

**OSTEOPATHIC MEDICAL PRACTICE ACT**  
**Act of Oct. 5, 1978, P.L. 1109, No. 261**  
AN ACT

Cl. 63

Requiring the licensing of practitioners of osteopathic medicine and surgery; regulating their practice; providing for certain funds and penalties for violations and repeals.

**Compiler's Note:** Section 5 of Act 92 of 2001 provided that Act 261 is repealed insofar as it is inconsistent with Act 92.

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The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Short title.

This act shall be known and may be cited as the "Osteopathic Medical Practice Act."

Section 2. Definitions.

The following words and phrases when used in this act shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

"ABGC." The American Board of Genetic Counseling. (Def. added Dec. 22, 2011, P.L.581, No.126)

"ABMG." The American Board of Medical Genetics. (Def. added Dec. 22, 2011, P.L.581, No.126)

"Active candidate status." The designation awarded to applicants who have received approval from the American Board of Genetic Counseling or the American Board of Medical Genetics to sit for their respective certification examinations. (Def. added Dec. 22, 2011, P.L.581, No.126)

"Affiliate." A member of a group of two or more fully accredited health care institutions under an agreement of affiliation approved by the board to enhance the potential of all participants in the provision of health care and osteopathic or medical education.

"Approved hospital." A hospital which has been approved by the board for providing supervised graduate osteopathic medical training.

"Athletic training services." The management and provision of care of injuries to a physically active person as defined in this act with the direction of a licensed physician. The term includes the rendering of emergency care, development of injury prevention programs and providing appropriate preventative and supporting devices for the physically active person. The term also includes the assessment, management, treatment, rehabilitation and reconditioning of the physically active person whose conditions are within the professional preparation and education of a licensed athletic trainer. The term also includes the use of modalities such as mechanical stimulation, heat, cold, light, air, water, electricity, sound, massage and the use of therapeutic exercises, reconditioning exercise and fitness programs. Athletic training services shall not include surgery, invasive procedures or prescription of any controlled substance. (Def. amended Dec. 22, 2011, P.L.567, No.123)

"Board." The State Board of Osteopathic Medicine in the Department of State. Any reference in any statute or rule to the State Board of Osteopathic Examiners shall, on and after the effective date of this act, be construed to be a reference to the State Board of Osteopathic Medicine. (Def. amended Dec. 10, 2001, P.L.863, No.93)

"Board-regulated practitioner." An osteopathic physician, physician assistant, respiratory therapist or licensed athletic trainer or an applicant for a license or certificate issued by the board. (Def. amended Dec. 22, 2011, P.L.567, No.123)

"Certification." The approval of programs by the board for the training and education of physician assistants. (Def. amended July 2, 2004, P.L.486, No.56)

"Certified athletic trainer." (Def. deleted by amendment Dec. 22, 2011, P.L.567, No.123)

"Clinical clerk." An undergraduate student in an osteopathic medical college assigned to make patient histories, physical examinations and to perform certain procedures and laboratory tests for the purpose of instruction and experience. His notes shall become official only when edited and countersigned by a member of the hospital staff licensed pursuant to this act. Nothing contained in this act shall be construed to entitle a

clinical clerk to practice medicine or surgery or to prescribe drugs.

"Direction." Supervision over the actions of a licensed athletic trainer via referral by prescription to treat conditions for a physically active person from a licensed physician, dentist or podiatrist or written protocol approved by a supervising physician, dentist or podiatrist, except that the physical presence of the supervising physician, dentist or podiatrist is not required if the supervising physician, dentist or podiatrist is readily available for consultation by direct communication, radio, telephone, facsimile, telecommunications or via other electronic means. (Def. amended Dec. 22, 2011, P.L.567, No.123)

"Extracorporeal circulation." The diversion of a patient's blood through a heart-lung machine or similar device that assumes the functions of the patient's heart, lungs, kidneys, liver or other organs. (Def. added June 11, 2008, P.L.161, No.20)

"Genetic counseling." The provision of services to individuals, couples, families and organizations by one or more appropriately trained individuals to address the physical and psychological issues associated with the occurrence or risk of occurrence of a genetic disorder, birth defect or genetically influenced condition or disease in an individual or a family. (Def. added Dec. 22, 2011, P.L.581, No.126)

"Genetic counselor." An individual who is licensed to practice genetic counseling by the State Board of Medicine or the State Board of Osteopathic Medicine. (Def. added Dec. 22, 2011, P.L.581, No.126)

"Healing art." The science and skill of diagnosis and treatment of diseases of the human body.

"Health care facility." A general, tuberculosis, mental, chronic disease or other type of hospital, an ambulatory clinic or center, a health maintenance organization, institution and corporation medical departments and centers, student health centers, a physical rehabilitation facility, a skilled or intermediate care nursing facility, a radiology laboratory, a renal dialysis center, a diagnostic center, a home health care agency, or a clinical laboratory, regardless of whether such medical care facility is for profit, nonprofit or governmental; or a program affiliated with a medical care facility which renders treatment or care for drug or alcohol abuse or dependence; or other settings where medical care and services are rendered.

"Hospital." An institution accredited by the American Osteopathic Association, the Joint Commission on Accreditation of Hospitals or regulated by the Commonwealth of Pennsylvania to render health care.

"Intern." A physician receiving supervised graduate osteopathic medical training at an approved hospital or its affiliate.

"Licensed athletic trainer." A person who is licensed to perform athletic training services by the State Board of Medicine or the State Board of Osteopathic Medicine. (Def. added Dec. 22, 2011, P.L.567, No.123)

"Osteopathic medical college." An institution of higher learning accredited by the American Osteopathic Association, its successors and assigns, as an agency to provide courses in the arts and sciences of medicine and related subjects and empowered to grant academic degrees in osteopathic medicine and surgery.

"Osteopathic medicine and surgery." The art and science having for its object the cure of disease and the preservation of the health of man with or without drugs, except healing by spiritual means or prayer.

"Perfusion." The functions necessary for the support, treatment, measurement or supplementation of the cardiovascular system or other organs, or a combination of those functions, and for ensuring the safe management of physiologic functions by monitoring and analyzing the parameters of the systems under the supervision of a physician licensed under this act or the act of December 20, 1985 (P.L.457, No.112), known as the "Medical Practice Act of 1985." (Def. added June 11, 2008, P.L.161, No.20)

"Perfusionist." An individual who is licensed to practice perfusion by the State Board of Osteopathic Medicine or the State Board of Medicine. (Def. added June 11, 2008, P.L.161, No.20)

"Physically active person." An individual who participates in organized, individual or team sports, athletic games or recreational sport activity. (Def. added Dec. 10, 2001, P.L.863, No.93)

"Physician." A person who has received formal and recognized training in the art and science of osteopathic medicine qualified to seek or who has acquired a license to practice osteopathic medicine and surgery.

"Physician assistant." An individual who is licensed as a physician assistant by the board. (Def. amended Oct. 7, 2021, P.L.412, No.78)

"Primary supervising physician." An osteopathic physician who is registered with the board and designated in a written agreement with a physician assistant under section 10(g) as having primary responsibility for supervising the physician assistant. (Def. amended Oct. 7, 2021, P.L.412, No.78)

"Proficiency examination." An examination approved by the board for the national certification of physician assistants, including those examinations, approved for such purpose by the National Commission on Certification of Physician Assistants.

"Referral." An order from a licensed physician, dentist or podiatrist to a licensed athletic trainer for athletic training services. An order may be written or oral, except that an oral order must be reduced to writing within 72 hours of issuance. (Def. amended Dec. 22, 2011, P.L.567, No.123)

"Resident." A physician receiving supervised graduate osteopathic medical training at an approved hospital or its affiliate.

"Respiratory care." A health care specialty employing evaluation, analysis, care and treatment of patients with cardiopulmonary disorders and related diseases. (Def. added July 2, 1993, P.L.418, No.59)

"Respiratory therapist." An individual who is licensed to practice respiratory care by the State Board of Osteopathic Medicine. (Def. amended July 4, 2008, P.L.589, No.46)

"Short-term licensee." A physician who has received approval from the board to have a short-term license not to exceed three months, to serve as a camp physician in the Commonwealth. (Def. added June 22, 1980, P.L.249, No.71)

"Ventricular assist device." A mechanical device used to partially or completely replace the function of a failing heart through connections to the heart and great vessels that may be located intracorporeally or extracorporeally. The term includes a device that is placed intravascularly or extravascularly and

provides support through direct means or via counterpulsation.  
(Def. added June 11, 2008, P.L.161, No.20)

"Written protocol." A written agreement developed in conjunction with one or more supervising physicians which identifies and is signed by the supervising physician and the licensed athletic trainer. It describes the manner and frequency in which the licensed athletic trainer regularly communicates with the supervising physician. It includes standard operating procedures developed in agreement with the supervising physician and licensed athletic trainer that the licensed athletic trainer follows when not directly supervised on site by the supervising physician. (Def. amended Dec. 22, 2011, P.L.567, No.123)

**Compiler's Note:** Section 4 of Act 78 of 2021 provided that the State Board of Osteopathic Medicine shall promulgate final rules and regulations necessary to carry out Act 78 within 180 days of the effective date of section 4. Section 5 of Act 78 of 2021 provided that any and all regulations at 49 Pa. Code §§ 25.142, 25.162, 25.178 and 25.181 are abrogated to the extent of any inconsistency with Act 78.

**Compiler's Note:** See section 3 of Act 126 of 2011 in the appendix to this act, which amended section 2, for special provisions relating to promulgation of regulations.

Section 2.1. State Board of Osteopathic Medicine.

(a) The State Board of Osteopathic Medicine shall consist of the Commissioner of Professional and Occupational Affairs or a designee; the Secretary of Health or a designee; two members appointed by the Governor who shall be persons representing the public at large; one member appointed by the Governor who is a physician assistant; one member appointed by the Governor who shall be a respiratory therapist, a perfusionist or a licensed athletic trainer; and seven members appointed by the Governor who shall be graduates of a legally incorporated and reputable college of osteopathic medicine and shall have been licensed to practice osteopathic medicine under the laws of this Commonwealth and shall have been engaged in the practice of osteopathy in this Commonwealth for a period of at least five years. All professional and public members of the board shall be appointed by the Governor with the advice and consent of a majority of the members elected to the Senate. The Governor shall assure that respiratory therapists, perfusionists and certified athletic trainers are appointed to four-year terms on a rotating basis. ((a) amended Oct. 7, 2021, P.L.412, No.78)

(b) The terms of each professional and public member of the board shall be four years or until his or her successor has been appointed and qualified but not longer than six months beyond the four-year period. In the event that any of said members shall die or resign or otherwise become disqualified during his or her term, a successor shall be appointed in the same way and with the same qualifications and shall hold office for the unexpired term. No member shall be eligible for appointment to serve more than two consecutive terms.

