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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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**SENATE BILL**

**No. 1158** Session of  
1985

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INTRODUCED BY BELL, OCTOBER 16, 1985

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REFERRED TO CONSUMER PROTECTION AND PROFESSIONAL LICENSURE,  
OCTOBER 16, 1985

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AN ACT

1 Relating to the right to practice medicine and surgery and the  
2 right to practice medically related acts; reestablishing the  
3 State Board of Medical Education and Licensure as the State  
4 Board of Medicine and providing for its composition, powers  
5 and duties; providing for the issuance of licenses and the  
6 suspension and revocation of licenses; providing penalties;  
7 and making repeals.

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

19 Section 1. Short title.

20 This act shall be known and may be cited as the Medical  
21 Practice Act of 1985.

22 Section 2. Definitions.

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

26 "Accredited medical college." An institution of higher  
27 learning which has been fully accredited by the Association of  
28 American Medical Colleges, its successors or assigns, or the  
29 American Medical Association, either directly or through their  
30 respective accrediting bodies, as an agency to provide courses

1 in the art and science of medicine and surgery and empowered to  
2 grant Academic Degrees in Medicine.

3 "Affiliate." A member of a group of two or more medical  
4 training facilities legally united by an agreement of  
5 affiliation, approved by the board and formed to enhance the  
6 potential of all participants in the provision of health care  
7 and medical education.

8 "Applicant." An applicant for any license or certificate  
9 issued by the board.

10 "Board." The State Board of Medicine.

11 "Clinical clerk." An undergraduate student in good standing  
12 in an accredited medical college who is assigned to provide  
13 medical services in a hospital by the medical college and the  
14 hospital.

15 "Commissioner." The Commissioner of Professional and  
16 Occupational Affairs in the Department of State.

17 "Doctor of osteopathy or osteopathic doctor." An individual  
18 licensed to practice osteopathic medicine and surgery by the  
19 State Board of Osteopathic Medical Examiners.

20 "Graduate medical training." Training approved or recognized  
21 by the board which is either:

22 (1) accredited as graduate medical education by the  
23 Accreditation Council for Graduate Medical Education or by  
24 any other accrediting body recognized by the board for the  
25 purpose of accrediting graduate medical education; or

26 (2) provided by a hospital accredited by the Joint  
27 Commission on Accreditation of Hospitals, its successors or  
28 assigns, and is acceptable to an American specialty board  
29 towards the training it requires for the certification it  
30 issues in a medical specialty or subspecialty.

1 "Healing arts." The science and skill of diagnosis and  
2 treatment in any manner whatsoever of disease or any ailment of  
3 the human body.

4 "Health care professional." An individual, other than a  
5 physician assistant, who is authorized to practice some  
6 component of the healing arts by a license, permit, certificate  
7 or registration issued by a Commonwealth licensing agency or  
8 board.

9 "Hospital." An institution licensed or regulated as a  
10 hospital by the Department of Health or the Department of Public  
11 Welfare or a facility owned or operated by the Federal  
12 Government and accredited by the Joint Commission on  
13 Accreditation of Hospitals as a hospital.

14 "Medical doctor." An individual who has acquired one of the  
15 following licenses to practice medicine and surgery issued by  
16 the board:

- 17 (1) License without restriction.
- 18 (2) License with restriction.
- 19 (3) Graduate license.
- 20 (4) Institutional license.
- 21 (5) Temporary license.
- 22 (6) Extraterritorial license.

23 "Medical service." Activity which lies within the scope of  
24 the practice of medicine and surgery.

25 "Medical training facility." A medical college, hospital or  
26 other institution which provides courses in the art and science  
27 of medicine and surgery and related subjects for the purpose of  
28 enabling a matriculant to qualify for a license or practice  
29 medicine and surgery, graduate medical training, midwife  
30 certificate or physician assistant certificate.

1 "Medicine and surgery." The art and science of which the  
2 objectives are the cure of diseases and the preservation of the  
3 health of man, including the practice of the healing art with or  
4 without drugs, except healing by spiritual means or prayer.

5 "Midwife or nurse-midwife." An individual who is licensed as  
6 a midwife by the board.

7 "Physician." A medical doctor or doctor of osteopathy.

8 "Physician assistant." An individual who is certified as a  
9 physician assistant by the board.

10 "Professional." A medical doctor, midwife, physician  
11 assistant, drugless therapist, or an applicant for a license or  
12 certificate the board may issue.

13 "Resident." A medical doctor who is participating in  
14 graduate training.

15 "Technician." A person, other than a health care  
16 professional or physician assistant, who through training,  
17 education or experience has achieved expertise in the technical  
18 details of a subject or occupation which is a component of the  
19 healing art.

20 "Unaccredited medical college." An institution of higher  
21 learning which provides courses in the art and science of  
22 medicine and surgery and related subjects, is empowered to grant  
23 professional degrees in medicine, is not accredited by the  
24 Association of American Medical Colleges, its successors or  
25 assigns, or the American Medical Association, either directly or  
26 through their respective accrediting bodies, and is listed by  
27 the World Health Organization, its successors or assigns, or is  
28 otherwise recognized as a medical college by the country in  
29 which it is situated.

30 Section 3. State Board of Medicine.

1 (a) Establishment.--The State Board of Medicine shall  
2 consist of the commissioner, the Secretary of Health, two  
3 members appointed by the Governor who shall be persons  
4 representing the public at large and seven members appointed by  
5 the Governor, six of whom shall be medical doctors with  
6 unrestricted licenses to practice medicine and surgery in this  
7 Commonwealth for five years immediately preceding their  
8 appointment, and one who shall be a nurse midwife, physician  
9 assistant or certified registered nurse practitioner licensed or  
10 certified under the laws of this Commonwealth.

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

20 (c) Quorum.--A majority of the members of the board serving  
21 in accordance with law shall constitute a quorum for purposes of  
22 conducting the business of the board. A member may not be  
23 counted as part of a quorum or vote on any issue unless he or  
24 she is physically in attendance at the meeting.

25 (d) Chairman.--The board shall select annually a chairman  
26 from among its professional members.

27 (e) Compensation.--Each member of the board, except the  
28 Commissioner and the Secretary of Health, shall receive \$60 per  
29 diem when actually attending to the work of the board. Members  
30 shall also receive the amount of reasonable traveling, hotel and

1 other necessary expenses incurred in the performance of their  
2 duties in accordance with Commonwealth regulations.

3 (f) Sunset.--The board is subject to evaluation, review and  
4 termination within five years and in the manner provided in the  
5 act of December 22, 1981 (P.L.508, No.142), known as the Sunset  
6 Act.

7 (g) Attendance at meetings.--A member of the board who fails  
8 to attend three consecutive meetings shall forfeit his or her  
9 seat unless the commissioner, upon written request from the  
10 member, finds that the member should be excused from a meeting  
11 because of illness or the death of a family member.

