

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 760

Session of
1973

INTRODUCED BY MESSRS. PIPER, WELLS, RIEGER, DORR, MRS. FAWCETT,
MESSRS. BENNETT, FEE, MRS. KELLY, MRS. TOLL, MESSRS. POLITE,
KLINGAMAN, MALADY, ZIMMERMAN, D. S. HAYES, ROWE, GRING, MRS.
CRAWFORD AND MR. GEISLER, APRIL 9, 1973

AS REPORTED FROM COMMITTEE ON PROFESSIONAL LICENSURE, HOUSE
OF REPRESENTATIVES, AS AMENDED, MAY 9, 1973

AN ACT

1 Relating to the right to practice medicine and surgery in the
2 Commonwealth of Pennsylvania; and establishing means and
3 methods whereby the right to practice medicine and surgery
4 and any of its branches and limited right to practice
5 medically related acts may be obtained, and exemptions
6 therefrom; imposing powers and duties on the State Board of
7 Medical Education and Licensure; providing for appropriation
8 of board fees to carry out the provisions thereof, and for
9 the granting, revocation and suspension of licenses;
10 providing penalties for violations; and making repeals.

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

13 Section 1. Short Title.--This act shall be known and may be
14 cited as "The Medical Practice Act of 1973."

15 Section 2. Definitions.--As used in this act, the following
16 terms shall have the following meanings ascribed to them in this
17 section unless the context clearly determines otherwise:

18 (1) "Board." The State Board of Medical Education and
19 Licensure, established by section 412 of the act of April 9,
20 1929 (P.L.177, No.175), known as "The Administrative Code of

1 1929," and its amendments.

2 (2) "Medical college." An institution of higher learning
3 which has been fully accredited by the Association of American
4 Medical Colleges, its successors or assigns, or the American
5 Medical Association, either directly or through their respective
6 accrediting bodies, as an agency to provide courses in the arts
7 and sciences of medicine and related subjects and empowered by
8 the Commonwealth to grant Academic Degrees in Medicine.

9 (3) "Medicine and surgery." The art and science having for
10 its object the cure of the diseases of and the preservation of
11 the health of man including all practice of the healing art with
12 or without drugs, except healing by spiritual means or prayer.

13 (4) "Physician." A person who has received formal and
14 recognized training in the art and science of medicine and is
15 qualified to seek or has acquired a license to practice medicine
16 and surgery.

17 (5) "Healing art." The science and skill of diagnosis and
18 treatment in any manner whatsoever of disease or any ailment of
19 the human body.

20 (6) "Intern" or "resident." A physician who is receiving
21 supervised graduate medical training at an approved hospital or
22 its legal affiliate.

23 (7) "Clinical clerk." An undergraduate student in a medical
24 college, who is assigned under the auspices of the school in
25 which he is currently enrolled to make notes upon patient
26 histories and physical examinations and to perform certain
27 procedures and laboratory tests for the sole purpose of
28 instruction and experience or who may make notes which become
29 official only when edited and countersigned by a member of the
30 hospital staff. Nothing contained in this act shall be construed

1 to entitle a clinical clerk to practice medicine and surgery or
2 to prescribe drugs.

3 (8) "Hospital." An institution fully accredited by the
4 Joint Commission on Accreditation of Hospitals or licensed by
5 the Commonwealth of Pennsylvania to render health care.

6 (9) "Approved hospital." A hospital which has been approved
7 by the board for providing supervised graduate medical training.

8 (10) "Affiliate." A member of a group of two or more fully
9 accredited health care institutions legally united by an
10 agreement of affiliation, conceived to enhance the potential of
11 all participants in the provision of health care and medical
12 education.

