

<p>1. Agency Name & Address:</p> <p>Board of Medicine c/o Office of Professional Licensure and Certification 7 Eagle Square Concord, NH 03301</p>	<p>2. RSA Authority: <u>RSA 328-D:10, I(k), and (m)</u></p> <p>3. Federal Authority: <u>N/A</u></p> <p>4. Type of Action:</p> <p>Adoption <u>X</u></p> <p>Amendment _____</p> <p>Repeal _____</p> <p>Readoption _____</p> <p>Readoption w/amendment <u>X</u></p>
<p>5. Filing Date: October 24, 2024</p>	

6. Short Title: **Physician Assistants**

7. Contact person for copies and questions including requests to accommodate persons with disabilities:

Name:	Chantell B. Wheeler	Title:	Rules Administrator
Address:	OPLC 7 Eagle Square Concord, NH 03301	Phone #:	603-271-8311
		Fax#:	N/A
		E-mail:	rules-oplc@oplc.nh.gov

TTY/TDD Access: Relay NH 1-800-735-2964 or dial 711 (in NH)

8. Summary explaining the effect of the rule and, if the rules are being proposed to implement a state statute for the first time, identification of the statute and/or relevant session law being implemented pursuant to RSA 541-A:19, I(a):

The Board of Medicine (Board) proposes to readopt with amendment existing rules as interim rule Med 601.03 defining “collaboration”, Med 601.05 defining “participating physician”, and Med 601.06 defining “physician assistant” to implement 2024, 264:1, 2024, 264:2, and 2024, 264:3, respectively, effective July 26, 2024.

The Board proposes to readopt with amendment the chapter heading in Med 602 to include physician assistant (PA) responsibilities and collaboration agreements. Amendments to Med 602.01 regarding the responsibilities of PAs are proposed to provide clarity.

The Board proposes to readopt with amendment to Med 602.02, regarding collaboration agreements for PAs with fewer than 8,000 post-graduate clinical practice hours, to implement statutory changes in RSA 328-D:3-b, I, pursuant to 2024, 264:5, effective July 26, 2024.

The Board proposes a new rule Med 602.03 establishing the process for PAs who have more than 8,000 post-graduate clinical practice hours to request a waiver of the collaboration agreement, pursuant to 2024, 264:6, effective January 1, 2027.

The Board proposes to adopt Med 613 on continuing medical education for PAs to establish the number of continuing medical education hours required from Category I and Category II, as described in RSA 328-D:1, I-a. The Board was granted rulemaking authority in RSA 328-D:10, I(m) pursuant to 2024, 162:1, effective September 1, 2024, to establish continuing medical education requirements for PAs.

9. Listing of people, enterprises, and government agencies affected by the rule:

Physicians and physician assistants are impacted by the proposed rules.

10. Specific section or sections of state statute or federal statute or regulation which the rule is intended to implement:

Rule	State Statute(s) Implemented
Med 601.03	RSA 328-D:1
Med 601.05, Med 601.06	RSA 328-D:1
Med 602.01(a)	RSA 328-D: 12
Med 602.01(b)	RSA 328-D:18
Med 602.02, Med 602.03	RSA 328-D:3-b, I
Med 613	RSA 328-D:10, I(m)

11. Summary of the effect upon the state if the rule were not adopted:

The proposed rules are necessary to fulfill statutory mandates. If the proposed rules are not adopted, physician assistants who are eligible for licensure will not be licensed.

12. Proposed date of review by the Joint Legislative Committee on Administrative Rules:

November 21, 2024

13. The fiscal impact statement prepared by the Legislative Budget Assistant, if applicable.

FIS # 24:212, dated 10/16/2024

1. Comparison of the costs of the proposed rule(s) to the existing rule(s):

There is no difference in costs when comparing the proposed interim rules to the existing rules. Not applicable to Med 602.03 and Med 613.01 as these are new interim rules.