12 (h) Attendance at training seminars.--A public member who  
13 fails to attend statutorily mandated training seminars in  
14 accordance with section 21 of the act of November 26, 1978  
15 (P.L.1223, No.292), entitled "An act amending the act of April  
16 9, 1929 (P.L.177, No.175), entitled 'An act providing for and  
17 reorganizing the conduct of the executive and administrative  
18 work of the Commonwealth by the Executive Department thereof and  
19 the administrative departments, boards, commissions, and  
20 officers thereof, including the boards of trustees of State  
21 Normal Schools, or Teachers Colleges; abolishing, creating,  
22 reorganizing or authorizing the reorganization of certain  
23 administrative departments, boards, and commissions; defining  
24 the powers and duties of the Governor and other executive and  
25 administrative officers, and of the several administrative  
26 departments, boards, commissions, and officers; fixing the  
27 salaries of the Governor, Lieutenant Governor, and certain other  
28 executive and administrative officers; providing for the  
29 appointment of certain administrative officers, and of all  
30 deputies and other assistants and employes in certain



1 departments, boards, and commissions; and prescribing the manner  
2 in which the number and compensation of the deputies and all  
3 other assistants and employes of certain departments, boards and  
4 commissions shall be determined,' adding members of the public  
5 at large to certain licensing boards, changing the name of the  
6 State Board of Osteopathic Examiners, adding a dental hygienist  
7 to the State Dental Council and Examining Board, including the  
8 State Board of Psychologist Examiners, the State Board of Public  
9 Accountants and the State Board of Landscape Architects within  
10 the act, making editorial changes, further providing for the  
11 powers and duties of the Bureau of Professional and Occupational  
12 Affairs and the Bureau of Consumer Protection and making  
13 repeals," shall forfeit his or her seat unless the commissioner,  
14 upon written request form the public member, finds that the  
15 public member should be excused from a meeting because of  
16 illness or the death of a family member.

17 (i) Meetings.--The board shall meet at least once every two  
18 months, and at such additional times as may be necessary to  
19 conduct the business of the board.

20 (j) Executive secretary.--The board, with the approval of  
21 the commissioner, shall appoint and fix the compensation of an  
22 executive secretary who shall be responsible for the day to day  
23 operation of the board and administration of board activities.

24 Section 4. Impaired professionals.

25 (a) Appointment of Disciplinary Advisory Committee.--The  
26 board, with the approval of the commissioner, shall appoint a  
27 Disciplinary Advisory Committee composed of three medical  
28 doctors, not members of the board, who shall be compensated at  
29 the same rate as members of the board and who shall receive the  
30 amount of reasonable traveling, hotel and other necessary

1 expenses incurred in the performance of their duties in  
2 accordance with Commonwealth regulations.

3 (b) Recommendations involving potential disciplinary  
4 actions.--The committee shall review and make recommendations to  
5 the board on cases involving potential disciplinary actions  
6 under this act.

7 (c) Liaison.--The committee shall act as a liaison between  
8 the board and treatment programs, such as Alcoholics Anonymous,  
9 Narcotics Anonymous, psychological counseling and impaired  
10 professional support groups, which are approved by the board and  
11 which provide services to licensees or certificate holders under  
12 this act.

13 (d) Review of corrective action by the board.--The board may  
14 defer and ultimately dismiss any of the types of corrective  
15 action set forth in this act for an impaired professional so  
16 long as the professional is progressing satisfactorily in an  
17 approved treatment program, provided that the provisions of this  
18 subsection shall not apply to a professional convicted of a  
19 felonious act prohibited by the act of April 14, 1972 (P.L.233,  
20 No.64), known as The Controlled Substance, Drug, Device and  
21 Cosmetic Act, or the conviction of a felony relating to a  
22 controlled substance in a court of law of the United States or  
23 any other state, territory or country. An approved program  
24 provider shall, upon request, disclose to the Disciplinary  
25 Advisory Committee all information in its possession regarding  
26 an impaired professional in treatment.

27 (e) Voluntary suspension or limitation.--An impaired  
28 professional who enrolls in an approved treatment program shall  
29 request a voluntary suspension of his or her license or  
30 certificate or agree to a limitation of his or her ability to

1 practice. Failure to do so disqualifies the professional from  
2 the impaired professional program and shall activate an  
3 immediate investigation and disciplinary proceeding by the  
4 board.

5 (f) Failure to satisfactorily progress.--If, in the opinion  
6 of the committee after consultation with the provider, an  
7 impaired professional who is enrolled in an approved treatment  
8 has not progressed satisfactorily, the committee shall disclose  
9 to the board all information in its possession regarding the  
10 professional; and such disclosure shall constitute the basis for  
11 instituting proceedings to suspend or revoke the license or  
12 certificate of said professional.

13 (g) Immunity.--An approved program provider who makes a  
14 disclosure pursuant to this subsection shall not be subject to  
15 civil liability for such disclosure or its consequences.

16 (h) Reports to the board.--Any hospital or health care  
17 facility, licensee, certificate holder, peer or colleague who  
18 knows or has evidence to suspect a professional has an addictive  
19 disease, is diverting a controlled substance, or is mentally or  
20 physically incompetent to carry out the duties of his or her  
21 license or certificate, shall make, or cause to be made, a  
22 report to the board. Any person or facility who reports pursuant  
23 to this section in good faith and without malice shall be immune  
24 from any civil or criminal liability arising from such report.  
25 Failure to provide such report within a reasonable time from  
26 receipt of knowledge of impairment shall subject the person or  
27 facility to a fine not to exceed \$1,000. The board shall levy  
28 this penalty only after affording the accused party the  
29 opportunity for a hearing, as provided in Title 2 of the  
30 Pennsylvania Consolidated Statutes (relating to administrative

1 law and procedure).

2 Section 5. Consultants.

3 The board shall establish consultant panels or use individual  
4 consultants, as it deems appropriate, to assist it in carrying  
5 out its responsibilities. The board may not delegate any of its  
6 final decisionmaking responsibilities to a consultant or panel  
7 of consultants.

8 Section 6. Fees, fines and civil penalties.

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

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

25 (c) Disposition.--All fees, fines and civil penalties  
26 imposed in accordance with this act and collected in accordance  
27 with section 907(a) of the act of October 15, 1975 (P.L.390,  
28 No.111), known as the Health Care Services Malpractice Act,  
29 along with any interest generated thereby, shall be for the  
30 exclusive use by the board in carrying out the provisions of

1 this act, and shall be annually appropriated for that purpose.

2 Section 7. Reports of the board.

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

7 (b) Reports to House and Senate Appropriations Committees.--  
8 The board shall submit annually to the House and Senate  
9 Appropriations Committees, 15 days after the Governor has  
10 submitted his budget to the General Assembly, a copy of the  
11 budget request for the upcoming fiscal year which the board  
12 previously submitted to the department.

13 (c) Reports to other House and Senate committees.--The board  
14 shall submit annually a report to the Professional Licensure  
15 Committee of the House of Representatives and to the Consumer  
16 Protection and Professional Licensure Committee of the Senate a  
17 description of the types of complaints received, status of  
18 cases, board action which has been taken and the length of time  
19 from the initial complaint to final board resolution. The report  
20 shall also include a statement of the numbers and types of  
21 licenses granted and a statement on physician assistant use in  
22 this Commonwealth, including geographic location and practice  
23 settings.

24 Section 8. Fees.

25 The board may charge a reasonable fee, as set by the board by  
26 regulation, for all examinations, registrations, certifications,  
27 licensures or applications permitted by this act or the  
28 regulations thereunder.