13 Section 3. Practice of Medicine and Surgery without License
14 Prohibited; Penalties.--It shall be unlawful for any person in
15 the Commonwealth to engage in the practice of medicine and
16 surgery, or pretend to a knowledge of any branch or branches of
17 medicine and surgery, or to hold himself or herself forth as a
18 practitioner in medicine and surgery, or to assume the title of
19 doctor of medicine and surgery or doctor of any specific
20 disease, or to diagnose diseases, or to treat diseases by the
21 use of medicines and surgery as defined in clause (3) of section
22 2 of this act or by any other means, or to sign any death
23 certificate, unless otherwise authorized by law or to hold
24 himself or herself forth as able to do so, excepting those
25 hereinafter exempted, unless he or she has first fulfilled the
26 requirements of this act and has received a certificate of
27 licensure from the board, which license shall be properly
28 recorded in the office of the board. ACTS OF MEDICAL DIAGNOSIS <—
29 OR PRESCRIPTION OF MEDICAL THERAPEUTIC OR CORRECTIVE MEASURES
30 MAY BE PERFORMED BY PERSONS LICENSED PURSUANT TO THE ACT OF MAY

1 22, 1951 (P.L.317, NO.69), KNOWN AS "THE PROFESSIONAL NURSING
2 LAW," IF AUTHORIZED BY RULES AND REGULATIONS JOINTLY PROMULGATED
3 BY THE BOARD AND THE PENNSYLVANIA BOARD OF NURSING. On first
4 offense any person wilfully violating the provisions of this
5 section of this act shall, upon conviction, be guilty of a
6 misdemeanor and shall be subject to a fine of not more than one
7 thousand dollars (\$1,000) or imprisonment for not more than six
8 months in the county prison, or both, at the discretion of the
9 court; on second offense shall be subject to a fine of not less
10 than two thousand dollars (\$2,000) and imprisonment of not less
11 than six months or more than one year, at the discretion of the
12 court.

13 Section 4. Acts and Services Performed by an Assistant to a
14 Physician.--The board shall have the power to adopt and revise
15 regulations governing allied medical personnel who assist
16 physicians if such allied medical personnel are not at the
17 effective date of this act otherwise controlled by law or
18 regulation. In the absence of standards established by the
19 board, nothing in this act shall be construed as to prohibit
20 services and acts rendered by a physician's technician,
21 assistant and/or other allied medical person if such services
22 and acts are rendered under the supervision, direction and/or
23 control of a licensed physician. In order to facilitate the <—
24 adoption or revision of such regulations, the board is
25 authorized to establish, by agreement with the Pennsylvania
26 Board of Nursing, a Joint Committee on Allied Health Care
27 Personnel. Such joint committee shall consider, and recommend to
28 each board for adoption, appropriate regulations defining the
29 jurisdiction of each board over the activities of allied health
30 care personnel.

Section 5. The Board's Power to Grant License.--The board may grant the following licenses:

(1) License. License for the practice of medicine and surgery without restriction.

(2) Temporary License. A graduate of a medical school who qualifies under section 7 of this act, may, on receiving his medical degree, apply to the board for a temporary license upon presenting a completed application form issued by the board and paying a reasonable registration fee in an amount as determined from time to time by the board.

A temporary license shall be valid for twelve consecutive months and shall be recognized only as conferring upon the licensee the right to participate in approved graduate medical training within the complex of the hospital to which he is assigned. Temporary licenses will become null and void after twelve months, at which time they shall be surrendered to the board. The board may extend the validity of a temporary license when such action is warranted.

(3) Limited License. A limited license may be granted by the board to graduates of foreign medical schools who have attained through professional growth and teaching experience the true status of teacher, or its equivalent, for the purpose of teaching and/or practicing medicine and surgery in one of the medical schools or in any of its affiliates within the Commonwealth. Persons granted limited licenses who subsequently desire to obtain a license for the practice of medicine and surgery without restriction shall be required to meet all of the standard requirements for such license as set forth in this act.

(4) Midwifery, Physical Therapy and Drugless Therapy.
Nothing in this act shall be construed to preclude the board

1 from continuing to license, register and regulate persons
2 engaged in the practice of midwifery and/or physical therapy or
3 to register or regulate persons engaged in the practice of
4 drugless therapy in accordance with existing rules and
5 regulations lawfully promulgated by said board prior to the
6 effective date of this act.

