Proposal Summary/ Overview

To be completed by proposal sponsor. (500 Word Count Limit for this page) Please read the entire questionnaire before completing this page.

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Is this proposal regarding:

- *New or increased regulation of an existing profession/occupation? If so, complete Questionnaire A.*
- *Increased scope of practice or decreased regulation of an existing profession? If so, complete this form, Questionnaire B.*
- *Any other change to regulation or scope of practice? If so, please contact the Committee Administrator to discuss how to proceed.*

1) State the profession/occupation that is the subject of the proposal.

Physician Assistant (PA)

2) Briefly describe the proposed change.

Strike subdivision 5 from MN Statute 147A.09, limitations on psychiatric care

3) If the scope of practice of the profession/occupation has previously been changed, when was the most recent change? Describe the change and provide the bill number if available.

The most recent change occurred in 2020 with SF13/HF2715 as part of the larger omnibus bill. The change transitioned PAs from requiring a single specific physician for licensing to an ongoing practice agreement that allows practice-level establishment of the PA's scope of practice in alignment with the clinical setting. The 2020 change moved from a checklist delegation of scope to the required practice agreement that must be overseen by an MN-licensed physician. This change improved patient access by allowing PAs to practice according to their education, training, and experience, as approved in the practice agreement. This removed significant administrative burden from working with PAs while maintaining the PA/Physician relationship but in a more collaborative format.

4) If the proposal has been introduced, provide the bill number and names of House and Senate sponsors. If the proposal has not been introduced, indicate whether legislative sponsors have been

identified. If the bill has been proposed in previous sessions, please list previous bill numbers and years of introduction.

This will be the first year of introduction. It has not been introduced yet.

5) Given the press of business in the 2023 legislative session it is unlikely that health licensing and scope of practice bills will be taken up this year. If there is an urgent need for the bill to be heard this year, please explain the urgency.

Minnesota continues to face a crisis in access to mental health care. Patients needing life-saving care must wait weeks or months to see a clinician, which too often is too late. MN 147A.09, subd. 5 contains redundant provisions that are confusing for hospitals and clinics that might otherwise hire PAs to provide care for patients with mental illness. Subd. 5 is redundant and conflicting regarding the Practice agreement requirement. The language in sub 5 is not clearly enforceable as a result of the confusing language.

Due to the dramatic lack of appropriate access to psychiatric care in MN, particularly in rural areas, and the ever-increasing need for psychiatric providers, removing this unnecessary, redundant clause would provide clarity for PAs to work in psychiatry and encourage increased access to care for patients in this critical need area of health care.

MN is the only state that specifically restricts PA practice in mental health.

PAs are included in the 21st Century Cures Act, which is a federal mental health reform policy that defines PAs as "high-need providers in mental health." This is in addition to being included at the federal level as authorized providers qualified to participate in care and lead teams in Community Mental Health Centers. Considering that PAs are defined in federal regulations as valid mental health providers and are called out in federal policies as a recognized profession that can help to meet the needs of mental healthcare delivery, MN should have confidence that removing this arbitrary clause is consistent with federal agencies goals by support increases utilization of PAs in mental health.

Questionnaire B: Change in scope of practice or reduced regulation of a health-related profession (adapted from Mn Stat 214.002 subd 2 and MDH Scope of Practice Tools)

This questionnaire is intended to help legislative committees decide which proposals for change in scope of practice or reduced regulation of health professions should receive a hearing and advance through the legislative process. It is also intended to alert the public to these proposals and to narrow the issues for hearing.

This form must be completed by the sponsor of the legislative proposal. The completed form will be posted on the committee's public web page. At any time before the bill is heard in committee, opponents may respond in writing with concerns, questions, or opposition to the information stated and these documents will also be posted. The Chair may request that the sponsor respond in writing to any concerns raised before a hearing will be scheduled.

A response is not required for questions that do not pertain to the profession/occupation (indicate "not applicable"). Please be concise. Refer to supporting evidence and provide citation to the source of the information where appropriate.

While it is often impossible to reach complete agreement with all interested parties, sponsors are advised to try to understand and to address the concerns of any opponents before submitting the form.

1) <u>Who does the proposal impact?</u>

a. Define the occupations, practices, or practitioners who are the subject of this proposal.