29 Section 9. Regulatory powers of the board.

30 The board, in the exercise of its duties under this act,

1 shall have the power to adopt such regulations as are reasonably  
2 necessary to carry out the purposes of this act. Regulations  
3 shall be adopted in conformity with the provisions of the act of  
4 July 31, 1968 (P.L.769, No.240), referred to as the Commonwealth  
5 Documents Law, and the act of June 25, 1982 (P.L.633, No.181),  
6 known as the Regulatory Review Act.

7 Section 10. Procedure, oaths and subpoenas.

8 (a) All actions of the board.--All actions of the board  
9 shall be taken subject to the right of notice, hearing and  
10 adjudication, and the right of appeal therefrom, in accordance  
11 with the provisions in Title 2 of the Pennsylvania Consolidated  
12 Statutes (relating to administrative law and procedure).

13 (b) Disciplinary proceedings.--All disciplinary proceedings  
14 conducted by hearing examiners shall be conducted in accordance  
15 with sections 901 through 905 of the act of October 15, 1975  
16 (P.L.390, No.111), known as the Health Care Services Malpractice  
17 Act.

18 (c) Subpoena power.--The board shall have the authority to  
19 issue subpoenas, upon application of an attorney responsible for  
20 representing the Commonwealth in disciplinary matters before the  
21 board, for the purpose of investigating alleged violations of  
22 the disciplinary provisions and administered by the board. The  
23 board shall have the power to subpoena witnesses, to administer  
24 oaths, to examine witnesses or to take testimony or compel the  
25 production of books, records, papers and documents as it may  
26 deem necessary or proper in and pertinent to any proceeding,  
27 investigation or hearing held by it. Medical records may not be  
28 subpoenaed without consent of the patient or without order of a  
29 court of competent jurisdiction on a showing that the records  
30 are reasonably necessary for the conduct of the investigation.

1 The court may impose such limitations on the scope of the  
2 subpoena as are necessary to prevent unnecessary intrusion in  
3 patient confidential information. The board is authorized to  
4 apply to Commonwealth Court to enforce its subpoenas.

5 Section 11. Unauthorized practice of medicine and surgery.

6 No person other than a medical doctor shall engage in any of  
7 the following conduct except as authorized or exempted in this  
8 act:

9 (1) Practice medicine and surgery.

10 (2) Purport to practice medicine and surgery.

11 (3) Hold forth as authorized to practice medicine and  
12 surgery through use of a title, including, but not  
13 necessarily limited to medical doctor, doctor of medicine,  
14 doctor of medicine and surgery, doctor of a designated  
15 disease, physician, physician of a designated disease, or any  
16 abbreviation for the foregoing.

17 (4) Otherwise hold forth as authorized to practice  
18 medicine and surgery.

19 Section 12. Clinical clerks.

20 (a) Authorized services.--A clinical clerk may perform the  
21 following services in a hospital to which the clerk is assigned,  
22 provided the services are performed within the restrictions  
23 contained in or authorized by this section:

24 (1) Make notes on a patient's chart.

25 (2) Conduct a physical examination.

26 (3) Perform a medical procedure or laboratory test.

27 (b) Regulations.--A clinical clerk shall not perform a  
28 medical service unless the performance of such by the clinical  
29 clerk under the circumstances is consistent with the standards  
30 of acceptable medical practice embraced by the medical doctor

1 community in this Commonwealth. The board shall promulgate  
2 regulations which define the medical services those standards  
3 permit a clinical clerk to perform and the circumstances under  
4 which those standards permit a clinical clerk to perform a  
5 medical service.

6 (c) Supervision.--A clinical clerk shall not perform a  
7 medical service without the direct and immediate supervision of  
8 the medical doctor members of the medical staff or residents at  
9 the hospital in which the service is performed. The board shall  
10 promulgate regulations which define the supervision required by  
11 those standards.

12 (d) Drugs.--A clinical clerk shall not prescribe or dispense  
13 drugs.

14 (e) Notes on patients' charts.--Notes made on a patient's  
15 chart by a clinical clerk become official only when  
16 countersigned by a medical doctor member of the hospital's  
17 medical staff or resident beyond a first-year level of graduate  
18 medical education at the hospital.

19 (f) Other licenses or certificates.--Nothing in this section  
20 or the regulations authorized by this section shall be construed  
21 to prohibit a clinical clerk who is licensed or certified to  
22 practice a profession by a Commonwealth agency or board from  
23 practicing within the scope of that license or certificate or as  
24 otherwise authorized by law.

25 Section 13. Midwifery.

26 (a) Previous licensure.--A midwife who has been licensed  
27 previously by the board may continue to practice midwifery in  
28 accordance with regulations promulgated by the board.

29 (b) Use of title.--A midwife may use the title midwife,  
30 nurse-midwife or an appropriate abbreviation of those titles. 47



1 (c) Other licenses or certificates.--Nothing in this section  
2 or the regulations authorized by this section shall be construed  
3 to prohibit a midwife who is licensed or certified to practice  
4 another profession by a Commonwealth agency or board from  
5 practicing within the scope of that license or certificate or as  
6 otherwise authorized by law.

7 Section 14. Physician assistants.

8 (a) Authorized services.--A physician assistant may perform  
9 a medical service delegated by an approved physician and as  
10 approved by the appropriate board. An approved physician is a  
11 physician identified in the writing required by subsection (e).

12 (b) Use of title.--A physician assistant may use the title  
13 physician assistant or an appropriate abbreviation for that  
14 title, such as P.A.

15 (c) Regulations.--The board shall promulgate regulations  
16 which define the services and circumstances under which a  
17 physician assistant may perform a medical service.

18 (d) Supervision.--A physician assistant shall not perform a  
19 medical service without the supervision and personal direction  
20 of an approved physician. The board shall promulgate regulations  
21 which define the supervision and personal direction required by  
22 those standards.

23 (e) Written agreement.--A physician assistant shall not  
24 provide a medical service without a written agreement with one  
25 or more physicians which provides for all of the following:

26 (1) Identifies and is signed by each physician the  
27 physician assistant will be assisting.

28 (2) Describes the manner in which the physician  
29 assistant will be assisting each named physician.

30 (3) Describes the nature and degree of supervision and

1 direction each named physician will provide the physician  
2 assistant.

3 (4) Designates one of the named physicians as having the  
4 primary responsibility for supervising and directing the  
5 physician assistant.

6 (5) Has been approved by the board as satisfying the  
7 foregoing and as consistent with the restrictions contained  
8 in or authorized by this section.

9 A physician assistant shall not assist a physician in a manner  
10 not described in the agreement or without the nature and degree  
11 of supervision and direction described in the agreement. The  
12 physician designated as having primary responsibility for the  
13 physician assistant shall not have primary responsibility for  
14 more than two physician assistants.

15 (f) Drugs.--A physician assistant shall not independently  
16 prescribe or dispense drugs. The board and the State Board of  
17 Pharmacy shall jointly promulgate regulations which permit a  
18 physician assistant to prescribe and dispense drugs at the  
19 direction of a physician.

20 (g) Supervision.--A physician assistant may be employed by a  
21 medical care facility under the supervision and direction of an  
22 approved physician or group of such physicians, provided one of  
23 those physicians is designated as having the primary  
24 responsibility for supervising and directing the physician  
25 assistant and provided that a physician assistant shall not be  
26 responsible to more than three physicians.