7 Section 6. Standards for Medical Training and Facilities.--

8 (a) The educational qualifications for acceptance as a
9 matriculant in a medical college incorporated within the
10 Commonwealth and the curricula and training to be offered by
11 such medical colleges shall meet the requirements set by the
12 Liaison Committee on Medical Education of the American Medical
13 Association and the Association of American Medical Colleges, or
14 any other accrediting body which from time to time may be
15 recognized by the board.

16 (b) It shall be the duty of the board, in its discretion,
17 periodically to ascertain the character of the instruction and
18 the facilities possessed by each of the medical colleges and
19 hospitals offering or desiring to offer medical training in
20 accordance with the requirements of this act. It shall further
21 be the duty of the board, by inspection and otherwise, to
22 ascertain the facilities and qualifications of medical
23 institutions, colleges, or hospitals, outside this Commonwealth,
24 whose graduates or trainees desire to obtain medical licensure
25 or graduate medical training in this Commonwealth.

26 (c) Any medical institutions empowered by the Commonwealth
27 to confer academic degrees in medicine which in the judgment of
28 the board fail to provide proper facilities, or to maintain the
29 minimum requirements for accreditation shall be duly notified of
30 such failure. Until such deficiencies are corrected, graduates

1 of such institutions shall be ineligible for licensure and/or
2 graduate medical training.

3 Section 7. Qualifications for License.--(a) A graduate of a
4 United States or Canadian medical college who seeks licensure by
5 the board shall furnish the board with evidence, prior to any
6 examination, that he is of legal age, is of good moral
7 character, and is not addicted to the intemperate use of alcohol
8 or the habitual use of narcotics or other habit-forming drugs,
9 and that he has completed the educational requirements
10 prescribed by the board.

11 (b) Foreign medical school graduates, except graduates of
12 Canadian medical colleges, who seek licensure by the board,
13 shall in addition to the foregoing requirements present evidence
14 of certification by the Educational Council for Foreign Medical
15 Graduates, its successors or assigns.

16 (c) Each application to the board shall have attached
17 thereto the affidavit or affirmation of the applicant as to its
18 verity. Any applicant who knowingly or wilfully makes a false
19 statement of fact in his application shall be subject to
20 prosecution.

21 Section 8. Certification of Licenses.--The fact of licensure
22 to practice medicine and surgery in the Commonwealth shall be
23 certified to by the board to other jurisdictions upon formal
24 application and by payment by the licensee of a reasonable fee
25 in an amount as determined from time to time by the board
26 providing that the licensee at such time is in good standing.

27 Section 9. Meetings of the Board; Examinations.--(a) The
28 board shall hold two stated meetings each year at a place within
29 the Commonwealth as determined by the board for the transaction
30 of its business, and may hold special meetings upon giving due

1 notice thereof. The board shall hold at least two examinations
2 for applicants for licensure under clause (1) of section 5 of
3 this act each year.

4 (b) Such examinations conducted by the board shall be in the
5 English language. Special examinations can be designated by the
6 board. The examinations shall be held at such times and places
7 as designated by the board.

8 (c) In case of failure at any such examination the applicant
9 shall have, after the expiration of six months and within two
10 years, the privilege of a second examination by the board. In
11 case of failure in a second examination the applicant must enter
12 de novo and only after a year of graduate study approved by the
13 board, and qualify under the conditions obtaining at the time of
14 his application.

15 (d) Applicants for a license to practice medicine and
16 surgery who have been successfully examined by any agency
17 considered competent by the board and who can, in addition,
18 present to the board satisfactory evidence of having in every
19 way fulfilled all the scholastic and other requirements of this
20 act and applicable regulations of the board, may, without
21 further examination, receive from the board, in its discretion,
22 a license conferring all the rights accorded by this act,
23 provided the applicant has paid a reasonable fee in an amount as
24 determined from time to time by the board, and further provided
25 that such applicant has not previously failed a licensing
26 examination given by the board.