(c) A majority of the members of the board serving in accordance with law shall constitute a quorum for purposes of conducting the business of the board. Except for temporary and automatic suspensions under section 14 of this act, a member may not be counted as part of a quorum or vote on any issue unless he or she is physically in attendance at the meeting.

(d) The board shall select annually a chairman from among its members and shall elect a secretary who, with the approval of the Commissioner of Professional and Occupational Affairs, need not be a member of the board.

(e) Each member of the board, except the Commissioner of Professional and Occupational Affairs and the Secretary of Health, shall receive \$60 per diem when actually attending to the work of the board. Members shall also receive the amount of reasonable traveling, hotel and other necessary expenses incurred in the performance of their duties in accordance with Commonwealth regulations.

(f) The board is subject to evaluation, review and termination within the time and in the manner provided in the act of December 22, 1981 (P.L.508, No.142), known as the "Sunset Act."

(g) A member of the board who fails to attend three consecutive meetings shall forfeit his or her seat unless the Commissioner of Professional and Occupational Affairs, upon written request from the member, finds that the member should be excused from a meeting because of illness or the death of a family member.

(h) A public member who fails to attend two consecutive statutorily mandated training seminars in accordance with section 813(e) of the act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929," shall forfeit his or her seat unless the Commissioner of Professional and Occupational Affairs, upon written request from the public member, finds that the public member should be excused from a meeting because of illness or the death of a family member.

(2.1 added Dec. 20, 1985, P.L.398, No.108)

**Compiler's Note:** Section 4 of Act 78 of 2021 provided that the State Board of Osteopathic Medicine shall promulgate final rules and regulations necessary to carry out Act 78 within 180 days of the effective date of section 4. Section 5 of Act 78 of 2021 provided that any and all regulations at 49 Pa. Code §§ 25.142, 25.162, 25.178 and 25.181 are abrogated to the extent of any inconsistency with Act 78.

**Compiler's Note:** Section 8(a) of Act 46 of 2008, which amended section 2.1(a), provided that the State Board of Osteopathic Medicine and the State Board of Medicine shall jointly promulgate regulations to implement the amendment of sections 2, 2.1(a), 10.1, 10.2 and 15(b) within 18 months of the effective date of section 8.

**Compiler's Note:** Section 3 of Act 87 of 1996 provided that section 2.1 is repealed insofar as it is inconsistent with Act 87.

Section 3. Practice of osteopathic medicine and surgery without license prohibited.

(a) It shall be unlawful for any person to engage in the practice of osteopathic medicine and surgery, or pretend to a knowledge of any branch or branches of osteopathic medicine and surgery, or to hold himself out as a practitioner in osteopathic medicine and surgery, or to assume the title of Doctor of Osteopathic Medicine and Surgery or doctor of any specific disease, or to diagnose diseases or to treat diseases by the use of osteopathic medicine and surgery or by any other means, or to sign any birth or death certificate unless otherwise authorized by law, or to hold himself out as able to do so, unless he has received a certificate of licensure or permission

from the board which license shall be recorded in the office of the board.

(b) Nothing in this act shall be construed to prohibit services and acts rendered by a qualified physician assistant, technician or other allied medical person if such services and acts are rendered under the supervision, direction or control of a licensed physician. It shall be unlawful for any person to practice as a physician assistant unless licensed and approved by the board. It shall also be unlawful for any physician assistant to render medical care and services except under the supervision of the supervising physician. A physician assistant may use the title physician assistant or an appropriate abbreviation for that title, such as "P.A.-C." ((b) amended Oct. 7, 2021, P.L.412, No.78)

(3 amended July 4, 2008, P.L.589, No.46)

**Compiler's Note:** Section 4 of Act 78 of 2021 provided that the State Board of Osteopathic Medicine shall promulgate final rules and regulations necessary to carry out Act 78 within 180 days of the effective date of section 4. Section 5 of Act 78 of 2021 provided that any and all regulations at 49 Pa. Code §§ 25.142, 25.162, 25.178 and 25.181 are abrogated to the extent of any inconsistency with Act 78.

Section 4. Power to license.

The board may grant the following licenses:

(1) Unrestricted license.--A license to practice osteopathic medicine and surgery without restriction.

(2) Temporary license.--A graduate of an osteopathic medical college qualifying under this act may, on receiving his degree as a doctor of osteopathy, apply to the board for a temporary license on its form and pay the registration. A temporary license shall be valid for 12 months thereafter and shall be recognized only as conferring upon the licensee the right to participate in approved graduate osteopathic or medical training within the complex of the hospital to which he is assigned. It shall become null and void after 12 months and shall then be surrendered to the board. The board may extend the validity of a temporary license.

(3) Short-term camp physician license.--A short-term license valid for a period not to exceed three months may be granted by the board to osteopathic physicians licensed and in good standing in other states or Canada who intend to practice osteopathic medicine as osteopathic physicians in camps in the Commonwealth. Such licensees shall be deemed "health care providers" who conduct 50% or less of their health care business or practice within the Commonwealth for the purpose of the act of October 15, 1975 (P.L.390, No.111), known as the "Health Care Services Malpractice Act." ((3) added June 22, 1980, P.L.249, No.71)

Section 5. Standards for osteopathic medical training and facilities.

(a) The educational qualifications for acceptance as a matriculant in an osteopathic medical college incorporated within the Commonwealth and the curricula and training to be offered by such colleges shall meet the requirements set by the board after advice and consultation with the appropriate committees of the American Osteopathic Association or any other accrediting body which is recognized by the board.

(b) It shall be the duty of the board to periodically ascertain the character of the instruction and the facilities of the osteopathic medical colleges and hospitals offering or

desiring to offer osteopathic medical training. It shall ascertain the facilities and qualifications of osteopathic medical institutions, colleges, or hospitals, outside this Commonwealth whose graduates or trainees desire to obtain osteopathic medical licensure or graduate osteopathic medical training in this Commonwealth.

(c) An osteopathic medical institution authorized to confer academic degrees in osteopathic medicine which in the judgment of the board fails to provide proper facilities, or to maintain the minimum requirements for accreditation shall be notified of such failure. Until such deficiencies are corrected its graduates shall not be eligible for licensure or graduate osteopathic medical training.

(d) Requirements for the certification of training and educational programs for licensure of physician assistants shall be formulated by the board in accordance with such national criteria as are established by national organizations or societies as the board may accept. ((d) amended July 2, 2004, P.L.486, No.56)  
Section 6. Qualifications for license.

(a) A graduate of an osteopathic medical college in the United States who seeks licensure by the board shall furnish the board with evidence, prior to any examination, that he is of good moral character, is not addicted to habit-forming drugs, and has completed the educational requirements prescribed by the board.

(b) An application to the board shall have attached to it the affidavit or affirmation of the applicant as to its verity. An applicant who knowingly makes a false statement of fact in his application shall be in violation of this act.

(c) An applicant who has been convicted of a felonious act prohibited by the act of April 14, 1972 (P.L.233, No.64), known as "The Controlled Substance, Drug, Device and Cosmetic Act," or convicted of a felony relating to a controlled substance in a court of law of the United States or any other state, territory or country shall not be licensed unless:

(1) at least ten years have elapsed from the date of conviction;

(2) the applicant satisfactorily demonstrates to the board that he has made significant progress in personal rehabilitation since the conviction such that licensure of the applicant should not be expected to create a substantial risk of harm to the health and safety of patients or the public or a substantial risk of further criminal violations; and

(3) the applicant otherwise satisfies the qualifications contained in or authorized by this act.

As used in this subsection the term "convicted" shall include a judgment, an admission of guilt or a plea of nolo contendere. An applicant's statement on the application declaring the absence of a conviction shall be deemed satisfactory evidence of the absence of a conviction, unless the board has some evidence to the contrary.

((c) amended Dec. 20, 1985, P.L.398, No.108)

Section 6.1. Reporting of multiple licensure or certificates.

Any licensed osteopathic physician of this Commonwealth who is also licensed to practice osteopathic medicine or surgery in any other state, territory or country or any other board-regulated practitioner licensed or certified to practice in any other state, territory or country shall report this information to the board on the biennial registration application. Any disciplinary action taken in other states shall

be reported to the board on the biennial registration application or within 90 days of final disposition, whichever is sooner. Multiple licensure shall be noted by the board on the osteopathic physician's or other board-regulated practitioner's record, and such state, territory or country shall be notified by the board of any disciplinary actions taken against said osteopathic physician or other board-regulated practitioner in this Commonwealth.

(6.1 amended July 2, 1993, P.L.418, No.59)

Section 7. Certification of license.

The fact of licensure to practice osteopathic medicine and surgery shall be certified to by the board to other jurisdictions upon application and the payment by the licensee of a fee providing the licensee is in good standing.

Section 7.1. Athletic trainers.

(a) An athletic trainer licensed by the board may, under the direction of a physician, podiatrist or dentist, provide athletic training services to a physically active person under the care of a physician, dentist or podiatrist. An athletic trainer licensed under this section shall refer a physically active person with conditions outside the scope of athletic training services to a physician, dentist or podiatrist.

(b) ((b) deleted by amendment)

(b.1) Transitional rule.--

(1) Any athletic trainer who holds a valid certificate issued by the board or the State Board of Medicine, relating to the practice of athletic training, prior to the effective date of this subsection shall, on or after the effective date of this subsection, be deemed to be licensed by the board or the State Board of Medicine as provided in this act.

(2) Paragraph (1) shall not apply in the case of a certification that was expired or revoked prior to the effective date of this subsection.

(c) An athletic trainer who meets the requirements of this section shall be licensed, may use the title "athletic trainer" or the abbreviation for the title, "A.T.L.," and may perform athletic training services. A person who is not licensed under this section may not use the designation of licensed athletic trainer, athletic trainer or any of the listed abbreviations for that title, including "L.A.T." or "A.T.L.," or any similar designation. This section shall not prohibit any person trained and licensed or certified under any other law from engaging in the licensed or certified practice in which the person is trained.

(d) The State Board of Osteopathic Medicine and the State Board of Medicine shall jointly promulgate regulations which:

(1) establish approved education and training programs for licensure; and

(2) define the circumstances and protocol under which a licensed athletic trainer may perform athletic training services.

(e) Notwithstanding any provision of this act to the contrary, doctors of medicine may supervise and direct the activities of athletic trainers to the same extent as physicians regulated by this act.

(f) The State Board of Osteopathic Medicine shall be responsible for the licensure of athletic trainers. Jurisdiction will be determined by the type of physician who supervises and directs the licensed athletic trainer. Licensed athletic trainers supervised by a doctor of osteopathy shall fall within the jurisdiction of the State Board of Osteopathic Medicine.

(7.1 amended Dec. 22, 2011, P.L.567, No.123)

**Compiler's Note:** Section 5 of Act 123 of 2011, which amended section 7.1, provided that references to certification or certified athletic trainers contained in regulations promulgated under Act 123 and in effect on the effective date of section 5 shall be deemed to be references to licensure or licensed athletic trainers after the effective date of section 5.