<u>What is a Physician Assistant (PA)?</u>

- **PAs are rigorously educated, nationally certified medical providers who diagnose illness, develop and manage treatment plans, prescribe medications, and often serve as a patient's primary healthcare provider.**

- **PAs are recognized as qualified primary care providers by: CMS, the ACA, and MDH's Health Healthcare Home Certification program.**

- **Multiple evidence-based studies have proven that the care provided by PAs:**
    - **Is high quality**
    - **Improves access to care**
    - **Is cost-effective**
    - **Improves healthcare outcomes across multiple clinical specialties**

b. List any associations or other groups representing the occupation seeking regulation and the approximate number of members of each in Minnesota

The Minnesota Academy of Physician Assistants represents the over 4,000 PAs licensed to practice in Minnesota.

c. Describe the work settings, and conditions for practitioners of the occupation, including any special geographic areas or populations frequently served.

- **PAs practice in every state and in every medical setting and specialty, improving healthcare access and quality.**
- **In Minnesota**
    - **~4,000 PAs licensed and practicing in Minnesota (BMP stats)**
    - **28% specialize in family medicine**
    - **14% practice in rural settings**
    - **~5% of PA in MN identify psychiatry as their primary area of practice. This percentage is almost double the amount of PAs nationally working in psychiatry proving that PAs in MN are invested in meeting the needs of Minnesotans.**
    - **PAs provide over 8.5 million patient visits annually in MN**
    - **1.1 million patient visits in rural communities**
- **Nationally**
    - **PA profession is growing:**
        - **~30% growth expected in U.S. over next decade**

d. Describe the work duties or functions typically performed by members of this occupational group and whether they are the same or similar to those performed by any other occupational groups.

- **PAs are trained and licensed to diagnose illness, develop and manage treatment plans, prescribe medications, and often serve as a patient's primary healthcare provider, similar to physicians and nurse practitioners.**
    - **For clarity PAs working in mental health are not in conflict with counselors providing "talk therapy" of any type. PAs provide medical management of patients with mental illness – not Cognitive Behavioral Therapy (CBT). There is nothing in this bill that infringes upon counseling or psychology services in any way.**

- **Examples of PAs in Mental Health –**
    - **PA's practice in psychiatry and provide the same services provided by psychiatrists. PAs see patients presenting with mental illness. They diagnose, make treatment plans, prescribe medications, provide medication management and refer, when appropriate, to other mental health professionals who can provide Cognitive Behavioral Health services.**
    - **Some PAs practicing in psychiatry serve in hospital psych units. Others work in outpatient settings, both in mental health clinics and primary care clinics.**
    - **Opioid crisis: PAs were qualified to obtain buprenorphine waivers through federal programs when this was required**
        - **PAs (and NPs) accounted for more than half of the increase in waivered clinicians in rural counties (2016-19)**

- **Medicare already recognizes PAs as eligible providers for outpatient mental health in their fee schedules**
- **The CMS 2023 Physician Fee Statement permits PAs to supervise LPCs and LMFTs therefore providing support that PAs are established as mental health providers without the need for additional regulatory barriers**

e. Discuss the fiscal impact.

There is no fiscal cost to this bill. Greater utilization of PAs in MA and MinnesotaCare would save money since patients' access to care could be improved therefore reducing ER visits and increased costs associated with lack of continuity of care.

2) Specialized training, education, or experience ("preparation") required to engage in the occupation

a. What preparation is required to engage in the occupation? How have current practitioners acquired that preparation?

- **Education – PAs have global general medicine training and as part of that education PAs specifically receive training in behavioral science & are required to complete mental health clinical rotations in accordance with strict accreditation standards for PA education.**

- **Experience – PAs already provide extensive mental health in primary care settings (ED, OB, Peds) as well as numerous PAs already practicing in mental health clinics and psychiatric facilities throughout the state and nation. This bill does not change our scope of practice but removes confusion regarding that practice.**

- **The number of PAs in Minnesota is increasing each year. There are approximately 150 new PAs each year who graduate from Minnesota's five accredited PA programs: Mayo, St. Catherine University, Bethel, Augsburg, and St. Scholastica.**

b. Would the proposed scope change or reduction in regulation change the way practitioners become prepared? If so, why and how? Include any change in the cost of entry to the occupation. Who would bear the increase or benefit from reduction in cost of entry? Are current practitioners required to provide evidence of preparation or pass an examination? How, if at all, would this change under the proposal?