27 (e) For the purpose of conducting all examinations the board
28 shall have the privilege of calling to its aid medical
29 consultants, who shall be compensated for their services at a
30 reasonable rate in an amount as determined from time to time by

1 the board in addition to all incurred expenses.

2 Section 10. Reciprocity or Endorsement.--Reciprocity or
3 endorsement may be established at the discretion of the board.

4 Section 11. Licenses; Exemptions, Non-resident
5 Practitioners; Graduate Students; Biennial Registration.--(a)
6 All physicians who have complied with the requirements of the
7 board, and who shall have passed a final examination, and who
8 have otherwise complied with the provisions of this act, shall
9 receive from the Commissioner of Professional and Occupational
10 Affairs in the Department of State, acting for the board, a
11 license entitling them to the right to practice medicine and
12 surgery without restriction in this Commonwealth. Each such
13 license shall be duly recorded in the office of the board, in a
14 record to be properly kept for that purpose which shall be open
15 to public inspection; and a certified copy of said record shall
16 be received as evidence in all courts in this Commonwealth in
17 the trial of any case: Provided, That this section relating to
18 licenses to practice medicine and surgery shall not apply to
19 medical officers in the medical service of the Armed Forces of
20 the United States, or the United States Public Health Service,
21 or Veterans Administration, or physicians employed within
22 Federal services, while in discharge of their official duties;
23 or to any one who may be a duly licensed practitioner of
24 medicine in any state or commonwealth who may be called upon by
25 a licensed physician of this Commonwealth to consult with him in
26 a case under treatment; or to physicians of other jurisdictions
27 who are training for certification in special departments of
28 medicine and surgery under subsection (b) of this section; or
29 anyone while actually serving as a clinical clerk under the
30 supervision of the medical or surgical staff in any hospital.

1 Nothing contained in this section shall be construed to entitle
2 a clinical clerk to practice medicine and surgery or to
3 prescribe drugs: And provided further, That any duly licensed
4 physician residing in or maintaining his office of practice in
5 any state near the boundary line between said state and this
6 Commonwealth whose practice extends into this Commonwealth shall
7 have the right to practice in this Commonwealth, at the
8 discretion of the board, provided he files with the secretary of
9 the board a certified copy of his license in the state where he
10 resides, and provided that the board of examiners of the
11 adjoining state reciprocates by extending the same privilege to
12 physicians in this Commonwealth when he shall receive from the
13 secretary of the board a license which shall be automatically
14 revoked if he changes his said residence or office of practice.
15 A record of all persons so licensed shall be kept in the office
16 of the board and shall have the standing before the law of any
17 other license issued by the board.

18 (b) Physicians who are legally authorized to practice
19 medicine and surgery in other states or territories of the
20 United States and the Dominion of Canada, and who apply for
21 training and certification in special departments of medicine
22 and surgery in institutions in this Commonwealth recognized
23 either by the board or the various examining boards in medical
24 specialties approved by the Council on Medical Education of the
25 American Medical Association as proper for such training, shall
26 receive a graduate certificate that is limited to said training
27 within the complex of the hospital and its affiliates where he
28 is engaged in such training. This training experience shall not
29 be converted into a staff service. It shall be valid for one
30 year but may be renewed from year to year. Any person who has

1 been certified in a specialty discipline recognized by the
2 American Medical Association and the board, and who makes an
3 application for licensure to practice medicine and surgery
4 without restriction in the Commonwealth, upon the payment of a
5 reasonable fee as determined from time to time by the board and
6 at the discretion of the board may be given a qualifying
7 examination. Such examination shall emphasize the subject matter
8 of the specialty discipline for which the applicant has been
9 trained but may also include material from the general field of
10 medical science.

11 (c) It shall be the duty of all persons now licensed to
12 practice medicine and surgery without restriction, or who shall
13 hereafter be so licensed by the board to engage in such practice
14 in the Commonwealth to be registered with the board, and
15 thereafter to register in like manner biennially on or before
16 the first day of January of each succeeding biennium. The form
17 and method of such registration shall be provided for by the
18 board in such manner as will enable the board to carry into
19 effect the purposes of this act.