27 (h) Reimbursement.--For reimbursement purposes a physician  
28 assistant shall be an employee subject to the normal employer-  
29 employee reimbursement procedures.

30 (i) Eye services.--No medical services may be performed by a

1 physician assistant under this act which include the measurement  
2 of the range or powers of human vision or the determination of  
3 the refractive status of the human eye. This subsection does not  
4 prohibit the performance of routine vision screenings or the  
5 performance of refractive screenings in the physician's office.

6 (j) Chiropractic practice.--Nothing in this act shall be  
7 construed to allow physician assistants to practice  
8 chiropractic.

9 (k) Other licenses or certificates.--Nothing in this section  
10 or the regulations authorized by this section shall be construed  
11 to prohibit a physician assistant who is licensed or certified  
12 to practice another professional by a Commonwealth agency or  
13 board from practicing within the scope of that license or  
14 certificate or as otherwise authorized by law.

15 Section 15. Drugless therapist.

16 (a) Previous licensure.--A drugless therapist who has been  
17 licensed previously by the board may continue to provide  
18 drugless therapy in accordance with the regulations promulgated  
19 by the board.

20 (b) Drugs.--A drugless therapist shall not prescribe or  
21 dispense drugs.

22 (c) Other licenses or certificates.--Nothing in this section  
23 or the regulations authorized by this section shall be construed  
24 to prohibit a drugless therapist who is licensed or certified to  
25 practice another profession by a Commonwealth agency or board  
26 from practicing within the scope of that license or certificate  
27 or as otherwise authorized by law.

28 Section 16. Certified registered nurse practitioner.

29 (a) General rule.--A certified registered nurse practitioner  
30 shall act in accordance with regulations authorized by this

1 section.

2 (b) Regulations.--The board and the State Board of Nurse  
3 Examiners shall jointly promulgate regulations authorizing a  
4 certified registered nurse practitioner to perform acts of  
5 medical diagnoses and prescription of medical, therapeutic,  
6 diagnostic or corrective measures.

7 (c) Other licenses or certificates.--Nothing in this section  
8 or the regulations authorized by this section shall be construed  
9 to prohibit a certified registered nurse practitioner who is  
10 licensed or certified to practice another profession by a  
11 Commonwealth agency or board from practicing within the scope of  
12 that license or certificate as otherwise authorized by law.

13 Section 17. Consultation.

14 A person authorized to practice medicine or surgery or  
15 osteopathy without restriction by any other state may, upon  
16 request by a medical doctor, provide consultation to the medical  
17 doctor regarding the treatment of a patient under the care of  
18 the medical doctor.

19 Section 18. Delegation of duties to health care professional or  
20 technician.

21 (a) General rule.--A health care professional or technician  
22 may perform a medical service if:

23 (1) The performance of the service was delegated by a  
24 medical doctor.

25 (2) The delegation is consistent with the standards of  
26 acceptable medical practice embraced by the medical doctor  
27 community in this Commonwealth.

28 (3) The delegation is not prohibited by regulations  
29 promulgated by the board.

30 (4) The delegation is not prohibited by statutes or

1 regulations relating to other licensed health care  
2 professionals.

3 (b) Regulations.--The board may promulgate regulations which  
4 establish criteria pursuant to which a medical doctor may  
5 delegate the performance of medical services, preclude a medical  
6 doctor from delegating the performance of certain types of  
7 medical services, or otherwise limit the ability of a medical  
8 doctor to delegate medical services.

9 (c) Responsibility.--Nothing in this section shall be  
10 construed to limit the medical doctor's responsibility for the  
11 medical service delegated to the health care professional or  
12 technician.

13 Section 19. Federal medical personnel.

14 Nothing in this act shall be construed to prohibit a medical  
15 doctor in the medical service of the Armed Forces of the United  
16 States, the United States Public Health Service or the Veterans'  
17 Administration, or a federal employee, from discharging official  
18 duties.

19 Section 20. Osteopathic act.

20 (a) General rule.--Nothing in this act shall be construed to  
21 prohibit a doctor of osteopathy from practicing osteopathic  
22 medicine and surgery.

23 (b) Specific authorization.--Nothing in this act shall be  
24 construed to prohibit a person authorized to practice  
25 osteopathic medicine and surgery by the act of October 5, 1978  
26 (P.L.1109, No.261), known as the Osteopathic Medical Practice  
27 Act, to practice as authorized by that act.

28 Section 21. Other health care professionals.

29 Nothing in this act shall be construed to prohibit a health  
30 care professional from practicing that profession within the

1 scope of the health care professional's license or certificate  
2 or as otherwise authorized by the law, including using the title  
3 authorized by the professional's licensing act.

4 Section 22. Acts outside nonmedical doctor license or  
5 certificate.

6 (a) Medical doctor involvement.--In the event the law,  
7 including this act, conditions a person's authorization to  
8 perform one or more medical services upon medical doctor  
9 involvement, and the person performs a covered service without  
10 the required involvement, the person shall be deemed to have  
11 acted outside the scope of the person's license or certificate.

12 (b) Included involvements.--The medical doctor involvement  
13 referred to in subsection (a) shall include, but shall not  
14 necessarily be limited to, any of the following:

- 15 (1) An order.
- 16 (2) Direction or supervision.
- 17 (3) Presence.
- 18 (4) Immediate availability.
- 19 (5) Referral.
- 20 (6) Consultation.

21 Section 23. Licenses and certificates; general qualification.

22 (a) Types of licenses and certificates.--The board may grant  
23 the following licenses and certificates:

- 24 (1) License without restriction.
- 25 (2) License with restriction.
- 26 (3) Graduate license.
- 27 (4) Institutional license.
- 28 (5) Temporary license.
- 29 (6) Extraterritorial license.
- 30 (7) Midwife certificate.

1           (8) Physician assistant certificate.

2           (b) Qualifications.--The board shall not issue a license or  
3 certificate to an applicant unless the applicant establishes  
4 with evidence, verified by an affidavit or affirmation of the  
5 applicant, that the applicant satisfies the qualifications for  
6 the license or certificate contained in or authorized by this  
7 act.

8           (c) Refusal.--The board may refuse to issue a license or  
9 certificate to an applicant based upon a ground for such action  
10 contained in section 43.

11          (d) Limitation.--The board shall not refuse to issue a  
12 license or certificate to an applicant unless the applicant has  
13 been afforded the procedural protections required by this act.

14          (e) Action on application.--The application, upon filing by  
15 the applicant of the evidence required under subsection (b) and  
16 the expiration of a period of 90 days, shall be deemed to meet  
17 the requirements of this act and become effective, the license  
18 or certificate shall be deemed issued, and the board shall take  
19 no action against the applicant for practicing without a license  
20 or certificate, unless within that period the application has  
21 been disapproved by the board or proceedings have been initiated  
22 against the applicant under this act.

23 Section 24. Standards for medical training facilities.

24          (a) General rule.--The educational qualifications for  
25 acceptance as a matriculant in a medical college or other  
26 medical training facility incorporated within this Commonwealth  
27 and the curricula and training to be offered by such medical  
28 colleges or other medical training facility shall meet the  
29 requirements set by the board and any accrediting body which may  
30 be recognized by the board.