No change to education or training is requested.

c. Is there an existing model of this change being implemented in another state? Please list state, originating bill and year of passage?

Minnesota is the only state that requires duplicative regulation of PAs serving mental health patients. No other state has done this because it restricts clinicians from practicing to the full

extent of their training and capacity.

3) Supervision of practitioners

a. How are practitioners of the occupation currently supervised, including any supervision within a regulated institution or by a regulated health professional? How would the proposal change the provision of supervision?

The MN PA regulatory statute includes the establishment and maintenance of a practice agreement that is reviewed by an MN-licensed physician annually in order for the PA to practice, as well as a new graduate collaborative practice requirement. PAs practicing in mental health have a practice agreement that already includes the specifics of their scope and function. The PA practice agreement requirement in Subd. 3 will remain intact under this proposal. The specific mental health clause in Subd. 5 is creating confusion for employers as it is similar but different with confusing language from the practice agreement in Subd. 3.

b. If a regulatory entity currently has authority over the occupation, what is the scope of authority of the entity? (For example, does it have the authority to develop rules, determine standards for education and training, and assess practitioners' competence levels?) How does the proposal change the duties or scope of authority of the regulatory entity? Has the proposal been discussed with the current regulatory authority? If so, please list participants and date.

The Board of Medical Practice has the authority to regulate PAs practicing in Minnesota. This includes issuing a license to practice, revoking that license or limiting the license. This bill does not modify existing BMP authority to regulate PA practice

The full Board of Medical Practice voted unanimously at its January 13th Board meeting to support this legislation. The Board recognized the education and training of PAs practicing in psychiatry. The Board acknowledged the current severe shortage of clinicians who can prescribe and manage medications for mentally ill patients and the harm to patients whose care is delayed because of the clinician shortage and recognized that PAs already help to meet these care needs.

c. Do provisions exist to ensure that practitioners maintain competency? Under the proposal, how would competency be ensured?

There is no change to licensure or PA scope and/or competencies. PAs are and will still be accountable to all educational requirements and quality care standards that are the same as physicians and NPs.

4) Level of regulation (See Mn Stat 214.001, subd. 2, declaring that "no regulations shall be imposed upon any occupation unless required for the safety and wellbeing of the citizens of the state." The harm must be "recognizable, and not remote." Ibid.)

a. Describe how the safety and wellbeing of Minnesotans can be protected under the expanded scope or reduction in regulation.

As stated above – PAs will still have a practice agreement with physician review at the practice level. Removing this clause does not change that regulation.

b. Can existing civil or criminal laws or procedures be used to prevent or remedy any harm to the public?

Yes - removing this clause does not change the Board of Medical Practice authority to discipline a PA, in fact removal provides clarity to any potential actions by removing the confusing and non-enforceable language from sub 5.

5) <u>Implications for Health Care Access, Cost, Quality, and Transformation</u>

a. Describe how the proposal will affect the availability, accessibility, cost, delivery, and quality of health care, including the impact on unmet health care needs and underserved populations. How does the proposal contribute to meeting these needs?

In 2019 the Minnesota Department of Health published data that identified "*Zero psychiatrists listed as practicing in the rural areas of the state. Only 1.5 percent of psychiatrists are listed as subspecialists in the areas of addiction medicine, geriatric psychiatry or childhood and adolescent mental health practice."*

The ongoing shortage of psychiatrists means that the care demand is regularly shuffled to primary care providers, especially in rural areas, to fill the needed gaps in mental health care.

PAs already provide extensive mental health care in primary care settings, ED, OB/GYN, and pediatrics, as well as practice in mental health clinics and psychiatric facilities. Despite this, In the state of Minnesota, PA currently are not included in many MN mental health regulations and have additional regulatory challenges limiting their practice specifically in mental health.

The persistent exclusions or restriction of PAs from working in mental health creates:
- **Staffing challenges for critical access areas**
- **Inability to be fully reimbursed for care delivered by PAs, specifically in mental health settings**
- **Confusion for health systems regarding how PAs can function in mental health to meet patient care needs**
- **Delays in patients receiving care**

b. Describe the expected impact of the proposal on the supply of practitioners and on the cost of services or goods provided by the occupation. If possible, include the geographic availability of proposed providers/services. Cite any sources used.

As noted above, Minnesota graduates about 150 new PAs each year. We have heard anecdotal stories of PAs seeking to practice in psychiatry leaving Minnesota because they couldn't get hired because of the perceived barriers to employment in psychiatry created by Subd. 5.