2. Cite the Federal mandate. Identify the impact on state funds:

No federal mandate, no impact on state funds.

3. Cost and benefits of the proposed rule(s):

The interim rules propose changes to definitions, collaboration agreements, and continuing medical education requirements. These changes are intended to align the rules with the revised 2024 laws in RSA 328-D. Any costs or benefits associated with the proposed rule would be attributable to the statute, not the rules themselves.

A. To State general or State special funds:

None.

B. To State citizens and political subdivisions:

None.

C. To independently owned businesses:

None.

COVER SHEET FOR PROPOSED INTERIM RULE

Proposed Interim Rule Number _____ Rule Number Med 600 various

<p>1. Agency Name & Address:</p> <p>Board of Medicine c/o Office of Professional Licensure and Certification 7 Eagle Square Concord, NH 03301</p>	<p>2. RSA Authority: <u>RSA 328-D:10, I(k), (m)</u></p> <p>3. Federal Authority: <u>N/A</u></p> <p>4. Type of Action:</p> <p>Adoption <u>X</u></p> <p>Amendment _____</p> <p>Repeal _____</p> <p>Readoption _____</p> <p>Readoption w/amendment <u>X</u></p>
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5. Short Title: **Physician Assistants**

6. Contact person for copies and questions:

Name: Chantell B. Wheeler	Title: Rules Administrator
Address: OPLC 7 Eagle Square, Concord, NH 03301	Phone #: 603-271-8311

7. An explanation of why the interim rule is necessary, including documentary evidence to prove that the agency is acting in accordance with RSA 541-A:19, I, and is not adopting an interim rule solely to avoid the time periods imposed in RSA 541-A. If the rules are being proposed to implement a state statute for the first time, identify the statute and/or relevant session law being implemented pursuant to RSA 541-A:19, I(a)

The proposed rules are necessary to fulfill statutory mandates. If the proposed rules are not adopted, licensees will not be able to apply for the waiver they are entitled to.

8. A description of the people, enterprises, and government agencies affected by the rule.

Physicians and physician assistants are impacted by the proposed rules.

9. Agency form(s) as required by RSA 541-A:19, IV-a which this rule incorporates by reference or whose requirements are set forth in the rule pursuant to RSA 541-A:19-b.

Not applicable.

10. The fiscal impact statement prepared by the Legislative Budget Assistant, if required by RSA 541-A:19, II. See Section 3.2 of Chapter 3 of the Drafting and Procedure Manual for Administrative Rules.

****PLEASE SUBMIT ONE COPY OF THIS COVER SHEET** and all attachments along with one copy of the interim rule to the Office of Legislative Services, Administrative Rules. The rule must include an appendix containing the same information about statutes or federal regulations as in Item 10 of Appendix II-J.

****PLEASE SIGN THE FOLLOWING:**

I, the adopting authority,* hereby certify that the attached is an accurate statement explaining why an interim rule is necessary.

Date: 10/24/2024

Signature: 

Name: Marc Bertrand

COVER SHEET FOR PROPOSED INTERIM RULE

Title: Vice President, NH Bom

*("Adopting authority" is the official empowered by statute to adopt the rule, or a member of the group of individuals empowered by statute to adopt the rule.)

Readopt with amendment Med 601.03, effective 12-31-23 (Document #13803), to read as follows:

Med 601.03 “Collaboration” means “collaboration” as defined in RSA 328-D:1, II-a~~7~~, namely “a physician assistant’s consultation with or referral to ~~an appropriate~~***a*** physician or ~~other health care professional~~***to the appropriate member of the health care team*** as indicated based on the patient’s condition, the physician assistant’s education, training, and experience, and the applicable standards of care.”