1 (b) Duties of the board.--It shall be the duty of the board,  
2 in its discretion, periodically to ascertain the character of  
3 the instruction and the facilities possessed by each of the  
4 medical colleges and other medical training facilities offering  
5 or desiring to offer medical training in accordance with the  
6 requirements of this act. It shall further be the duty of the  
7 board, by inspection and otherwise, to ascertain the facilities  
8 and qualifications of medical colleges and other medical  
9 training facilities outside this Commonwealth, whose graduates  
10 or trainees desire to obtain licensure, graduate medical  
11 training or certification in this Commonwealth, provided further  
12 that the board shall have the authority to refuse to license  
13 graduates of any such medical institutions, colleges or  
14 hospitals which in its judgment do not meet similar standards  
15 for medical training and facilities as are required of medical  
16 institutions in this Commonwealth. In enforcing this provision,  
17 the board shall give due notice to any medical institution,  
18 college or hospital upon which it has rendered a decision that  
19 its training and facilities do not meet the standards required  
20 by the board.

21 (c) Refusal of recognition.--In the event that the board  
22 determines that a medical training facility has failed to  
23 provide adequate facilities, curricula or training, the board  
24 shall not recognize the education or degrees obtained from the  
25 medical training facility during the period of inadequacy.

26 Section 25. Examinations.

27 (a) General rule.--The board may require an applicant to  
28 take and pass an examination to the satisfaction of the board.

29 (b) Proficiency in English language.--In addition to any  
30 other examination required by this act or by regulation of the



1 board, applicants for a license or certificate, whose principal  
2 language is other than English, may also be required to  
3 demonstrate, by examination, proficiency in the English language  
4 to any agency considered competent by the board.

5 (c) Authority to call in medical consultants.--For the  
6 purpose of conducting all examinations, the board shall have the  
7 privilege of calling to its aid medical consultants who shall be  
8 compensated for their services at a reasonable rate in an amount  
9 as determined, from time to time, by the board in addition to  
10 all incurred expenses.

11 (d) Examining agency.--When the board accepts an examination  
12 given by an examining agency, the board may establish the  
13 criteria for passing, or may accept the criteria for passing,  
14 established by the examining agency. If the examination is  
15 offered in parts, the board may establish, by regulation, a time  
16 period in which the entire examination must be successfully  
17 completed. The board may establish, by regulation, a maximum  
18 number of examination attempts it will recognize for the purpose  
19 of receiving a passing score on an examination recognized but  
20 not given by the board.

21 Section 26. Licenses and certificates; biennial registration.

22 (a) Issuance of licenses and certificates.--All applicants  
23 who have complied with the requirements of the board, and who  
24 shall have passed a final examination, and who have otherwise  
25 complied with the provisions of this act, shall receive from the  
26 commissioner, or whoever exercises equivalent authority acting  
27 for the board, a license or certificate entitling them to the  
28 right to practice in this Commonwealth. Each such license or  
29 certificate shall be duly recorded in the office of the board,  
30 in a record to be properly kept for that purpose which shall be

1 open to public inspection and a certified copy of said record  
2 shall be received as evidence in all courts in this Commonwealth  
3 in the trial of any case.

4 (b) Renewals.--It shall be the duty of all persons now or  
5 hereafter licensed or certified to be registered with the board  
6 and, thereafter, to register in like manner at such intervals  
7 and by such methods as the board shall determine by regulations,  
8 but in no case shall such renewal period be longer than two  
9 years. The form and method of such registration shall be  
10 determined by the board.

11 (c) Fees.--Each person so registering with the board shall  
12 pay, for each biennial registration, a reasonable fee which, if  
13 any, shall accompany the application for such registration.

14 (d) Evidence of registration.--Upon receiving a proper  
15 application for such registration accompanied by the fee, if  
16 any, above provided for, the board shall issue a certificate of  
17 registration to the applicant. Said certificate together with  
18 its renewals shall be good and sufficient evidence of  
19 registration under the provisions of this act.

20 Section 27. Certification of license or certificate.

21 The status of a license or certificate issued by the board  
22 shall be certified by the board to other jurisdictions or  
23 persons upon formal application and payment of a reasonable fee.

24 Section 28. Reciprocity or endorsement.

25 Reciprocity or endorsement may be established at the  
26 discretion of the board. As used in this section, the term  
27 "reciprocity" means the act of the board and a licensing  
28 authority in another jurisdiction, each recognizing that the  
29 requirements for a license or certificate in this Commonwealth  
30 and in the other jurisdiction are equivalent, issuing a license

1 or certificate to an applicant who possesses a similar license  
2 or certificate in the other jurisdiction. As used in this  
3 section, the term "endorsement" means the issuance of a license  
4 or certificate by the board to an applicant who does not meet  
5 standard requirements, if the applicant has achieved cumulative  
6 qualifications which are accepted by the board as being  
7 equivalent to the standard requirements for the license or  
8 certificate.

9 Section 29. License to practice medicine and surgery.

10 An individual is not qualified for a license to practice  
11 medicine and surgery unless the individual has received an  
12 academic degree in medicine and surgery from a medical college  
13 and the individual satisfies the other qualifications for the  
14 license contained in or authorized by this act.

15 Section 30. License without restriction.

16 (a) General rule.--A license without restriction empowers  
17 the licensee to practice medicine and surgery without any  
18 restriction or limitation.

19 (b) Graduates of accredited medical colleges.--No license  
20 without restriction may be issued to a graduate of an approved  
21 medical college unless the applicant has completed successfully  
22 as a resident two years of approved graduate medical training.

23 (c) Graduates of unaccredited medical colleges.--No license  
24 without restriction may be issued to a graduate of an unapproved  
25 medical college unless the applicant has completed successfully  
26 as a resident three years of approved graduate medical training,  
27 educational requirements prescribed by the board and  
28 certification by the Educational Council for Foreign Medical  
29 Graduates, or its successors.

30 (d) Examinations.--The board shall hold at least two

1 examinations for applicants for a license without restriction  
2 each year. Special examinations may be designated by the board.  
3 The examinations shall be held at such times and places as  
4 designated by the board. In case of failure at any such  
5 examination, the applicant shall have, after the expiration of  
6 six months and within two years, the privilege of a second  
7 examination by the board. In case of failure in a second  
8 examination, or after the expiration of two years, the applicant  
9 must thereafter successfully complete, as a resident, one year  
10 of graduate medical training approved by the board, apply de  
11 novo, and qualify under the conditions in existence at the time  
12 of the application.

13 Section 31. License with restriction.

14 (a) General rule.--A license with restriction empowers the  
15 licensee to practice medicine and surgery with such restrictions  
16 or limitations as may be established by the board, including  
17 restrictions in the scope of permitted practice, a requirement  
18 that the applicant take one or more refresher educational  
19 courses or mandated submission of medical care, counseling or  
20 treatment.

21 (b) Prerequisite.--No license with restriction may be issued  
22 unless the applicant has otherwise been issued, or is qualified  
23 to be issued, a license without restriction in accordance with  
24 this act.

25 (c) Disciplinary proceedings or voluntary request.--The  
26 board may issue a license with restriction only upon completion  
27 of disciplinary proceedings in accordance with this act or upon  
28 a voluntary request of the applicant.

29 Section 32. Graduate license.

30 (a) General rule.--A graduate license empowers the licensee

1 to participate for a period of up to 12 consecutive months in  
2 graduate medical training within the complex of the hospital to  
3 which the licensee is assigned.