Section 7.2. Visiting team physician.

(a) A physician who is licensed in good standing to practice in another state shall be exempt from the licensure requirements of this act while practicing in this Commonwealth if either of the following apply:

(1) The physician has a written or oral agreement with a sports team to provide care to the team members and coaching staff traveling with the team for a specific sporting event to take place in this Commonwealth.

(2) The physician has been invited by a national sport governing body to provide services to team members and coaching staff at a national sport training center in this Commonwealth or to provide services at an event or competition in this Commonwealth which is sanctioned by the national sport governing body so long as:

(i) The physician's practice is limited to that required by the national sport governing body.

(ii) The services provided by the physician must be within the area of the physician's competence.

(b) A physician who is exempt under subsection (a) from licensure may not:

(1) Provide care or consultation to any person residing in this Commonwealth other than a person delineated in subsection (a) or as otherwise provided by State law.

(2) Practice at a health care clinic or health care facility including an acute care facility.

(c) An exemption under subsection (a) shall be valid for the following duration:

(1) An exemption under subsection (a)(1) shall remain in force while the physician is traveling with the sports team but shall be no longer than ten days in duration per sporting event. A maximum of 20 additional days per sporting event may be granted upon prior request to the board by the physician but may not exceed 30 days total.

(2) An exemption under subsection (a)(2) shall remain in force during the time certified by the national sport governing body. The exemption may not exceed 30 days.

(d) The board may enter into agreements with the medical licensing boards of other states to implement the provisions of this section. Agreements may include procedures for reporting potential medical license violations.

(7.2 added Dec. 6, 2015, P.L.438, No.74)

Section 8. Meetings of the board; examinations.

(a) The board shall hold at least six meetings to transact its business each year in Pennsylvania at a place determined by the board. It shall hold at least two examinations for applicants for licensure each year. ((a) amended Dec. 20, 1985, P.L.398, No.108)

(b) The examinations conducted by the board shall be in the English language. Special examinations may be designated and held at the times and places designated by the board.

(c) The board may accept by endorsement currently licensed osteopathic physicians qualified by either the National Board

or by Flex examination or by any other state or territorial examination acceptable to the board for the purpose of licensure.

(d) Whenever an applicant fails an examination he shall have, after the expiration of six months and within two years, the privilege of a second examination by the board. If he fails the second examination he shall apply de novo after a year of graduate study approved by the board, and qualify for a license under the conditions existing at the time of his application.

(e) An applicant for a license to practice osteopathic medicine and surgery who has been successfully examined by an agency considered competent by the board who presents to the board satisfactory evidence of having fulfilled all the requirements of this act and the regulations of the board, may, without further examination, receive from the board a license conferring all the rights accorded by this act provided he has paid a fee and provided he has not previously failed a licensing examination given by the board.

(f) The board shall contract with a professional testing organization for the examination of qualified applicants for licensure or certification. All written, oral and practical examinations shall be prepared and administered by a qualified and approved professional testing organization in the manner prescribed for written examinations by section 812.1 of the act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929." ((f) amended Dec. 20, 1985, P.L.398, No.108) Section 9. Endorsement.

Endorsement may be established at the direction of the board.  
Section 10. Licenses; exemptions; nonresident practitioners; graduate students; biennial registration and continuing medical education. (Hdg. amended Dec. 20, 1985, P.L.398, No.108)

(a) Physicians who have complied with the requirements of the board, have passed a final examination, and have otherwise complied with the provisions of this act shall receive from the Commissioner of Professional and Occupational Affairs in the Department of State, or whoever exercises equivalent authority, a license entitling them to practice osteopathic medicine and surgery without restriction in this Commonwealth. The license shall be recorded in the office of the board in a record to be kept for that purpose. It shall be open to public inspection. A certified copy of the record shall be received as evidence in all courts in this Commonwealth. This section shall not apply to medical officers in the medical service of the armed forces of the United States, the United States Public Health Service, the Veterans Administration, or physicians employed within Federal services while in discharge of their official duties, to anyone who may be a duly licensed practitioner of osteopathic medicine and surgery in any jurisdiction who may be called upon by a licensed physician of this Commonwealth to consult with him in a case under treatment, to physicians of other jurisdictions who are training for certification in special departments of osteopathic medicine and surgery, or to anyone serving as a clinical clerk under the supervision of the osteopathic medical or surgical staff in any hospital. Nothing contained in this section shall be construed to entitle a clinical clerk to practice osteopathic medicine and surgery or to prescribe drugs. A duly licensed physician residing in or maintaining his office of practice in a state near the boundary line between said state and this Commonwealth whose practice extends into this Commonwealth shall have the right to practice in this Commonwealth, at the discretion of the board, provided

he files with the secretary of the board a certified copy of his license in the state where he resides, and that the board of examiners of the adjoining state reciprocates by extending the same privilege to physicians in this Commonwealth. He shall receive from the secretary of the board a license which shall automatically become null and void whenever he changes his residence or office of practice. A record of all persons so licensed shall be kept in the office of the board and shall have the same efficacy as any other license issued by the board.

(b) Physicians who are legally authorized to practice osteopathic medicine and surgery in this State or other states or territories of the United States or the Dominion of Canada who apply for training and certification in special departments of osteopathic medicine and surgery in institutions in this Commonwealth recognized by the board with advice and consultation with the various examining boards in osteopathic medical specialties approved by the Council on Osteopathic Education of the American Osteopathic Association as proper for such training, shall receive a graduate certificate limited to said training within the complex of the hospital or its affiliates or community hospitals where he is engaged in such training. This training experience shall not be converted into a staff service. The certificate shall be valid for one year. It may be renewed from year to year. A person who has been certified in a specialty discipline recognized by the board who makes an application for licensure to practice osteopathic medicine and surgery without restriction in the Commonwealth, upon the payment of a fee may be given a qualifying examination. The examination shall emphasize the subject matter of the specialty discipline for which the applicant has been trained. It may include material from the general field of osteopathic medical science.

(c) It shall be the duty of those licensed to practice osteopathic medicine and surgery without restriction to register with the board and to reregister at such intervals and by such methods as the board shall for a period determine. Such renewal period shall not be longer than two years. The form and method of such registration shall be determined by the board.

(d) The board shall adopt, promulgate and enforce rules and regulations establishing requirements for continuing medical education to be met by persons licensed to practice osteopathic medicine without restriction. Each person licensed to practice osteopathic medicine and surgery without restriction, during the two-year period immediately preceding a biennial date for reregistering with the board, must complete a program of continuing medical education, as defined by and acceptable to the board. The number of hours of continuing education to be met by licensees shall be set by the board by regulation. No credit shall be given for any course in office management or practice building. In issuing rules and regulations and individual orders in respect of requirements for continuing medical education, the board, in its discretion, may among other things, use and rely upon guidelines and pronouncements of recognized educational and professional organizations; may prescribe for content, duration and organization of courses; shall take into account the accessibility of such continuing education; may waive such requirements in instances of individual hardship where good cause is shown and the board finds that the public's safety and welfare are not jeopardized by the waiver of such requirements; and shall waive such requirements with respect to retired physicians not engaged in

the active practice of osteopathic medicine and surgery. ((d) amended Dec. 20, 1985, P.L.398, No.108)

(e) A person registering with the board shall pay, for each biennial registration, a fee. It shall accompany the application for registration. Upon receiving a proper application for registration accompanied by the fee and evidence satisfactory to the board of compliance with the continuing medical education requirements of subsection (d), the board shall issue its certificate of registration to the applicant. It and its renewals shall be good and sufficient evidence of registration. ((e) amended Dec. 20, 1985, P.L.398, No.108)

(f) The board shall grant licensure to physician assistants which licensure shall be subject to biennial renewal by the board. As part of biennial renewal, a physician assistant shall complete continuing medical education as required by the National Commission on Certification of Physician Assistants. The board shall grant licensure to applicants who have fulfilled the following criteria:

(1) Satisfactory performance on a proficiency examination approved by the board.

(2) Satisfactory completion of a certified program for the training and education of physician assistants approved by the board.

(3) For candidates for initial licensure after January 1, 2005, obtainment of a baccalaureate or higher degree from a college or university and completion of not fewer than 60 clock hours of didactic instruction in pharmacology or other related courses as the board may approve by regulation.

In the event that completion of a formal training and educational program is a prerequisite to taking the proficiency examination, the board shall have the power, if it determines that the experience of the applicant is of such magnitude and scope so as to render further formal training and education nonessential to the applicant in assisting a physician in the provision of medical care and services, to waive the training and education requirements under this section.

((f) amended July 4, 2008, P.L.589, No.46)

(g) (1) The primary supervising physician shall file, or cause to be filed, with the board a written agreement that identifies the manner in which the physician assistant will assist the primary supervising physician, according to subsection (g.4). The written agreement and description may be prepared and submitted by the primary supervising physician, the physician assistant or a delegate of the primary supervising physician and the physician assistant. It shall not be a defense in any administrative or civil action that the physician assistant acted outside the scope of the board-filed description or that the supervising physician utilized the physician assistant outside the scope of the board-filed description because the supervising physician or physician assistant permitted another person to represent to the board that the description had been approved by the supervising physician or physician assistant.

(2) The written agreement becomes effective upon submission by the primary supervising physician, the physician assistant or a delegate of the primary supervising physician and the physician assistant to the board. The board shall review 10% of all written agreements submitted to the board after the effective date of this paragraph. A written agreement subject to a review shall remain in effect for two weeks after the board notifies the primary supervising physician and the physician assistant with remedies, if

necessary, on the outcome of the review. The primary supervising physician, physician assistant or delegate to the primary supervising physician and physician assistant must submit a new written agreement which shall be effective upon submission to the board. A written agreement submitted to the board during the declaration of disaster emergency issued by the Governor on March 6, 2020, published at 50 Pa.B. 1644 (March 21, 2020), or any renewal of the declaration of disaster emergency, shall be deemed approved. This paragraph shall apply to written agreements submitted to the board before the effective date of this paragraph.

(3) No later than 120 days from the effective date of this paragraph, the board shall submit the review process for the written agreements under paragraph (2) to the Legislative Reference Bureau for publication in the Pennsylvania Bulletin.

(4) There shall be no more than six physician assistants for whom a physician has responsibility or supervises pursuant to a written agreement at any time. In health care facilities licensed under the act of July 19, 1979 (P.L.130, No.48), known as the "Health Care Facilities Act," a physician assistant shall be under the supervision of a physician or physician group pursuant to a written agreement, provided that a physician supervises no more than six physician assistants at any time. A physician may apply for a waiver to employ or supervise more physician assistants at any time under this section for good cause, as determined by the board. In cases where a group of physicians will supervise a physician assistant, the names of all supervisory physicians shall be included on the application.