Readopt with amendment Med 601.05, effective 12-31-23 (Document #13803), to read as follows:

Med 601.05 “Participating ~~P~~physician” means “participating physician” as defined in RSA 328-D:1, II-c~~7~~, namely, “a physician practicing as a sole practitioner, a physician designated by a group of physicians to represent their physician group, or a physician designated by a health care facility to represent that facility, who ***collaborates with a physician assistant or who*** enters into a collaboration agreement with a physician assistant in accordance with this chapter.”

Edit. Delete.

Readopt with amendment Med 601.06, effective 8-6-21 (Document #13249), to read as follows:

Med 601.06 “Physician assistant (PA)” means “~~physician assistant~~***physician assistant or P.A.***” as defined in RSA 328-D:1, III, ***namely “a person qualified both by academic and practical training to provide patient services and licensed under this chapter.”***

Readopt with amendment Med 602, effective 12-31-23 (Document #13803), to read as follows:

PART Med 602 SUPERVISION OF A PHYSICIAN ASSISTANT

Edit. "his or her" since the statute is being quoted verbatim.

Med 602.01 Responsibility of the Physician Assistant.

(a) ***As stated in RSA 328-D:12, “A physician assistant is responsible for **their own** medical decision making. A participating physician included in a collaboration agreement with a physician assistant shall not, by the existence of the collaboration agreement alone, be legally liable for the actions or inactions of the physician assistant.; **provided, however, that t*****this shall not otherwise limit the liability of the participating physician.”

(b) ***As required by RSA 328-D:18, ~~The~~ each*** physician assistant shall have current valid professional liability coverage ***while actively engaged in providing medical care.***

Med 602.02 Collaboration Agreement for PAs Having Fewer Than 8,000 Hours of Post-Graduate Clinical Practice Hours.

(a) Except as provided in RSA 328-D:15, III and RSA 328-D:16, II, a physician assistant ***with fewer than 8,000 hours of post-graduate clinical practice hours who is practicing in a group, practice, or health system that does not have at least one licensed New Hampshire physician*** shall engage in practice as a physician assistant in this state only if the physician assistant has entered into a written collaboration agreement with a ~~sole practice-licensed~~ physician or a ~~physician representing a group or health system so long as the sole practitioner or at least one physician in the group or health system~~***who*** practices in a similar area of medicine as the physician assistant, and is a licensed New Hampshire physician.

(b) A collaboration agreement shall include all of the following:

(1) Processes for collaboration and consultation with the appropriate physician and other health care professional as indicated based on the patient’s condition and the physician assistant’s education, training, and experience, and the applicable standards of care;

(2) An acknowledgment that the physician assistant’s scope of practice shall be limited to medical care that is within the physician assistant’s education, training, and experience as outlined in RSA 328-D:3-b, VII-XIII;

- (3) A statement that although collaboration occurs between the physician assistant and physicians and other health care professionals, a physician shall be accessible for consultation in person, by telephone, or electronic means at all times when a physician assistant is practicing; and
- (4) The signatures of the physician assistant and the participating physician. No other signatures shall be required.
- (c) The collaboration agreement shall be updated as necessary.
- (d) In the event of the unanticipated unavailability of a participating physician ~~practicing~~ as a sole practitioner due to serious illness or death, a physician assistant **may continue to practice for not more than a 30-day period without** entering into a new collaboration agreement with another participating physician.
- (e) The collaboration agreement shall be kept on file at the practice and made available to the board upon request.

Edit. consider "shall not practice for more than 30 days without entering into a..."

Med 602.03 Waiver of Collaboration Agreement Available for PAs Having More Than 8,000 Hours of Post-Graduate Clinical Practice Hours.

(a) Until January 1, 2027, a New Hampshire licensed physician assistant with more than 8,000 post-graduate clinical practice hours who intends to practice in a setting that does not have at least one licensed New Hampshire physician in the group, practice, or health system may request the board of medicine to waive the collaboration agreement requirement.

(b) The waiver request shall:

Note. If there's a form that the PA may use, submit it with the FP for OLS review even if its use is voluntary.

