

RESOLUTION

Subject: Establishing a Uniform Standard of Care and Regulatory Oversight for Medical Acts

Submitted by: Greater Louisville Medical Society

Referred to: Reference Committee

WHEREAS, many non-physician groups seek to expand their scopes into medical and surgical practice without completing medical school or standardized residency training; and

WHEREAS, states such as Delaware have successfully codified standard of care parity (18 Del. C. § 6801), mandating that the legal standard of skill and care required of every health-care provider must be measured by the degree of skill and care ordinarily employed in the corresponding field of medicine, regardless of the practitioner's underlying licensure title; and

WHEREAS, unsupervised, independent practice models managed by non-physicians have been shown to increase overall healthcare costs and specialty utilization, while physician-led care consistently lowers diagnostic error and ensures optimal patient safety; now, therefore, be it

RESOLVED, that KMA seeks to amend KRS 311.550 to establish that the legal definition of the "Practice of Medicine" is determined by the nature of the medical or surgical act performed rather than the licensure title of the practitioner; and be it further

RESOLVED, that KMA advocates for statutory amendments to KRS 311.550 ensuring that, notwithstanding any other provision of law or any exclusionary provisions contained in subsection (11) of the statute, any practitioner not licensed to practice medicine or osteopathy who performs an autonomous diagnostic, prescriptive, or surgical act shall be held to the same medical standard of care and degree of skill ordinarily employed by a physician licensed under KRS Chapter 311 to practice medicine or osteopathy (MD or DO); and be it further

RESOLVED, that such statutory amendments shall explicitly clarify that holding a non-physician practitioner to the medical standard of care does not expand their authorized scope of practice, grant autonomous authority to practice medicine, or alter the legal definition of the unauthorized practice of medicine.

Appendix:

Sample wording for statute amendment:

KRS 311.550 is amended to read as follows:

(10) The "practice of medicine or osteopathy" means the diagnosis, treatment, or correction of any and all human conditions, ailments, diseases, injuries, or infirmities by any and all means, methods, devices, or instrumentalities; **provided, however, that notwithstanding any other provision of law or any exclusionary provisions contained in subsection (11) of this section, the "practice of medicine" shall be determined by the nature of the medical or surgical act performed rather than the license held by the practitioner. Any practitioner not licensed under this chapter to practice medicine or osteopathy who performs an autonomous diagnostic, prescriptive, or surgical act shall be held to the same medical standard of care and degree of skill ordinarily employed by a physician licensed under this chapter to practice medicine or osteopathy.**

Reference:

Delaware Code Title 18, Chapter 68, Section 6801(6) under the definition of "Medical negligence".

The statutory language reads as follows:

"'Medical negligence' means any tort or breach of contract based on health care or professional services rendered, or which should have been rendered, by a health-care provider to a patient. The standard of skill and care required of every health-care provider in rendering professional services or health care to a patient shall be that degree of skill and care ordinarily employed in the same or similar field of medicine as defendant, and the use of reasonable care and diligence."