((g) amended Oct. 7, 2021, P.L.412, No.78)

(g.1) In health care facilities licensed under the "Health Care Facilities Act," the attending physician of record for a particular patient shall act as the primary supervising physician for the physician assistant while that patient is under the care of the attending physician. Nothing in this act shall be construed to authorize an employer or other entity to require a physician to supervise more physician assistants when the physician, in his or her clinical judgment, determines that supervising more physician assistants will compromise patient care or otherwise affect the physician's ability to properly supervise another physician assistant in accordance with the requirements of this act or regulations promulgated by the board. ((g.1) amended Oct. 7, 2021, P.L.412, No.78)

(g.2) (1) Except as limited by paragraph (2), and in addition to existing authority, a physician assistant shall have authority to do all of the following, provided that the physician assistant is acting within the supervision of the supervising physician:

(i) Order durable medical equipment.

(ii) Issue oral orders to the extent permitted by a health care facility's bylaws, rules, regulations or administrative policies and guidelines.

(iii) Order physical therapy and dietitian referrals.

(iv) Order respiratory and occupational therapy referrals.

(v) Perform disability assessments for the program providing Temporary Assistance to Needy Families (TANF).

(vi) Issue homebound schooling certifications.

(vii) Perform and sign the initial assessment of methadone treatment evaluations in accordance with

Federal and State law, provided that any order for methadone treatment shall be made only by a physician.

(2) Nothing in this subsection shall be construed to:

(i) Supersede the authority of the Department of Health and the Department of Human Services to regulate the types of health care professionals who are eligible for medical staff membership or clinical privileges.

(ii) Restrict the authority of a health care facility to determine the scope of practice and supervision or other oversight requirements for health care professionals practicing within the facility.

((g.2) amended Oct. 7, 2021, P.L.412, No.78)

(g.3) Professional liability.--

(1) A licensed physician assistant in this Commonwealth shall maintain a level of professional liability insurance coverage in the minimum amount of \$1,000,000 per occurrence or claims made. Failure to maintain insurance coverage as required shall subject the licensee to disciplinary proceedings. The board shall accept from physician assistants as satisfactory evidence of insurance coverage any of the following:

(i) self-insurance;

(ii) personally purchased liability insurance; or

(iii) professional liability insurance coverage provided by the physician assistant's employer or similar insurance coverage acceptable to the board.

(2) A license applicant shall provide proof that the applicant has obtained professional liability insurance in accordance with paragraph (1). It is sufficient if the applicant files with the application a copy of a letter from the applicant's professional liability insurance carrier indicating that the applicant will be covered against professional liability in the required amounts effective upon the issuance of the applicant's license to practice as a physician assistant in this Commonwealth. Upon issuance of the license, the licensee has 30 days to submit to the board the certificate of insurance or a copy of the policy declaration page.

((g.3) added July 4, 2008, P.L.589, No.46)

(g.4) A physician assistant shall provide medical services according to a written agreement which provides for all of the following:

(1) Identifies and is signed by the primary supervising physician.

(2) Describes the physician assistant's scope of practice.

(3) Describes the nature and degree of supervision the primary supervising physician will provide the physician assistant.

((g.4) added Oct. 7, 2021, P.L.412, No.78)

(h) The board shall establish such rules and regulations, relating to physician assistants, as it deems necessary to protect the public and to implement the provisions of this act, including, but not limited to reasonable procedures for identification of physician assistants and for informing patients and the public at large of the use of physician assistants.

(i) Information concerning the use of each type of physician assistant shall be collected and reports thereof furnished to the General Assembly annually by the board, including the geographic location of physician assistants and the setting of

their practice, i.e., rural, clinic, hospitals or physician's offices.

(j) Nothing in this act shall be construed to permit a licensed physician assistant to practice as an osteopathic physician assistant without the supervision of a licensed physician approved by the appropriate board, but such supervision shall not be construed to require the personal presence of the supervising physician at the place where the services are rendered. ((j) amended Oct. 7, 2021, P.L.412, No.78)

(j.1) (1) ((1) deleted by amendment).

(2) ((2) deleted by amendment).

(3) The primary supervising physician shall determine countersignature requirements of patient records completed by the physician assistant in a written agreement, except as provided for in paragraph (4).

(4) The approved physician shall countersign 100% of the patient records completed by the physician assistant within a reasonable time, which shall not exceed 10 days, during each of the following time periods:

(i) The first 12 months of the physician assistant's practice post graduation and after the physician assistant has fulfilled the criteria for licensure set forth in subsection (f).

(ii) The first 12 months of the physician assistant's practice in a new specialty in which the physician assistant is practicing.

(5) The board may not require, by order, regulation or any other method, countersignature requirements of patient records completed by a physician assistant that exceed the requirements specified under this subsection.

((j.1) amended Oct. 7, 2021, P.L.412, No.78)

(k) This act shall not be construed to prohibit the performance by the physician assistant of any service within the physician assistant's skills, which is delegated by the supervising physician, and which forms a usual component of that physician's scope of practice. ((k) amended Oct. 7, 2021, P.L.412, No.78)

(l) Nothing in this act shall be construed to prohibit the employment of physician assistants by a health care facility where such physician assistants function under the supervision of a physician or group of physicians. ((l) amended Oct. 7, 2021, P.L.412, No.78)

(m) The physician assistant being licensed in this act and functioning under the supervision of the physician defines his/her status as an employee and subject to the normal employer/employee reimbursement procedures. ((m) amended July 2, 2004, P.L.486, No.56)

(n) No medical services may be performed by a physician assistant under this act which include the measurement of the range of powers of human vision or the determination of the refractive status of the human eye. This subsection does not prohibit the performance of routine vision screenings or the performance of refractive screenings in the physician's office.

(o) Nothing in this act shall be construed to allow physician assistants to practice chiropractic.

(p) Nothing in this act shall be construed to permit a physician assistant to independently prescribe or dispense drugs. The board and State Board of Pharmacy will jointly develop regulations to permit a physician assistant to prescribe and dispense drugs at the direction of a licensed physician.

Compiler's Note: Section 4 of Act 78 of 2021 provided that the State Board of Osteopathic Medicine shall promulgate final rules and regulations necessary to carry out Act 78 within 180 days of the effective date of section 4. Section 5 of Act 78 of 2021 provided that any and all regulations at 49 Pa. Code §§ 25.142, 25.162, 25.178 and 25.181 are abrogated to the extent of any inconsistency with Act 78.

**Compiler's Note:** Section 8(b) of Act 46 of 2008, which added section 10(g.2), provided that the State Board of Osteopathic Medicine, the Department of Public Welfare and the Department of Health shall promulgate regulations to implement the addition of section 10(g.2) within 18 months of the effective date of section 8.

Section 10.1. Respiratory therapists.

(a) An individual shall be eligible to apply for licensure as a respiratory therapist if that individual satisfies all of the following:

(1) Submits evidence satisfactory to the board, on forms approved by the board, that the applicant has met one or more of the following criteria:

(i) Has graduated from a respiratory care program approved by the Committee on Accreditation for Respiratory Care and passed the entry level examination as determined by the National Board for Respiratory Care.

(ii) Holds a valid license, certificate or registration as a respiratory therapist in another state, territory or the District of Columbia which has been issued based on requirements substantially similar to those required by this Commonwealth, including having successfully passed an examination.

(2) Has paid the licensure fee as established by the board by regulation.

(3) Has proved to the satisfaction of the board that the individual is of good moral character and is not unfit or unable to practice as a respiratory therapist by reason of physical or mental impairment.

(a.1) It shall be unlawful for any individual to hold himself out to the public as a respiratory therapist or to practice or offer to practice respiratory care unless the individual holds a valid, current license issued by the board or the State Board of Medicine.

(a.2) It shall be unlawful for an individual to use the title of "licensed respiratory therapist" or to use the letters "L.R.T." or "R.T." or to hold oneself out as a licensed respiratory therapist unless that individual is licensed to practice respiratory care as provided under this act or the act of December 20, 1985 (P.L.457, No.112), known as the Medical Practice Act of 1985.

(b) For a period of two years following the effective date of this subsection, an individual shall be eligible to apply for licensure without examination if the individual meets the qualifications for licensure under section 10.2 and holds valid certification as a respiratory care practitioner as issued by the board or the State Board of Medicine.

(c) The board is authorized to promulgate regulations to implement this section.

(d) A respiratory therapist licensed by the board may implement direct respiratory care to an individual being treated by either a licensed medical doctor or a licensed doctor of osteopathic medicine upon physician prescription or referral by a physician, certified registered nurse practitioner or

physician assistant, or under medical direction and approval consistent with standing orders or protocols of an institution or health care facility. This care may constitute indirect services, such as consultation or evaluation of an individual, and also includes, but is not limited to, the following services:

- (1) Administration of medical gases.
- (2) Humidity and aerosol therapy.
- (3) Administration of aerosolized medications.
- (4) Intermittent positive pressure breathing.
- (5) Incentive spirometry.
- (6) Bronchopulmonary hygiene.
- (7) Management and maintenance of natural airways.
- (8) Maintenance and insertion of artificial airways.
- (9) Cardiopulmonary rehabilitation.
- (10) Management and maintenance of mechanical ventilation.
- (11) Measurement of ventilatory flows, volumes and pressures.
- (12) Analysis of ventilatory gases and blood gases.

(e) This section shall not prevent or restrict the practices, services or activities of:

(1) A person licensed or certified in this Commonwealth to provide another health care service, including, but not limited to, physicians, physical therapists, chiropractors, nurses, dentists, physician assistants and podiatrists.

(2) A person rendering respiratory care services pursuant to employment by a Federal agency.

(3) A person pursuing a course of study leading to a degree or certificate in respiratory care in an accredited educational program if he is clearly designated as a student and provides care under supervision implemented through that program.

(4) A person executing or conveying medical orders pursuant to lawful delegation by a physician.

(5) A person who, pursuant to lawful delegation by a physician, delivers, installs, monitors or maintains a device which enables an individual to self-administer respiratory care.

(6) A person qualified by academic and clinical education to operate extracorporeal circulation equipment in a medical or surgical setting which requires support to or the temporary replacement of a patient's circulatory or respiratory functions.

(f) Information or allegations filed with the board against a respiratory therapist licensed by the State Board of Medicine shall be referred to that board for appropriate action.

(10.1 amended July 4, 2008, P.L.589, No.46)

**Compiler's Note:** Section 8(a) of Act 46 of 2008, which amended section 10.1, provided that the State Board of Osteopathic Medicine and the State Board of Medicine shall jointly promulgate regulations to implement the amendment of sections 2, 2.1(a), 10.1, 10.2 and 15(b) within 18 months of the effective date of section 8. Section 10.2. Respiratory therapist licenses and permits.