20 (d) Each person so registering with the board shall pay, for
21 each biennial registration, a reasonable fee as determined from
22 time to time by the board which fee shall accompany the
23 application for such registration.

24 (e) Upon receiving a proper application for such
25 registration accompanied by the fee above provided for, the
26 board shall issue its certificate of registration to the
27 applicant. Said certificate together with its renewals shall be
28 good and sufficient evidence of registration under the
29 provisions of this act.

30 Section 12. Violation of Act.--Any person, or the

1 responsible officer or employe of any corporation or
2 partnership, institution or association, violating any of the
3 provisions other than section 3 of this act shall upon summary
4 conviction be sentenced to pay a fine of not less than one
5 hundred dollars (\$100) and not more than five hundred dollars
6 (\$500).

7 Section 13. Examination Fees.--The board shall have the
8 power to charge a reasonable fee for all examinations, as
9 determined from time to time by the board.

10 Section 14. Fees and Fines for Board.--All fees and fines
11 collected under the provisions of this act are hereby
12 specifically appropriated for exclusive use by the board in
13 carrying out the provisions of this act.

14 Section 15. Automatic Suspension.--A license issued under
15 this act shall automatically be suspended upon the legal
16 commitment to an institution of a licensee because of mental
17 incompetency from any cause upon filing with the board a
18 certified copy of such commitment. Restoration of such license
19 shall be made as hereinafter provided as in the case of
20 revocation or suspension of such license.

21 Section 16. Reasons for Refusal; Revocation or Suspension of
22 License.--(a) The board shall have authority to refuse, revoke
23 or suspend the license of a physician for any or all of the
24 following reasons:

25 (1) Failing to demonstrate the qualifications or standards
26 for a license contained in this act or regulations of the board,
27 in which proceeding the burden of proof shall be upon the
28 applicant.

29 (2) Making misleading, deceptive, untrue or fraudulent
30 representations in the practice of medicine; practicing fraud or

1 deceit in obtaining a license to practice medicine and surgery;
2 or making a false or deceptive biennial registration with the
3 board.

4 (3) Being convicted of a felony in the courts of this
5 Commonwealth or any other state, territory or country.
6 Conviction as used in this paragraph shall include a criminal
7 proceeding in which a finding or verdict of guilt is made or
8 returned but the adjudication of guilt is either withheld or not
9 entered thereon.

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

15 (5) Being unable to practice medicine with reasonable skill
16 and safety to patients by reason of illness, drunkenness,
17 excessive use of drugs, narcotics, chemicals, or any other type
18 of material, or as a result of any mental or physical condition.

19 In enforcing this clause (5), the board shall, upon probable
20 cause, have authority to compel a physician to submit to a
21 mental or physical examination by physicians designated by it.
22 Failure of a physician to submit to such examination when
23 directed shall constitute an admission of the allegations
24 against him unless failure is due to circumstances beyond his
25 control, consequent upon which a default and final order may be
26 entered without the taking of testimony or presentation of
27 evidence. A physician affected under this paragraph shall at
28 reasonable intervals be afforded an opportunity to demonstrate
29 that he can resume a competent practice of medicine with
30 reasonable skill and safety to patients.

(6) 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.

(7) Knowingly maintaining a professional connection or association with any person who is in violation of this act or regulations of the board or knowingly aiding, assisting, procuring or advising any unlicensed person to practice medicine contrary to this act, or 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 minimal standards of acceptable and prevailing medical practice, in which proceeding actual injury to a patient need not be established.

(b) When the board finds any person unqualified or guilty of any of the grounds set forth above, it may enter its order, imposing one or more of the following to:

(1) Deny the application for a license.

(2) Permanently withhold issuance of a license.

(3) Administer a public or private reprimand.

(4) Suspend or limit or restrict a license as determined by the board.

(5) Revoke a license.

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

(7) Impose a judgment and penalty but suspend enforcement thereof and place a licensee on probation with the right to vacate the probationary order for noncompliance.