4 (b) Requirements.--No graduate license may be issued unless  
5 the applicant is a graduate of an accredited medical college or  
6 an unaccredited medical college and has received a medical  
7 degree. A graduate license may be issued to an applicant who  
8 holds the equivalent of a license without restriction granted by  
9 another state or territory of the United States or the Dominion  
10 of Canada.

11 (c) Extensions; waivers.--The board may extend the validity  
12 of a graduate license upon application when such action is  
13 warranted. In the event a graduate license holder is issued a  
14 license without restriction and wishes to continue graduate  
15 medical training, the graduate license holder shall complete and  
16 keep current a form satisfactory to the board containing  
17 information desired by the board on the graduate medical  
18 training program. A graduate of an unaccredited medical college,  
19 who does not possess all of the qualifications for the issuance  
20 of a graduate license but desires to train in a hospital within  
21 this Commonwealth in an area of advanced medical training, may  
22 have the unmet qualifications waived by the board if the board  
23 determines that the applicant possesses the technical skills and  
24 educational background to participate in such training and that  
25 its issuance is beneficial to the health, safety and welfare of  
26 the general public of this Commonwealth.

27 Section 33. Institutional license.

28 (a) General rule.--An institutional license empowers the  
29 licensee to teach or practice medicine and surgery in one of the  
30 medical colleges, affiliates or hospitals within this

1 Commonwealth.

2 (b) Requirements.--No institutional license may be issued  
3 unless the applicant:

4 (1) is a graduate of an unaccredited medical college who  
5 has attained through professional growth and teaching  
6 experience the status of teacher; or

7 (2) is not otherwise licensed to practice medicine and  
8 surgery in this Commonwealth but has achieved outstanding  
9 medical skills in a particular area of medicine and surgery  
10 and wishes to practice, demonstrate or teach with those  
11 outstanding medical skills.

12 (c) Determinations by the board.--The board shall issue an  
13 institutional license only when it determines that its issuance  
14 is beneficial to the health, safety and welfare of the general  
15 public of this Commonwealth. A person granted an institutional  
16 license who subsequently desires to obtain a license without  
17 restriction shall be required to meet all of the requirements of  
18 such license as set forth in this act.

19 Section 34. Temporary license.

20 (a) General rule.--A temporary license empowers the licensee  
21 to:

22 (1) teach medicine and surgery or participate in a  
23 medical procedure necessary for the well-being of a specified  
24 patient within this Commonwealth; or

25 (2) practice medicine and surgery at a camp or resort  
26 for no more than three months.

27 (b) Requirements.--No temporary license may be issued unless  
28 the applicant holds the equivalent of a license without  
29 restriction granted by another state, territory or country.

30 (c) Additional conditions.--The board may impose any

1 appropriate limitation in scope, duration or site of practice on  
2 the temporary license. Temporary licensees shall be deemed  
3 health care providers who conduct 50% or less of their health  
4 care business or practice within this Commonwealth for the  
5 purposes of the act of October 15, 1975 (P.L.390, No.111), known  
6 as the Health Care Services Malpractice Act.

7 Section 35. Extraterritorial license.

8 (a) General rule.--An extraterritorial license empowers the  
9 licensee residing in or maintaining the office of practice in  
10 any adjoining state near the boundary line between such state  
11 and this Commonwealth, whose medical practice extends into this  
12 Commonwealth, to practice medicine and surgery with or without  
13 restriction in this Commonwealth on such patients.

14 (b) Requirements.--No extraterritorial license may be issued  
15 unless the applicant holds the equivalent of a license without  
16 restriction granted by a state adjoining this Commonwealth.

17 (c) Additional conditions.--An extraterritorial license may  
18 be granted by the board so long as the board is provided with:

19 (1) An application for the license, which shall include  
20 information on malpractice insurance coverage compliance.

21 (2) A copy of the current license in the state of  
22 residence and primary practice certified by the authorized  
23 licensing body of such state.

24 The exercise of the discretion of the board in granting such a  
25 license will depend primarily upon the needs of patients in this  
26 Commonwealth, the availability of medical care in the specific  
27 area involved and whether the adjoining state of licensure  
28 reciprocates by extending similar privileges to medical doctors  
29 who reside and have their office of practice in this  
30 Commonwealth. Such a license will be automatically revoked if

1 such medical doctor relocates the office of practice or  
2 residence. A medical doctor granted such a license has the duty  
3 to inform the board of any changes in practice which may in any  
4 way affect the maintenance of the license.

5 Section 36. Nurse-midwife certificate.

6 (a) General rule.--A nurse-midwife certificate empowers the  
7 licensee to practice midwifery in this Commonwealth as provided  
8 in this act. The board shall formulate and issue such rules and  
9 regulations, from time to time, as may be necessary for the  
10 examination, licensing and proper conduct of the practice of  
11 midwifery.

12 (b) Requirements.--No nurse-midwife certificate will be  
13 issued unless the applicant is a registered nurse licensed in  
14 this Commonwealth.

15 (c) Examinations.--The board will conduct at least two  
16 examinations each year. In the case of failure at the first  
17 examination, the applicant shall have the privilege of a second  
18 examination. In case of failure in the second examination, the  
19 applicant shall apply de novo and qualify under the conditions  
20 in force at the time of the third examination. No applicant will  
21 be admitted to the examination who is unable to present, at the  
22 time of application, evidence of a satisfactory course in  
23 midwifery from an approved institution.

24 Section 37. Physician assistant certificate.

25 (a) General rule.--A physician assistant certificate  
26 empowers the holder to assist a medical doctor in the provision  
27 of medical care and services under the supervision and direction  
28 of that medical doctor as provided in this act.

29 (b) Requirements.--No physician assistant certificate may be  
30 issued to the applicant unless the requirements set forth by



1 this act and such rules and regulations issued by the board are  
2 met, including requirements for the physician assistant  
3 certificate of training and educational programs which shall be  
4 formulated by the board in accordance with such national  
5 criteria as are established by national organizations or  
6 societies as the board may accept.

7 (c) Criteria.--The board shall grant physician assistant  
8 certificates to applicants who have fulfilled the following  
9 criteria:

10 (1) Satisfactory performance on the proficiency  
11 examination to the extent that a proficiency examination  
12 exists.

13 (2) Satisfactory completion of a certified program for  
14 the training and education of physician assistants.

15 (d) Biennial renewal.--A physician assistant certificate  
16 shall be subject to biennial renewal by the board.

17 (e) Description of manner of assistance.--The application  
18 shall include a written request from the applicant's supervising  
19 medical doctor who shall file with the board a description of  
20 the manner in which the physician assistant will assist the  
21 supervising medical doctor, which description shall be subject  
22 to the approval of the board.

23 Section 38. Reporting of multiple licensure.

24 Any licensed medical doctor in this Commonwealth who is also  
25 licensed to practice medicine and surgery in any other state,  
26 territory or country shall report this information to the board  
27 on the biennial registration application. Any disciplinary  
28 action taken in other states must be reported to the board on  
29 the biennial registration application. Multiple licensure will  
30 be noted on the medical doctor's record and such state,

1 territory or country will be notified of any disciplinary  
2 actions taken against said medical doctor in this Commonwealth.  
3 Section 39. Injunctions against unlawful practice.