Studies prove that PAs improve access to care and improve quality in all areas of medicine while reducing costs for care delivery.

A recent national Harris Poll identified that 91% of patients support PAs as part of the solution to address healthcare provider shortages, and that 92% believe that laws should be updated to fully utilize PAs to better meet care needs.

c. Does the proposal change how and by whom the services are compensated? What costs and what savings would accrue to patients, insurers, providers, and employers?

No – there is no change to compensation or billing for patients, health systems, or insurers.

d. Describe any impact of the proposal on an evolving healthcare delivery and payment system (e.g. collaborative practice, innovations in technology, ensuring cultural competency, value-based payments)?

PAs are trained to serve in team settings with physicians, APRNs, and other licensed health care professionals. They do not have independent practice, like APRNs, and this bill does not change that. PAs practicing in psychiatry can work in hospitals and outpatient clinics alongside psychiatrists. They may also work as the sole psychiatric provider in a clinic or through telehealth, serving patients under the practice agreement that details their scope of practice which is reviewed by a MN-licensed physician annually. Removing Sub 5 will improve PAs' ability to provide needed care and encourage PAs providing telehealth in psychiatry to expand care in MN.

e. What is the expected regulatory cost or savings to state government? How are these amounts accounted for under the proposal? Is there an up-to-date fiscal note for the proposal?

No fiscal note is needed as no state funds will be impacted.

There is potential cost savings through expanding mental health care service providers thereby reducing the need to access emergency medicine services for crisis management and decompensating mental health concerns.

6) <u>Evaluation/Reports</u>

Describe any plans to evaluate and report on the impact of the proposal if it becomes law, including focus and timeline. List the evaluating agency and frequency of reviews.

7) <u>Support for and opposition to the proposal</u>

a. What organizations are sponsoring the proposal? How many members do these organizations represent in Minnesota?

This legislation is supported by the Minnesota Academy of Physician Assistants, who represents

Minnesota 3,700 PAs.

b. List organizations, including professional, regulatory boards, consumer advocacy groups, and others, who support the proposal.

This bill is supported by the Board of Medical Practice.

c. List any organizations, including professional, regulatory boards, consumer advocacy groups, and others, who have indicated concerns/opposition to the proposal or who are likely to have concerns/opposition. Explain the concerns/opposition of each, as the sponsor understands it.

The proponents had a conversation with representatives of the Mental Health Legislative Network on January 2 to outline the proposal and seek feedback.

Topics discussed at the meeting included:

- **The ongoing severe shortage of mental health providers that can prescribe and manage medications, is harming patients whose care is delayed or denied.**
- **Discussion regarding how Subd. 5 contains confusing language. It references care for "adults with serious mental illness," a term not defined in the statute. It also references "providing ongoing psychiatric treatment for children with emotional disturbance or adults with serious mental illness", which is vague, as "ongoing" is not defined. For example, if a PA sees a patient in the ER and the patient is admitted for psychiatric care after stabilization, can that same PA see the patient in the psych unit? If a PA sees a patient in a psych unit, are they prohibited from continuing to provide care in an outpatient clinic after discharge?**
- **Some asked questions about the education and training of PAs. They were told that PAs are currently trained and licensed to serve mentally ill patients and are doing so.**
- **Questions were raised about the quality of care provided by PAs practicing in psychiatry. They were told that national data shows the care provided by psychiatrists, PAs, and APRNs is equivalent.**
- **A question was also raised about a PA practicing psychiatry in a rural area and not having a psychiatrist down the hall if they have a question. "What would happen if a severely psychotic patient presented whose symptoms were beyond the capacity of the PA?" The PA would do the exact same thing as a family medicine physician or NP in that situation – consult with a psychiatrist to meet the care needs of the patient and transfer that care as appropriate.**

A follow-up meeting is scheduled for January 26.

d. What actions has the sponsor taken to minimize or resolve disagreement with those opposing or likely to oppose the proposal?

As noted above, the proponents have reached out to the Mental Health Legislative Network to provide a better understanding of the Practice Agreement requirement for PA practice and provide accurate information regarding PA education and outcome data regarding PAs working in psychiatry to address misperceptions and false narratives.

We are working to keep patients' access to care as the collective goal in these meetings and to better understand the concerns of the stakeholders that were not already addressed in previous meetings.