(8) Restore or reissue, in its discretion, a license to practice medicine and surgery, and may impose any disciplinary or corrective measure which it might originally have imposed.

1 (c) All actions of the board shall be taken subject to the
2 right of notice, hearing and adjudication and the right of
3 appeal therefrom in accordance with the provisions of the act of
4 June 4, 1945 (P.L.1388, No.442), known as the "Administrative
5 Agency Law."

6 Section 17. Regulatory Powers of the Board.--The board in
7 the exercise of its duties under this act shall have the power
8 to adopt and revise such regulations as are reasonably necessary
9 to carry out the purposes of this act in conformity with the
10 provisions of the act of July 31, 1968 (P.L.769, No.240), known
11 as the "Commonwealth Documents Law." THE BOARD IS AUTHORIZED TO <—
12 ESTABLISH, BY AGREEMENT WITH THE PENNSYLVANIA BOARD OF NURSING,
13 A JOINT COMMITTEE ON ALLIED HEALTH CARE PERSONNEL. SUCH JOINT
14 COMMITTEE SHALL CONSIDER, AND RECOMMEND TO EACH BOARD FOR
15 ADOPTION, APPROPRIATE REGULATIONS DEFINING THE JURISDICTION OF
16 EACH BOARD OVER THE ACTIVITIES OF ALLIED HEALTH CARE PERSONNEL.

17 Section 18. Applicability of Act.--(a) The provisions of
18 this act shall not apply either directly or indirectly, by
19 intent or purpose, to affect the practice of:

20 (1) Pharmacy as authorized by the acts approved April 14,
21 1972 (P.L.233, No.64), known as "The Controlled Substance, Drug,
22 Device and Cosmetic Act," and September 27, 1961 (P.L.1700,
23 No.699), known as the "Pharmacy Act."

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

26 (3) Optometry, as authorized by the act approved March 30,
27 1917 (P.L.21, No.10), entitled, "An act defining optometry; and
28 relating to the right to practice optometry in the Commonwealth
29 of Pennsylvania, and making certain exceptions; and providing a
30 Board of Optometrical Education, Examination, and Licensure, and

1 means and methods whereby the right to practice optometry may be
2 obtained; and providing for the means to carry out the
3 provisions of this act; and providing for revocation or
4 suspension of licenses given by said board, and providing
5 penalties for violations thereof; and repealing all acts or
6 parts of acts inconsistent therewith."

7 (4) Chiropractic, as authorized by the act of August 10,
8 1951 (P.L.1182, No.264), known as the "Chiropractic Registration
9 Act of 1951."

10 (5) Podiatry, as authorized by the act of March 2, 1956
11 (P.L.1206, No.375), known as the "Podiatry Act of 1956."

12 (6) OSTEOPATHY, AS AUTHORIZED BY THE ACT OF MARCH 19, 1909 <—
13 (P.L.46, NO.29), ENTITLED, AS AMENDED, "AN ACT TO REGULATE THE
14 PRACTICE OF OSTEOPATHY AND SURGERY IN THE STATE OF PENNSYLVANIA;
15 TO PROVIDE FOR THE ESTABLISHMENT OF A STATE BOARD OF OSTEOPATHIC
16 EXAMINERS; TO DEFINE THE POWERS AND DUTIES OF SAID BOARD OF
17 OSTEOPATHIC EXAMINERS; TO PROVIDE FOR THE EXAMINING AND
18 LICENSING OF OSTEOPATHIC PHYSICIANS AND SURGEONS IN THIS STATE;
19 AND TO PROVIDE PENALTIES FOR THE VIOLATION OF THIS ACT."

20 (b) This act shall not be construed so as to give the Board
21 of Medical Education and Licensure any jurisdiction over any of
22 the schools or colleges of the methods exempted in this section.

23 Section 19. Specific Repeals.--(a) The act of June 3, 1911
24 (P.L.639, No.246), known as the "Medical Practice Act," is
25 repealed absolutely.

26 (b) All other acts and parts of acts inconsistent herewith
27 are repealed to the extent of such inconsistency.