(a) A respiratory therapist license issued by the board empowers the holder to practice respiratory care under the supervision of a licensed medical doctor or a licensed doctor of osteopathic medicine. In a health care facility, that supervision may consist of standing orders or protocols approved by the institution consistent with acceptable and prevailing

medical standards which may include services rendered directly to the patient in his home or other residence.

(b) The board shall issue temporary permits for the practice of respiratory care to individuals who have applied for licensure from the board and who meet any of the following requirements:

(1) Graduation from an accredited respiratory care training program recognized by the board.

(2) Enrollment in an accredited respiratory care training program recognized by the board if the individual is expected to graduate within 30 days from the date of application.

(3) Recognition as a credentialed respiratory therapist as approved by the board.

(4) (Deleted by amendment).

(5) (Deleted by amendment).

(c) Temporary permits shall be valid for 12 months and for such additional period as the board may, in each case, specially determine, except that a temporary permit shall expire if the holder fails the examination. An appropriate fee for a temporary permit shall be established by the board by regulation. If the temporary permit holder is not in violation of any other provision of this act, a holder of a temporary permit qualifies for admission to the examination and shall apply for the next regularly scheduled licensure examination administered by the board. The board is authorized to promulgate regulations to establish procedures for application, credentials verification, examination and licensure, together with appropriate fees.

(d) Pursuant to section 812.1 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, the board shall contract for the development and administration of an examination for the licensure of respiratory therapists. The examination shall be given at least twice per year.

(e) A respiratory therapist license shall be renewed biennially upon application on a form prescribed by the board and upon payment of a renewal fee adopted by the board by regulation.

(f) (1) The board shall adopt, promulgate and enforce rules and regulations consistent with the provisions of this act establishing requirements of continuing education to be met by individuals holding licensure as respiratory therapists under this act as a condition for biennial license renewal. The regulations shall include any fees necessary for the board to carry out its responsibilities under this section.

(2) Beginning with the first biennial license renewal period following promulgation of regulations, license holders shall be required to attend and complete 30 hours of mandatory continuing education during each two-year licensure period. At least one credit hour shall be in ethics, and one credit hour shall be in patient safety.

(3) An individual applying for the first time for licensure in this Commonwealth shall be exempted from the continuing education requirement for the biennial renewal period in which licensure is obtained.

(4) The board shall, by regulation, provide for the waiver of continuing education requirements in case of illness, hardship and armed service duties. A request for waiver shall be evaluated on a case-by-case basis.

(5) A licensee seeking to reinstate an inactive or lapsed license shall show proof of compliance with the continuing education requirement for the preceding biennium.

(6) All courses, locations, instructors and providers shall be approved by the board. No credit shall be given for any course in office management or practice building.

(7) (Deleted by amendment).

(10.2 amended July 4, 2008, P.L.589, No.46)

**Compiler's Note:** Section 8(a) of Act 46 of 2008, which amended section 10.2, provided that the State Board of Osteopathic Medicine and the State Board of Medicine shall jointly promulgate regulations to implement the amendment of sections 2, 2.1(a), 10.1, 10.2 and 15(b) within 18 months of the effective date of section 8.

Section 10.3. Genetic counselor.

(a) License required.--Two years after the effective date of this section, it shall be unlawful for any person to hold himself out to the public as a genetic counselor or to practice or offer to practice genetic counseling unless the person holds a license issued by the board.

(b) Use of title.--An individual who holds an active license as provided by this act may hold himself out to the public by any title or description of services incorporating the term "genetic counselor" or use any words or symbols indicating that the individual is a genetic counselor, except as otherwise provided by this act.

(c) Scope of practice.--

(1) A genetic counselor may provide genetic counseling to clients, which includes:

(i) Obtain and evaluate individual and family medical histories to determine genetic risk for genetic or medical conditions and diseases in a patient and other family members.

(ii) Discuss the features, natural history, means of diagnosis, genetic and environmental factors and management of risk for the genetic or medical conditions and diseases.

(iii) Identify and coordinate genetic laboratory tests and other diagnostic studies as appropriate for the genetic assessment.

(iv) Integrate the genetic laboratory test results and other diagnostic studies with personal and family medical histories to assess and communicate risk factors for genetic or medical conditions and diseases.

(v) Explain the clinical implications of genetic laboratory tests and other diagnostic studies and their results.

(vi) Evaluate the client's or family's responses to the condition or risk of the recurrence and provide client-centered counseling.

(vii) Identify and utilize community resources that provide medical, educational, financial and psychosocial support and advocacy.

(viii) Provide written documentation of medical, genetic and counseling information for families and health care professionals.

(2) When in the course of providing genetic counseling services to a client, if a genetic counselor finds any indication of a disease or condition that requires diagnosis and treatment outside the scope of practice defined in this section, the genetic counselor shall refer the client to a licensed physician or appropriate health care practitioner.

(3) Nothing in this subsection shall be construed to authorize a genetic counselor to diagnose, test or treat any genetic disease or condition or other disease or condition.

(d) Exemptions.--The following persons may provide genetic counseling without holding the license required by this section as indicated:

(1) A person licensed under any other section of this act or any other law of this Commonwealth, while acting within the scope of practice of the person's license and training, provided the person does not hold himself out to the public as a genetic counselor.

(2) A person employed by the Federal Government to provide genetic counseling while in the discharge of the person's official duties.

(3) A student enrolled in an ABGC-accredited or ABMG-accredited genetic counseling educational program or an ABMG-accredited medical genetics educational program or a graduate nursing education program in genetics, if the counseling is an integral part of the student's course of study and is performed under the direct supervision of a genetic counselor, licensed physician, certified registered nurse practitioner with a specialty or subspecialty in genetics or clinical nurse specialist with a specialty or subspecialty in genetics.

(4) A person trained as a genetic counselor who reapplies for ABGC certification examination and is working under general supervision in an approved genetic counseling training site.

(5) A person trained as a Ph.D. medical geneticist who reapplies for ABMG certification examination and documents the number of cases in a logbook under a supervisor identified in the training program's ABMG accreditation documents as a member of the training faculty.

(e) Qualifications.--An applicant shall be licensed to practice genetic counseling under this act if the applicant meets all of the following qualifications and has otherwise complied with the provisions of this act:

(1) The person is at least 21 years of age.

(2) The person is of good moral character.

(3) The person has received a master's degree or doctoral degree in human genetics or genetic counseling from an ABGC-accredited or ABMG-accredited educational program, or has met the requirements for certification by ABGC or ABMG.

(4) The person has passed the examination for certification as a genetic counselor by ABGC or ABMG or has passed the examination for certification as a Ph.D. medical geneticist by ABMG, as approved by the board.

(5) The person has completed an application form provided by the board and paid the appropriate fee.

(f) Licensure of noncertified persons.--For a period of three years after the effective date of this section, the board may issue a license to a person who meets all of the qualifications for licensure except for the requirements of subsection (e) (3) and (4), provided:

(1) The person has received a master's or higher degree in genetics or a related field of study and has worked as a genetic counselor for a minimum of three continuous years preceding the enactment of this section or has received a bachelor of science degree in genetics or a related field of study and has been employed as a genetic counselor for

at least ten continuous years prior to the enactment of this section.

(2) The person submits at least three letters of recommendation, one of which must be from a genetic counselor certified by ABGC or ABMG and one must be from either a clinical geneticist certified by ABMG or a medical geneticist certified by ABMG. A person who submits a letter of recommendation must have worked with the applicant in an employment setting during the previous ten continuous years and can attest to the applicant's competency in providing genetic counseling services.

(g) Provisional license.--

(1) The board may issue a provisional license to practice genetic counseling to a person who meets all of the qualifications for licensure except for the certification requirement of subsection (e)(4), provided the person has been granted active candidate status establishing eligibility to sit for the next available certification examination by ABGC or ABMG.

(2) A provisional license shall allow the person to practice under the supervision of a genetic counselor or a licensed physician until the person receives certification from ABGC or ABMG or two examination cycles have elapsed, whichever comes first.

(3) Under no circumstances shall a person continue to practice on a provisional license upon notification that the person has not passed the examination within two examination cycles after receiving the provisional license.

(h) Licensure fees.--All application and licensure fees shall be set by the board by regulation. Until such time as the board adopts a fee by regulation, applicants shall pay a biennial fee of \$125.

(i) Reciprocal disciplinary action.--Disciplinary action taken by the board against a person who is a genetic counselor shall be enforceable by the State Board of Medicine against the person if the person holds or seeks a license to practice as a genetic counselor with the State Board of Medicine.

(j) Continuing education.--

(1) For each license renewal, a licensee shall complete within the immediately preceding two-year period at least 30 hours of continuing education as approved by the board. The licensee shall provide the board with evidence of the completion of the continuing education. No credit shall be given for any course in office management or practice building.

(2) A person who applies for initial licensure in this Commonwealth shall be exempt from the continuing education requirements for the biennial renewal period following initial licensure.

(3) The board may waive all or a portion of the continuing education requirement for biennial renewal for a licensee who shows to the satisfaction of the board that the licensee was unable to complete the requirements due to serious illness, military service or other demonstrated hardship.

(4) Continuing education programs and program providers under this subsection shall be approved by the board in accordance with standards and criteria established by the board by regulation. The regulation shall include any fees necessary to implement this provision and provide for waiver of the continuing education requirement due to illness or hardship in any licensing renewal period.

(k) Liability insurance.--

(1) A licensee under this section, practicing in this Commonwealth, shall maintain a level of professional liability insurance coverage in the minimum amount of \$1,000,000 per occurrence or claims made. Failure to maintain insurance coverage as required shall subject the licensee to disciplinary proceedings. The board shall accept as satisfactory evidence of insurance coverage any of the following:

- (i) self-insurance;
- (ii) personally purchased liability insurance; or
- (iii) professional liability insurance coverage provided by the genetic counselor's employer or similar insurance coverage acceptable to the board.

(2) An applicant shall provide proof that the applicant has obtained professional liability insurance in accordance with paragraph (1). It is sufficient if the applicant files with the application a copy of a letter from the applicant's professional liability insurance carrier indicating that the applicant will be covered against professional liability in the required amounts effective upon the issuance of the applicant's license to practice genetic counseling in this Commonwealth.

(3) Upon issuance of a license, a licensee has 30 days to submit to the board the certificate of insurance or a copy of the policy declaration page.

(4) The board shall adopt by regulation standards and procedures established by the Insurance Commissioner for self-insurance. In the absence of these standards and procedures, the board, after consultation with the Insurance Commissioner, shall establish standards and procedures by regulation for self-insurance under this subsection.

(10.3 added Dec. 22, 2011, P.L.581, No.126)

**Compiler's Note:** See section 3 of Act 126 of 2011 in the appendix to this act, which added section 10.3, for special provisions relating to promulgation of regulations.

Section 11. Penalty provisions.