- (1) Include the information specified in (c), below;***
- (2) Be accompanied by the documentation specified in (d), below; and***
- (3) Be signed by the physician assistant who is requesting the waiver.***
- (c) The information required by (b)(1), above, shall be:***
- (1) The physician assistant's name, preferred e-mail address, and license number;***
- (2) The physical location, mailing address, and telephone number of the practice; and***
- (3) The practice's primary area of medical practice.***
- (d) The documentation required by (b)(2), above, shall be:***
- (1) Proof of malpractice insurance, in the form of a copy of the malpractice insurance declaration page that includes the premium amount and coverage limits ; and***
- (2) Proof of the required post-graduate clinical practice hours, in the form of either:***
- a. A letter signed by the manager of the physician assistant's medical office, hospital administration, department chair, or collaborating physician that the physician assistant has accrued the requisite hours; or***
- b. A notarized affidavit affirming, under penalty of law, that the physician assistant has accrued the requisite hours and that shows the hours earned by practice name, dates of service, employment status, and total clinical hours earned.***
- (e) The physician assistant may include information regarding additional training and qualifications or other relevant evidence to support the waiver request.***

(f) Upon receipt of a waiver request, the board's administrator shall:

(1) Review the requestor's file to determine whether the requestor is in good standing and whether the requestor is the subject of a pending active investigation or disciplinary action; and

(2) Provide the information to the board.

Edit. "may".

(g) The board shall review a waiver request at the first board meeting that is 10 business days or more after the waiver request is received, provided that the board can review a waiver request received within 10 business days prior to the board meeting if:

(1) The board administrator confirms that the requestor is in good standing and is not the subject of a pending investigation or disciplinary action; and

Unclear. How long will the waiver be in effect?
Until 1-1-27 or for the time period requested?
(note that the paragraphs above do not require the requestor to ask for a time period.)

(2) There is sufficient time in the agenda to do so.

(h) The board shall approve the request and grant the waiver request if the requestor:

(1) Has submitted a complete request that demonstrates the requestor's qualifications;

(2) Is in good standing; and

(3) Is not the subject of a pending investigation or disciplinary action.

(i) If the board is unable to determine that the criteria for approval in (g), above, are met, the board shall request further information from the requestor.

(j) The board shall notify the requestor of its decision. If the requested waiver is denied, the notification shall:

(1) Identify each reason why the request was denied; and

Edit. "shall".

(2) Inform the requestor that a rehearing request may be filed within 30 days in accordance with Plc 206.31.

(k) A physician assistant whose waiver request is denied may re-apply for a waiver after the reason(s) for the denial have been addressed.

Adopt Med 613 to read as follows:

PART Med 613 CONTINUING MEDICAL EDUCATION

Med 613.01 Continuing Medical Education.

(a) Each physician assistant shall engage in continuing medical education to maintain requisite knowledge and skills, either by:

(1) Maintaining national certification through the National Commission on Certification of Physician Assistants (NCCPA) or its successor organization; or

(2) Obtaining not less than 100 credit hours of approved continuing medical education (CME) activity, as defined in RSA 328-D:1, I-a, in each renewal period, of which 40 credit hours shall be category 1 CME, and no more than 60 credit hours of which shall be in category II CME as described in Med 402.01.

Text added to existing rule in ***bold italics***
Text deleted from existing rules ~~struck through~~

(b) Each physician assistant shall demonstrate compliance with this section by submitting proof of national certification or CME credit hours with the renewal application

APPENDIX I: STATE STATUTES IMPLEMENTED

Rule	State Statute(s) Implemented
Med 601.02, Med 601.03	RSA 328-D:1
Med 601.05, Med 601.06	RSA 328-D:1
Med 602.01(a)	RSA 328-D:12
Med 602.01(b)	RSA 328-D:18
Med 602.02, Med 602.03	RSA 328-D:3-b, I
Med 613	RSA 328-D-10, I(m)