4 It shall be unlawful for any person to practice, or attempt  
5 to offer to practice, medicine and surgery, as defined in this  
6 act, without having at the time of so doing a valid, unexpired,  
7 unrevoked and unsuspended license issued under this act. The  
8 unlawful practice of medicine and surgery as defined in this act  
9 may be enjoined by the courts on petition of the board or by the  
10 commissioner. In any such proceeding it shall not be necessary  
11 to show that any person is individually injured by the actions  
12 complained of. If the respondent is found guilty of the unlawful  
13 practice of medicine and surgery, the court shall enjoin him  
14 from so practicing unless and until he has been duly licensed.  
15 Procedure in such cases shall be the same as in any other  
16 injunction suit. The remedy by injunction hereby given is in  
17 addition to any other civil or criminal prosecution and  
18 punishment.

19 Section 40. Penalties.

20 (a) General rule.--Any person, or the responsible officer or  
21 employee of any corporation or partnership, institution or  
22 association, violating any provisions of this act, or any rule  
23 or regulation of the board commits of a misdemeanor of the third  
24 degree and shall, upon conviction, be sentenced to pay a fine of  
25 not more than \$2,000 or to imprisonment for not more than six  
26 months, or both, for the first violation. On the second and each  
27 subsequent conviction, he or she shall be sentenced to pay a  
28 fine of not less than \$5,000 nor more than \$20,000 or to  
29 imprisonment for not less than six months nor more than one  
30 year, or both.

1 (b) Civil penalties.--In addition to any other civil remedy  
2 or criminal penalty provided for in this act, the board, by a  
3 vote of the majority of the maximum number of the authorized  
4 membership of the board as provided by law, or by a vote of the  
5 majority of the duly qualified and confirmed membership or a  
6 minimum of four members, whichever is greater, may levy a civil  
7 penalty of up to \$1,000 on any current licensee who violates any  
8 provision of this act or on any person who practices medicine or  
9 other areas of practice regulated by the board without being  
10 properly licensed or certificated to do so under this act. The  
11 board shall levy this penalty only after affording the accused  
12 party the opportunity for a hearing, as provided in Title 2 of  
13 the Pennsylvania Consolidated Statutes (relating to  
14 administrative law and procedure). The board shall, within six  
15 months after the effective date of this act, adopt regulations  
16 establishing guidelines setting forth the amounts and  
17 circumstances for which a fine may be imposed. No fines may be  
18 imposed in accordance with this subsection until the board has  
19 adopted the required regulations.

20 Section 41. Temporary and automatic suspensions.

21 (a) Temporary suspensions.--A license or certificate issued  
22 under this act may be temporarily suspended under circumstances  
23 as determined by the board to be an immediate and clear danger  
24 to the public health and safety. The board shall issue an order  
25 to that effect without a hearing, but upon due notice, to the  
26 licensee or certificate holder concerned at his or her last  
27 known address, which shall include a written statement of all  
28 allegations against the licensee or certificate holder. The  
29 provisions of section 10 shall not apply to temporary  
30 suspension. The board shall thereupon commence formal action to

1 suspend, revoke and restrict the license or certificate of the  
2 person concerned as otherwise provided for in this act. All  
3 actions shall be taken promptly and without delay. Within 30  
4 days following the issuance of an order temporarily suspending a  
5 license, the board shall conduct or cause to be conducted, a  
6 preliminary hearing to determine that there is a prima facie  
7 case supporting the suspension. The licensee or certificate  
8 holder whose license or certificate has been temporarily  
9 suspended may be present at the preliminary hearing and may be  
10 represented by council, cross-examine witnesses, inspect  
11 physical evidence, call witnesses, offer evidence and testimony  
12 and make a record of the proceedings. If it is determined that  
13 there is not a prima facie case, the suspended license shall be  
14 immediately restored. The temporary suspension shall remain in  
15 effect until vacated by the board, but in no event longer than  
16 180 days.

17 (b) Automatic suspensions.--A license or certificate issued  
18 under this act shall automatically be suspended upon the legal  
19 commitment to an institution of a licensee or certificate holder  
20 because of mental incompetency from any cause upon filing with  
21 the board a certified copy of such commitment, conviction of a  
22 felony under the act of April 14, 1972 (P.L.233, No.64), known  
23 as The Controlled Substance, Drug, Device and Cosmetic Act, or  
24 conviction of an offense under the laws of another jurisdiction,  
25 which if committed in this Commonwealth, would be a felony under  
26 The Controlled Substance, Drug, Device and Cosmetic Act. As used  
27 in this section the term "conviction" shall include a judgment,  
28 an admission of guilt or a plea of nolo contendere. Automatic  
29 suspension under this subsection shall not be stayed pending any  
30 appeal of a conviction. Restoration of such license or

1 certificate shall be made as hereinafter provided in the case of  
2 revocation or suspension of such license or certificate.

3 Section 42. Reasons for refusal, revocation, suspension or  
4 other corrective actions against a licensee or  
5 certificate holder.

6 The board shall have authority to impose disciplinary or  
7 corrective measures on a professional for any or all of the  
8 following reasons:

9 (1) Failing to demonstrate the qualifications or  
10 standards for a license, certification or registration  
11 contained in this act, or regulations of the board.

12 (2) Making misleading, deceptive, untrue or fraudulent  
13 representations in the practice of the profession or  
14 practicing fraud or deceit, either alone or as a conspirator  
15 in obtaining a license, certification or registration, or in  
16 obtaining admission to a medical college.

17 (3) Being convicted of a felony, a misdemeanor relating  
18 to a health profession, or receiving probation without  
19 verdict, disposition in lieu of trial or an accelerated  
20 rehabilitative disposition in the disposition of felony  
21 charges, in the courts of this Commonwealth, a Federal court  
22 or a court of any other state, territory or country.

23 (4) Having a license or other authorization to practice  
24 the profession revoked or suspended or having other  
25 disciplinary action taken, or an application for a license or  
26 other authorization refused, revoked or suspended by a proper  
27 licensing authority of another state, territory or country,  
28 or a branch of the federal government.

29 (5) Being unable to practice the profession with  
30 reasonable skill and safety to patients by reason of illness,

1 addiction to drugs or alcohol, having been convicted of a  
2 felonious act prohibited by the act of April 14, 1972  
3 (P.L.233, No.64), known as The Controlled Substance, Drug,  
4 Device and Cosmetic Act, or convicted of a felony relating to  
5 a controlled substance in a court of law of the United States  
6 or any other state, territory or country, or if he or she is  
7 or shall become mentally incompetent. An applicant's  
8 statement on the application declaring the absence of a  
9 conviction shall be deemed satisfactory evidence of the  
10 absence of a conviction unless the board has some evidence to  
11 the contrary. In enforcing this paragraph, the board shall,  
12 upon probable cause, have authority to compel a professional  
13 to submit to a mental or physical examination by physicians  
14 approved by the board. Failure of a professional to submit to  
15 such examination when directed by the board, unless such  
16 failure is due to circumstances beyond his or her control,  
17 shall constitute an admission of the allegations against him  
18 or her, consequent upon which a default and final order may  
19 be entered without the taking of testimony or presentation of  
20 evidence. A professional affected under this paragraph shall  
21 at reasonable intervals be afforded an opportunity to  
22 demonstrate that he or she can resume a competent practice of  
23 his or her profession with reasonable skill and safety to  
24 patients.