(a) Violations of act.--A person, or the responsible officer or employee of any corporation or partnership, institution or association, violating any of the provisions other than section 3, or any rule or regulation of the board is guilty of a misdemeanor and upon conviction shall be sentenced to pay a fine of not more than \$1,000, or undergo imprisonment for not more than six months for the first violation. On the second and each subsequent conviction, he shall be sentenced to pay a fine of not more than \$2,000, or undergo imprisonment for not less than six months or more than one year in jail, or both.

(b) Penalty for unlicensed practice.--A person, or the responsible officer or employee of any corporation or partnership, institution or association violating section 3 shall, upon conviction thereof, be guilty of a misdemeanor and shall be sentenced to pay a fine of not less than \$1,000, nor more than \$10,000, or to imprisonment for five years, or both.

(c) Board-imposed civil penalty.--In addition to any other civil remedy or criminal penalty provided for in this act, the board, by a vote of the majority of the maximum number of the authorized membership of the board as provided by law, or by a vote of the majority of the duly qualified and confirmed membership or a minimum of five members, whichever is greater, may levy a civil penalty of up to \$1,000 on any current licensee

who violates any provision of this act or on any person who practices osteopathic medicine without being properly licensed to do so under this act. The board shall levy this penalty only after affording the accused party the opportunity for a hearing, as provided in Title 2 of the Pennsylvania Consolidated Statutes (relating to administrative law and procedure). ((c) amended July 2, 1993, P.L.418, No.59)

(11 amended Dec. 20, 1985, P.L.398, No.108)

Section 12. Examination fees.

The board shall have the power to charge a fee for examinations.

Section 13. Fees and fines. (13 repealed Dec. 20, 1985, P.L.398, No.108)

Section 13.1. Fees, fines and penalties.

(a) All fees required pursuant to this act shall be fixed by the board by regulation and shall be subject to the act of June 25, 1982 (P.L.633, No.181), known as the "Regulatory Review Act." If the revenues raised by fees, fines and civil penalties imposed under this act are not sufficient to meet expenditures over a two-year period, the board shall increase those fees by regulation so that the projected revenues will meet or exceed projected expenditures.

(b) If the Bureau of Professional and Occupational Affairs determines that the fees established by the board under subsection (a) are inadequate to meet the minimum enforcement efforts required by this act, then the bureau, after consultation with the board and subject to the "Regulatory Review Act," shall increase the fees by regulation in an amount that adequate revenues are raised to meet the required enforcement effort.

(c) All fees, fines and penalties imposed in accordance with this act and collected in accordance with section 907(b) of the act of October 15, 1975 (P.L.390, No.111), known as the "Health Care Services Malpractice Act," shall be for the exclusive use by the board in carrying out the provisions of this act and shall be annually appropriated for that purpose.

(d) The board may charge a fee, as set by the board by regulation, for all examinations, registrations, renewals, certifications, licenses or applications permitted by this act or the regulations thereunder.

(13.1 added Dec. 20, 1985, P.L.398, No.108)

Section 13.2. Reports of the board.

(a) The board shall submit annually to the Department of State an estimate of the financial requirements of the board for its administrative, investigative, legal and miscellaneous expenses.

(b) The board shall submit annually to the Senate and House Appropriations Committees, 15 days after the Governor has submitted his budget to the General Assembly, a copy of the budget request for the upcoming fiscal year which the board previously submitted to the Department of State.

(c) The board shall submit annually a report, to the Professional Licensure Committee of the House of Representatives and to the Consumer Protection and Professional Licensure Committee of the Senate, containing a description of the types of complaints received, status of cases, board action which has been taken and the length of time from the initial complaint to final board resolution.

(13.2 added Dec. 20, 1985, P.L.398, No.108)

Section 13.3. Perfusionist.

(a) Two years after the effective date of this section, it shall be unlawful for any person to hold himself out to the

public as a perfusionist or to practice or offer to practice perfusion unless the person holds a valid, current license issued by the board or the State Board of Medicine.

(b) A perfusionist who holds a valid, current license issued by either board may use the title perfusionist or licensed perfusionist or an appropriate abbreviation of the title, such as "LP."

(c) The board is authorized to promulgate regulations to implement this section.

(d) A perfusionist may perform perfusion on an individual being treated by a physician licensed under this act or the act of December 20, 1985 (P.L.457, No.112), known as the "Medical Practice Act of 1985," under medical supervision and approval consistent with standing orders or protocols of a hospital that are promulgated and approved by the physician designated as the medical director of the cardiovascular surgery program. These services shall include:

(1) The use of extracorporeal circulation, long-term cardiopulmonary support techniques, including extracorporeal carbon dioxide removal, extracorporeal membrane oxygenation and associated therapeutic and diagnostic techniques.

(2) Counterpulsions, ventricular assistance, autotransfusion, blood and blood component conservation techniques, myocardial and organ preservation, extracorporeal life support and isolated limb perfusion.

(3) Blood and blood component management techniques, advanced life support and other related functions.

(4) In the performance of the acts described in paragraphs (1), (2) and (3):

(i) The administration of:

(A) Pharmacological and therapeutic agents.

(B) Blood products or anesthetic agents through the extracorporeal circuit or through an intravenous line in conjunction with extracorporeal support, under the supervision of the treating physician.

(ii) The performance and use of:

(A) Anticoagulation monitoring and analysis.

(B) Physiologic monitoring and analysis.

(C) Blood gas and chemistry monitoring and analysis.

(D) Hematologic monitoring and analysis.

(E) Hypothermia.

(F) Hyperthermia.

(G) Normothermia.

(H) Hemoconcentration and hemodilution.

(I) Hemodialysis in conjunction with perfusion service.

(iii) The observation of signs and symptoms related to perfusion services, the determination of whether the signs and symptoms exhibit abnormal characteristics and the implementation of appropriate reporting, perfusion protocols or changes in or the initiation of emergency procedures.

(e) The following persons may perform perfusion, as indicated:

(1) A person licensed under any other section of this act or any other law of this Commonwealth while engaging in the practice for which the person is licensed.

(2) A student enrolled in an accredited perfusion education program if perfusion performed by the student:

(i) is an integral part of the student's course of study; and

(ii) is performed under the direct supervision of a perfusionist who is assigned to supervise the student and who is on duty and immediately available in the assigned patient care area.

(3) A graduate of an accredited perfusion education program if perfusion services:

(i) are necessary to fulfill the eligibility requirements for a certification examination; and

(ii) are performed under the supervision and responsibility of a perfusionist who is on duty and assigned to supervise the graduate.

(4) A legally qualified person employed by the Federal Government to practice perfusion while in the discharge of the person's official duties.

(5) For a ventricular assist device under investigative trials by the United States Food and Drug Administration or approved by the United States Food and Drug Administration solely as a ventricular assist device, a person who:

(i) has satisfactorily completed specific ventricular assist device training in a course provided by the ventricular assist device manufacturer; and

(ii) provides care related to the ventricular assist device under the supervision of a licensed physician.

(6) A person who performs autotransfusion or blood conservation techniques under the supervision of a licensed physician.

(7) A person who:

(i) is trained according to the extracorporeal membrane oxygenation specialist guidelines of the Extracorporeal Life Support Organization; and

(ii) operates an extracorporeal membrane oxygenation circuit under the supervision of a licensed physician.

(f) An applicant shall be licensed to practice perfusion under this act if the applicant meets all of the following qualifications and has otherwise complied with the provisions of this act:

(1) The person is at least 18 years of age.

(2) The person is of good moral character.

(3) The person has graduated from an accredited perfusion program approved by the board.

(4) The person is certified by a certifying agency approved by a nationally recognized accrediting agency approved by the board. The certification shall include an examination approved by the board.

(5) The person has completed an application form provided by the board and paid the appropriate fee.

(g) Within two years of the effective date of this section, an applicant who was not a graduate of an accredited program prior to 1981, but met the then-current eligibility requirements for certification as a certified clinical perfusionist and subsequently was certified, shall be licensed as a perfusionist if the applicant otherwise complies with the provisions of this act.

(h) The board may issue a temporary graduate license to practice perfusion to an individual who has graduated from an educational program that complies with the education requirements of this act. All of the following shall apply:

(1) The individual has applied for the examination and is eligible to take the required examination.

(2) The individual's authorization to practice perfusion is granted only under the supervision and direction of a perfusionist licensed under this act.

(3) The license shall be issued for a period of two years and shall be nonrenewable.

(4) (Deleted by amendment)

((h) amended Nov. 2, 2016, P.L.974, No.120)

(i) (1) The board may issue a temporary provisional license to practice perfusion if all the following requirements are met:

(i) The individual holds a current license which is in good standing under the laws of another state, the District of Columbia or a territory of the United States, which includes certification by a certifying agency approved by a nationally recognized accrediting agency.

(ii) The individual meets the requirements as set forth in subsection (f)(1), (2) and (3).

(2) The license shall be issued for a period of one year and shall be nonrenewable.

(j) (1) An individual who holds a current license as a perfusionist in another state, the District of Columbia or a territory of the United States or has obtained national certification may provide a one-time emergency perfusionist service in this Commonwealth without first obtaining a license from the board if:

(i) Prior to the out-of-State perfusionist performing the emergency perfusionist services in this Commonwealth, the out-of-State perfusionist submits by electronic means and on forms approved by the board, notification of emergency practice which shall include an acknowledgment that the out-of-State perfusionist is subject to the jurisdiction of the board in the same manner as if the out-of-State perfusionist were licensed by the board.

(ii) The health care facility licensed by the Department of Health certifies to the board, by electronic means and on forms approved by the board, prior to the out-of-State perfusionist performing the emergency perfusionist services in this Commonwealth that all of the following apply:

(A) The emergency perfusionist services were provided for a patient of the health care facility.

(B) The perfusionist licensed by the board and retained by the health care facility that would normally perform the emergency perfusionist services was not available or incapable of providing the perfusionist services.

(C) No other perfusionist licensed by the board was available to provide or capable of providing the emergency perfusion service.

(D) The out-of-State perfusionist provided only the emergency perfusionist services for the patient of the health care facility and no other perfusionist services at the health care facility.

(2) The out-of-State perfusionist shall obtain a license from the board if a health care facility licensed by the Department of Health retains the perfusionist or if the perfusionist provides any future perfusionist services.

(3) The out-of-State perfusionist shall not perform any other perfusionist services other than the emergency perfusionist services.

(k) (1) A licensed perfusionist practicing in this Commonwealth shall maintain a level of professional liability insurance coverage in the minimum amount of \$1,000,000 per occurrence or claims made. Failure to maintain insurance

coverage as required shall subject the licensee to disciplinary proceedings. The board shall accept from perfusionists as satisfactory evidence of insurance coverage any of the following: self-insurance, personally purchased liability insurance, professional liability insurance coverage provided by the perfusionist's employer or similar insurance coverage acceptable to the board.

