, 122-23 (1889). See also PAUL STARR, THE SOCIAL TRANSFORMATION OF AMERICAN MEDICINE: THE RISE OF A SOVEREIGN PROFESSION AND THE MAKING OF A VAST INDUSTRY 130-132 (Basic Books et al. eds., 1982).

⁴ Roger M. Barkin, *Directions for Statutory Change: The Physician Extender*, 64 AM. J. PUB. HEALTH 1132, 1134 (1974).

⁵ See James F. Cawley et al., *Origins of the Physician Assistant Movement in the United States*, 25 J. AM. ACAD. PHYSICIAN ASSISTANTS 36, 36-42 (2012) (discussing generally the four decades in which laws passed in every state to permit PA practice and the prescribing of medications. All fifty states, the District of Columbia, and all U.S. territories, with the exception of Puerto Rico, authorize licensed PAs to practice medicine in teams with physicians, engage in a vast spectrum of medical diagnostic and treatment activities, prescribe medication, and be reimbursed for their services).