25 (6) Violating a lawful regulation promulgated by the  
26 board or violating a lawful order of the board previously  
27 entered by the board in a disciplinary proceeding.

28 (7) Knowingly maintaining a professional connection or  
29 association with any person who is in violation of this act  
30 or regulations of the board or knowingly aiding, assisting,

1       procuring or advising any unlicensed person to practice a  
2       profession contrary to this act, or regulations of the board.

3           (8) Being guilty of immoral or unprofessional conduct.  
4       Unprofessional conduct shall include departure from or  
5       failing to conform to an ethical or quality standard of the  
6       profession.

7           (i) The ethical standards of a profession are those  
8       ethical tenets which are embraced by the professional  
9       community in this Commonwealth.

10          (ii) A professional departs from, or fails to  
11       conform to, a quality standard of the profession when the  
12       professional provides a medical service at a level  
13       beneath the accepted standard of care. The board may  
14       promulgate regulations which define the accepted standard  
15       of care. In the event the board has not promulgated an  
16       applicable regulation, the accepted standard of care for  
17       a professional is that which would be normally exercised  
18       by the average professional of the same kind in this  
19       Commonwealth under the circumstances, including locality  
20       and whether the professional is or purports to be a  
21       specialist in the area.

22          (9) Acting in such manner as to present an immediate and  
23       clear danger to public health or safety.

24          (10) Acting outside the scope of a license or  
25       certificate.

26       Section 43. Types of corrective action.

27       (a) Authorized actions.--When the board is empowered to take  
28       disciplinary or corrective action against a professional under  
29       the provisions of this act or pursuant to other statutory  
30       authority, the board may:

1 (1) Deny the application for a license, certificate or  
2 any other privilege granted by the board.

3 (2) Administer a public reprimand with or without  
4 probation.

5 (3) Administer a private reprimand with or without  
6 probation.

7 (4) Revoke, suspend, limit or otherwise restrict a  
8 license or certificate.

9 (5) Require the professional to submit to the care,  
10 counseling or treatment of a physician or other health care  
11 professional designated by the board.

12 (6) Require the professional to take refresher  
13 educational courses.

14 (7) Suspend enforcement of any suspension, other than  
15 that imposed in accordance with section 42, or revocation and  
16 place a professional on probation with the right to vacate  
17 the probationary order from noncompliance.

18 (8) Impose a monetary penalty in accordance with this  
19 act.

20 (b) Failure to comply with conditions.--Failure of a  
21 professional to comply with conditions set forth by the board  
22 shall be grounds for reconsideration of the matter and  
23 institution of formal charges against the licensee or  
24 certificate holder.

25 Section 44. Reinstatement of license, certificate or  
26 registration.

27 Unless ordered to do so by Commonwealth Court or an appeal  
28 therefrom, the board shall not reinstate the license,  
29 certificate or registration of a person to practice medicine  
30 pursuant to this act which has been revoked. Any person whose



1 license, certificate or registration has been revoked may apply  
2 for reinstatement, after a period of at least five years, but  
3 must meet all of the licensing qualifications of this act for  
4 the license applied for, to include the examination requirement,  
5 if he or she desires to practice at any time after such  
6 revocation.

7 Section 45. Surrender of suspended or revoked license.

8 The board shall require a person whose license, certificate  
9 or registration has been suspended or revoked to return, in such  
10 manner as the board directs, the license, certificate or  
11 registration. A person who fails to do so commits a misdemeanor  
12 of the third degree.

13 Section 46. Reestablishment.

14 This act, with respect to the State Board of Medical  
15 Education and Licensure, shall constitute the legislation  
16 required to reestablish an agency pursuant to the act of  
17 December 22, 1981 (P.L.508, No.142), known as the Sunset Act.

18 Section 47. Severability.

19 The provisions of this act are severable. If any provision of  
20 this act or its application to any person or circumstance is  
21 held invalid, the invalidity shall not affect other provisions  
22 or applications of this act which can be given effect without  
23 the invalid provision or application.

24 Section 48. Repeals.

25 (a) Repeals.--Section 412 of the Act of April 9, 1929  
26 (P.L.177, No.175), know as The Administrative Code of 1929, is  
27 repealed.

28 (b) The act of July 20, 1974 (P.L.551, No.190), known as the  
29 Medical Practice Act of 1974, is repealed.

30 (c) All other acts and parts of acts are repealed insofar as

1 they are inconsistent with this act.

2 Section 48. Applicability of Act.

3 (a) General rule.--The provisions of this act shall not  
4 apply either directly or indirectly, by intent or purpose, to  
5 affect the practice of:

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

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

11 (3) Optometry, as authorized by the act of June 6, 1980  
12 (P.L.197, No.57), known as the Optometric Practice and  
13 Licensure Act.

14 (4) Osteopathy, as authorized by the act of October 5,  
15 1978 (P.L.1109, No.261), known as the Osteopathic Medical  
16 Practice Act.

17 (5) Pharmacy, as authorized by the acts of April 14,  
18 1972 (P.L.233, No.64), known as The Controlled Substance,  
19 Drug, Device and Cosmetic Act, and September 27, 1961  
20 (P.L.1700, No.699), known as the Pharmacy Act.

21 (6) Physical Therapy, as authorized by the act of  
22 October 10, 1975 (P.L.383, No.110), known as the Physical  
23 Therapy Practice Act.

24 (7) Podiatry, as authorized by the act of March 2, 1956  
25 (P.L.1206, No.375), known as the Podiatry Act of 1956.

26 (8) Professional Nursing, as authorized by the act of  
27 May 22, 1951 (P.L.317, No.69), known as The Professional  
28 Nursing Law.

29 (9) Psychologists, as authorized by the act of March 23,  
30 1972 (P.L.136, No.52), referred to as the Psychologists

1 License Act.

2 (b) Exemption.--This act shall not be construed so as to  
3 give the Board of Medicine any jurisdiction over any of the  
4 schools or colleges of the methods exempted in this section.

5 (c) No application to practice of hypnosis.--The provisions  
6 of this act shall not apply either directly or indirectly, by  
7 intent or purpose, to the practice of hypnosis.

8 Section 50. Existing board.

9 The presently confirmed members of the State Board of Medical  
10 Education and Licensure constituted under section 412 of the act  
11 of April 9, 1929 (P.L.177, No.175), known as The Administrative  
12 Code of 1929, as of December 31, 1985, shall continue to serve  
13 as board members until their present terms of office expire.

14 Section 51. Existing rules and regulations.

15 Each rule and regulation of the board in effect on December  
16 31, 1985, not inconsistent with this act, shall remain in effect  
17 after such date until repealed or amended by the board.

18 Section 52. Existing licenses, certificates and registrations.

19 Any person who holds a valid license, certificate or  
20 registration issued by the State Board of Medical Education and  
21 Licensure under the act of July 20, 1974 (P.L.551, No.190),  
22 known as the Medical Practice Act of 1974, relating to the  
23 practice of medicine, prior to the effective date of this act  
24 shall, on and after the effective date hereof, be deemed  
25 licensed, certificated or registered by the State Board of  
26 Medicine as provided for in this act.

27 Section 53. Effective date.

28 This act shall take effect January 1, 1986.