(2) A license applicant shall provide proof that the applicant has obtained professional liability insurance in accordance with paragraph (1). It is sufficient if the applicant files with the application a copy of a letter from the applicant's professional liability insurance carrier indicating that the applicant will be covered against professional liability in the required amounts effective upon the issuance of the applicant's license to practice perfusion in this Commonwealth. Upon issuance of the license, the licensee has 30 days to submit to the board the certificate of insurance or a copy of the policy declaration page.

(l) All application and licensure fees shall be set by the board by regulation.

(m) Disciplinary actions taken by the State Board of Osteopathic Medicine against a perfusionist licensed by it shall be enforceable by the State Board of Medicine against the same individual if such individual holds or seeks a license to practice as a perfusionist with the State Board of Medicine.

(n) (1) The board shall adopt, promulgate and enforce rules and regulations consistent with the provisions of this act establishing requirements of continuing education to be met by individuals licensed as perfusionists under this act as a condition for renewal of their licenses. The regulations shall include any fees necessary for the board to carry out its responsibilities under this section.

(2) Beginning with the license period designated by regulation, licensees shall be required to attend and complete 30 hours of mandatory continuing education during each two-year license period. Nationally certified education courses shall be considered as creditable, in addition to any other courses the board deems creditable toward meeting the requirements for continuing education.

(3) An individual applying for the first time for licensure in this Commonwealth shall be exempted from the continuing education requirement for the biennial renewal period following initial licensure.

(4) (i) The board may waive all or a portion of the continuing education requirement for biennial renewal for a licensee who shows to the satisfaction of the board that the licensee was unable to complete the requirements due to serious illness, military service or other demonstrated hardship.

(ii) The request shall be made in writing with appropriate documentation and shall include a description of circumstances sufficient to show why the licensee is unable to comply with the continuing education requirement.

(5) A licensee seeking to reinstate an inactive or lapsed license shall show proof of compliance with the continuing education requirement for the preceding biennium.

(6) All courses, locations, instructors and providers shall be approved by the board. No credit shall be given for any course in office management.

(13.3 added June 11, 2008, P.L.161, No.20)

**Compiler's Note:** Section 4 of Act 20 of 2008, which added section 13.3, provided that the State Board of Osteopathic Medicine shall initiate the promulgation of regulations to carry out the provisions of Act 20 within 18 months of the effective date of section 4.

Section 14. Temporary and automatic suspension.

(a) A license or certificate issued under this act may be temporarily suspended under circumstances as determined by the board to be an immediate and clear danger to the public health and safety. The board shall issue an order to that effect without a hearing, but upon due notice, to the licensee concerned at his or her last known address, which shall include a written statement of all allegations against the licensee. The provisions of section 15(d) shall not apply to temporary suspension. The board shall thereupon commence formal action to suspend, revoke or restrict the license or certificate of the person concerned as otherwise provided for in this act. All actions shall be taken promptly and without delay. Within 30 days following the issuance of an order temporarily suspending a license or certificate, the board shall conduct or cause to be conducted, a preliminary hearing to determine that there is a prima facie case supporting the suspension. The licensee whose license or certificate has been temporarily suspended may be present at the preliminary hearing and may be represented by counsel, cross-examine witnesses, inspect physical evidence, call witnesses, offer evidence and testimony and make a record of the proceedings. If it is determined that there is not a prima facie case, the suspended license or certificate shall be immediately restored. The temporary suspension shall remain in effect until vacated by the board, but in no event longer than 180 days.

(b) A license or certificate issued under this act shall automatically be suspended upon the commitment to an institution of a licensee because of mental incompetency from any cause upon filing with the board a certified copy of such commitment, conviction of a felony under the act of April 14, 1972 (P.L.233, No.64), known as "The Controlled Substance, Drug, Device and Cosmetic Act," or conviction of an offense under the laws of another jurisdiction, which, if committed in Pennsylvania, would be a felony under "The Controlled Substance, Drug, Device and Cosmetic Act." As used in this section the term "conviction" shall include a judgment, an admission of guilt or a plea of nolo contendere. Automatic suspension under this section shall not be stayed pending any appeal of a conviction. Restoration of such license or certificate shall be made as in the case of revocation or suspension of license or certificate.

(14 amended July 2, 1993, P.L.418, No.59)

Section 14.1. Reinstatement of license, certificate or registration.

Unless ordered to do so by Commonwealth Court or an appeal therefrom, the board shall not reinstate the license, certificate or registration of a person to practice osteopathic medicine pursuant to this act which has been revoked. Any person whose license, certificate or registration has been revoked may apply for reinstatement after a period of at least five years, but must meet all of the licensing qualifications of this act for the license applied for, to include the examination requirement, if he or she desires to practice at any time after such revocation.

(14.1 added Dec. 20, 1985, P.L.398, No.108)

Section 14.2. Surrender of suspended or revoked license or certificate.

The board shall require a person whose license, certificate or registration has been suspended or revoked, to return the license, certificate or registration in such manner as the board directs. Failure to do so, and upon conviction thereof, shall be a misdemeanor of the third degree.

(14.2 added Dec. 10, 1985, P.L.398, No.108)

Section 15. Reasons for refusal, revocation or suspension of license.

(a) The board shall have authority to refuse, revoke or suspend the license of a physician for any of the following reasons:

(1) Failing to demonstrate the qualifications or standards for a license provided in this act or the regulations of the board.

(2) Making misleading, deceptive, untrue or fraudulent representations in the practice of osteopathic medicine and surgery, practicing fraud or deceit in obtaining a license to practice osteopathic medicine and surgery, or making a false or deceptive biennial registration with the board.

(3) Conviction of a felony, a crime involving moral turpitude, or a crime related to the practice of osteopathic medicine. Conviction shall include a finding or verdict of guilt, an admission of guilt or a plea of nolo contendere, or receiving probation without verdict, disposition in lieu of trial, or an Accelerated Rehabilitative Disposition in the disposition of felony charges. ((3) amended Dec. 20, 1985, P.L.398, No.108)

(4) Having a license to practice osteopathic medicine and surgery revoked or suspended or having other disciplinary action taken, or an application for a license refused, revoked or suspended by the proper licensing authority of another state, territory or country.

(5) Being unable to practice osteopathic medicine and surgery with reasonable skill and safety to patients by reason of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or other type of material, or as a result of any mental or physical condition. The board shall, upon probable cause, have authority to compel a physician to submit to a mental or physical examination by physicians designated by the board. Failure of a physician to submit to such examination when directed shall constitute an admission of the allegations against him unless it is due to circumstances beyond his control, consequent upon which a default and final order may be entered without the taking of testimony or presentation of evidence. A physician affected by such action shall, at reasonable intervals, be afforded an opportunity to demonstrate that he can resume a competent practice of osteopathic medicine and surgery with reasonable skill and safety to the patients.

(6) Violating a regulation promulgated by the board or an order of the board previously entered by it in a disciplinary proceeding.

(7) Knowingly maintaining a professional connection or association with a person who is in violation of this act or the regulations of the board or knowingly aiding, assisting, procuring or advising an unlicensed person to practice osteopathic medicine and surgery contrary to this act, or the regulations of the board.

(8) Being guilty of immoral or unprofessional conduct. Unprofessional conduct shall include any departure from, or

the failure to conform to, the standards of acceptable and prevailing osteopathic medical practice. Actual injury to a patient need not be established.

(b) The board shall have authority to refuse, revoke or suspend the license of a physician assistant, respiratory therapist or athletic trainer for any or all of the following reasons:

(1) Failing to demonstrate the qualification for licensure or certification contained in this act or regulations of the board.

(2) Making misleading, deceptive, untrue or fraudulent representations in his serving as a physician assistant; practicing fraud or deceit in obtaining a license to serve as a physician assistant; or making a false or deceptive biennial registration with the board.

(3) Conviction of a felony in this Commonwealth or any other state, territory or country. Conviction as used in this paragraph shall include a finding or verdict of guilt, an admission of guilt or a plea of nolo contendere, or receiving probation without verdict, disposition in lieu of trial, or an Accelerated Rehabilitative Disposition in the disposition of felony charges.

(4) Having his license to serve as a physician assistant revoked or suspended or having other disciplinary action taken, or his application for licensure refused, revoked or suspended by the proper certifying authority of another state, territory or country.

(5) Being unable to serve as a physician assistant with reasonable skill and safety to the physician's patients by reason of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or any other type of material, or as a result of any mental or physical condition.

(6) In enforcing paragraph (5), the board shall, upon probable cause, have authority to compel a physician assistant to submit to a mental or physical examination by physicians designated by it. Failure of a physician assistant to submit to such examination shall constitute an admission of the allegations against him unless the failure is due to circumstances beyond his control, consequent upon which a default and final order may be entered without the taking of testimony or presentation of evidence. A physician assistant affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that he can resume the competent assistance of a physician in the physician's practice of medicine, with reasonable skill and safety to the physician's patients.

(7) Violating a lawful regulation promulgated by the board or violating a lawful order of the board, previously entered by the board in a disciplinary proceeding.

(8) Knowingly rendering medical care and services except under the supervision and direction of the supervising physician.

(9) Being guilty of immoral or unprofessional conduct shall include any departure from, or the failure to conform to, the standards of acceptable and prevailing practice for physician assistants, in which proceeding actual injury to a patient need not be established.

((b) amended Dec. 22, 2011, P.L.567, No.123)

(c) Whenever the board finds that the license or a certificate of a person may be refused, revoked or suspended under the terms of this act, the board may:

(1) Deny the application for a license or certificate.

(2) Administer a public or private reprimand.  
(3) Revoke, suspend, limit, or otherwise restrict a license or certificate.

(4) Require a licensee to submit to the care, counseling, or treatment of a physician or physicians designated by the board.

(5) Suspend enforcement of its finding thereof and place a licensee on probation with the right to vacate the probationary order for noncompliance.

(6) Restore or reissue a license to practice osteopathic medicine and surgery or licensure as a physician assistant, and impose any disciplinary or corrective measure which it might originally have imposed.

((c) amended July 2, 2004, P.L.486, No.56)

(d) All actions of the board shall be taken subject to the right of notice, hearing, adjudication and appeal therefrom in accordance with the provisions of Title 2 of the Pennsylvania Consolidated Statutes (relating to administrative law and procedure). ((d) amended Dec. 20, 1985, P.L.398, No.108)

**Compiler's Note:** Section 8(a) of Act 46 of 2008, which amended section 15(b), provided that the State Board of Osteopathic Medicine and the State Board of Medicine shall jointly promulgate regulations to implement the amendment of sections 2, 2.1(a), 10.1, 10.2 and 15(b) within 18 months of the effective date of section 8.

Section 16. Regulatory powers of the board.

The board shall have the power to adopt and revise such regulations as are reasonably necessary to carry out the purposes of this act in conformity with the provisions of the act of July 31, 1968 (P.L.769, No.240), known as the "Commonwealth Documents Law."

Section 16.1. Subpoenas.

(a) The board shall have the authority to issue subpoenas, upon application of an attorney responsible for representing the Commonwealth in disciplinary matters before the board, for the purpose of investigating alleged violations of the disciplinary provisions administered by the board. The board shall have the power to subpoena witnesses, to administer oaths, to examine witnesses and to take such testimony or compel the production of such books, records, papers and documents as it may deem necessary or proper in, and pertinent to, any proceeding, investigation or hearing held or had by it. Medical records may not be subpoenaed without consent of the patient or without order of a court of competent jurisdiction on a showing that the records are reasonably necessary for the conduct of the investigation. The court may impose such limitations on the scope of the subpoena as are necessary to prevent unnecessary intrusion into patient confidential information. The board is authorized to apply to Commonwealth Court to enforce its subpoenas.

(b) An attorney responsible for representing the Commonwealth in disciplinary matters before the board shall notify the board immediately upon receiving notification of an alleged violation of this act. The board shall maintain current records of all reported alleged violations and periodically review the records for the purpose of determining that each alleged violation has been resolved in a timely manner.

(16.1 added Dec. 20, 1985, P.L.398, No.108)

Section 16.2. Injunction or other process.

It shall be unlawful for any person to practice or attempt to offer to practice osteopathic medicine, as defined in this

act, without having at the time of so doing a valid, unexpired, unrevoked and unsuspended license issued under this act. The unlawful practice of osteopathic medicine as defined in this act may be enjoined by the courts on petition of the board or the Commissioner of Professional and Occupational Affairs. In any such proceeding it shall not be necessary to show that any person is individually injured by the actions complained of. If it is found that the respondent has engaged in the unlawful practice of osteopathic medicine, the court shall enjoin him or her from so practicing unless and until he or she has been duly licensed. Procedure in such cases shall be the same as in any other injunction suit. The remedy by injunction hereby given is in addition to any other civil or criminal prosecution and punishment.

(16.2 added Dec. 20, 1985, P.L.398, No.108)

Section 16.3. Impaired professional.

(a) The board, with the approval of the Commissioner of Professional and Occupational Affairs, shall appoint and fix the compensation of a professional consultant who is a licensee of the board, or such other professional as the board may determine, with education and experience in the identification, treatment and rehabilitation of persons with physical or mental impairments. Such consultant shall be accountable to the board and shall act as a liaison between the board and treatment programs, such as alcohol and drug treatment programs licensed by the Department of Health, psychological counseling and impaired professional support groups, which are approved by the board and which provide services to licensees under this act.

(b) The board may defer and ultimately dismiss any of the types of corrective action set forth in this act for an impaired professional so long as the professional is progressing satisfactorily in an approved treatment program, provided that the provisions of this subsection shall not apply to a professional convicted of a felonious act prohibited by the act of April 14, 1972 (P.L.233, No.64), known as "The Controlled Substance, Drug, Device and Cosmetic Act," or convicted of, pleaded guilty to or entered a plea of nolo contendere to a felony relating to a controlled substance in a court of law of the United States or any other state, territory or country. An approved program provided shall, upon request, disclose to the consultant such information in its possession regarding an impaired professional in treatment which the program provider is not prohibited from disclosing by an act of this Commonwealth, another state or the United States. Such requirement of disclosure by an approved program provider shall apply in the case of impaired professionals who enter an agreement in accordance with this section, impaired professionals who are the subject of a board investigation or disciplinary proceeding, and impaired professionals who voluntarily enter a treatment program other than under the provisions of this section but who fail to complete the program successfully or to adhere to an after-care plan developed by the program provider.

(c) An impaired professional who enrolls in an approved treatment program shall enter into an agreement with the board under which the professional's license shall be suspended or revoked but enforcement of that suspension or revocation may be stayed for the length of time the professional remains in the program and makes satisfactory progress, complies with the terms of the agreement and adheres to any limitations on his practice imposed by the board to protect the public. Failure to enter into such an agreement shall disqualify the

professional from the impaired professional program and shall activate an immediate investigation and disciplinary proceeding by the board.

(d) If, in the opinion of the consultant after consultation with the provider, an impaired professional who is enrolled in an approved treatment program has not progressed satisfactorily, the consultant shall disclose to the board all information in his possession regarding said professional and the board shall institute proceedings to determine if the stay of the enforcement of the suspension or revocation of the impaired professional's license shall be vacated.

(e) An approved program provider who makes a disclosure pursuant to this section shall not be subject to civil liability for such disclosure or its consequences.

(f) Any hospital or health care facility, peer or colleague who has substantial evidence that a professional has an active addictive disease for which the professional is not receiving treatment, is diverting a controlled substance or is mentally or physically incompetent to carry out the duties of his or her license shall make or cause to be made a report to the board: Provided, That any person or facility who acts in a treatment capacity to an impaired osteopathic physician in an approved treatment program is exempt from the mandatory reporting requirements of this subsection. Any person or facility who reports pursuant to this section in good faith and without malice shall be immune from any civil or criminal liability arising from such report. Failure to provide such report within a reasonable time from receipt of knowledge of impairment shall subject the person or facility to a fine not to exceed \$1,000. The board shall levy this penalty only after affording the accused party the opportunity for a hearing, as provided in Title 2 of the Pennsylvania Consolidated Statutes (relating to administrative law and procedure).

(16.3 added Dec. 20, 1985, P.L.398, No.108)

Section 16.4. Radiologic procedures.

(a) On and after January 1, 1988, no auxiliary personnel shall perform radiologic procedures on the premises of an osteopathic physician unless such person is under the direct supervision of an osteopathic physician and unless such person has passed an examination approved by the board and administered in accordance with section 812.1 of the act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929," provided that no such auxiliary personnel shall perform radiologic procedures for therapeutic purposes unless the osteopathic physician under whose direct supervision such auxiliary personnel is acting is on the premises at the time the radiologic procedures are performed.

(b) The board shall have the authority, after notice and hearing, to prohibit an auxiliary personnel from performing radiologic procedures if the continued performance of radiologic procedures by the auxiliary personnel is determined by the board to pose a threat to the health, safety or welfare of the public.

(c) It shall be unlawful under this act to knowingly permit radiologic procedures to be performed in violation of this section or in violation of the regulations promulgated or orders issued in accordance with this section.

(d) No auxiliary personnel who has or obtains a license, a certificate or registration issued by, or on behalf of, a board within the Bureau of Professional and Occupational Affairs or a comparable board of another state, or who has obtained certification or licensure as the result of satisfactory completion of a test and an educational course accredited by

an accrediting body recognized by the board, shall be required to undergo any additional education or testing pursuant to this section if radiologic procedures were included in the education or the examination which he or she was required to complete successfully in order to be eligible for such license, certificate, registration or certification.

((d) amended July 2, 2004, P.L.486, No.56)

(e) Definition.--As used in this section, the term "radiologic procedures" means the use of ionizing radiation for diagnostic or therapeutic purposes.

(16.4 amended May 6, 1987, P.L.10, No.3)

Section 17. Applicability of act.

(a) The provisions of this act shall not apply either directly or indirectly, by intent or purpose, to affect the practice of:

(1) Pharmacy, as authorized by the acts approved April 14, 1972 (P.L.233, No.64), known as "The Controlled Substance, Drug, Device and Cosmetic Act," and September 27, 1961 (P.L.1700, No.699), known as the "Pharmacy Act."

(2) Dentistry, as authorized by the act approved May 1, 1933 (P.L.216, No.76), known as "The Dental Law."

(3) Optometry, as authorized by the act approved March 30, 1917 (P.L.21, No.10), referred to as the Optometry Practice Law.

(4) Chiropractic, as authorized by the act of August 10, 1951 (P.L.1182, No.264), known as the "Chiropractic Registration Act of 1951."

(5) "Podiatry, as authorized by the act of March 2, 1956 (P.L.1206, No.375), reenacted and amended by the act of August 24, 1963 (P.L.1199, No.505), known as the "Podiatry Act of 1956."

(6) Professional nursing, as authorized by the act of May 22, 1951 (P.L.317, No.69), known as "The Professional Nursing Law."

(7) Psychologists, as authorized by the act of March 23, 1972 (P.L.136, No.52), referred to as the Psychologists License Act.

(8) Medicine, as authorized by the act of July 20, 1974 (P.L.551, No.190), known as the "Medical Practice Act of 1974."

(b) This act shall not be construed to give the Board of Osteopathic Examiners any jurisdiction over any of the schools or colleges of the methods exempted in this act.

(c) The provisions of this act shall not apply to the practice of hypnosis.

Section 18. Repeals.

(a) The act of March 19, 1909 (P.L.46, No.29), referred to as the Osteopathic Practice Law, is repealed.

(b) Section 215, act of July 1, 1978 (No.124), known as the "Bureau of Professional and Occupational Affairs Fee Act," is repealed.

(c) All other acts or parts of acts inconsistent with this act are repealed.

Section 19. Effective date.

This act shall take effect immediately.

## APPENDIX

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Supplementary Provisions of Amendatory Statutes

**1985, DECEMBER 20, P.L.398, NO.108**

Section 11. This act, with respect to the State Board of Osteopathic Medical Examiners, shall constitute the legislation required to reestablish an agency pursuant to the act of December 22, 1981 (P.L.508, No.142), known as the Sunset Act.

**Compiler's Note:** Act 108 added or amended sections 2.1, 6, 6.1, 8, 10 and 11, repealed section 13 and added or amended sections 13.1, 14, 14.1, 14.2, 15, 16.1, 16.2, 16.3 and 16.4 of Act 261.

Section 13. The presently confirmed members of the State Board of Osteopathic Medical Examiners constituted under section 464 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, as of December 31, 1985, shall continue to serve as board members until their present terms of office expire, provided that any present board member whose term has expired on or before the effective date of this act shall serve until a successor has been appointed and qualified but no longer than six months after the effective date of this act.

Section 14. Each rule and regulation of the board in effect on December 31, 1985, and not inconsistent with this act, shall remain in effect after such date until repealed or amended by the board, provided that the board shall immediately initiate the repeal or amendment of any rule or regulation which is inconsistent with the provisions of this act. Each fee of the board in effect on December 31, 1985, and not inconsistent with this act, shall remain in effect after such date until repealed or amended in accordance with the provisions of this act.

Section 15. Any person who holds a valid license issued by the State Board of Osteopathic Medical Examiners under the act of October 5, 1978 (P.L.1109, No.261), known as the Osteopathic Medical Practice Act, prior to the effective date of this amendatory act shall, on and after the effective date hereof, be deemed to be licensed by the State Board of Osteopathic Medicine as provided for in this amendatory act.

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Section 3. The State Board of Osteopathic Medicine shall promulgate regulations to carry out the provisions of this act within 12 months of the effective date of section 3. Pending the promulgation of regulations, the board shall promulgate a statement of policy setting forth the application form for initial licensure under Act 126. The statement of policy shall expire upon the approval of the final regulations.