

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1158 Session of 1985

INTRODUCED BY BELL, OCTOBER 16, 1985

SENATOR BELL, CONSUMER PROTECTION AND PROFESSIONAL LICENSURE, AS AMENDED, OCTOBER 29, 1985

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

8 Section 1. Short title.

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

11 Section 2. Definitions.

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

15 "Accredited medical college." An institution of higher
16 learning which has been fully accredited by the Association of
17 American Medical Colleges, its successors or assigns, or the
18 American Medical Association, either directly or through their
19 respective accrediting bodies, as an agency to provide courses
20 in the art and science of medicine and surgery and empowered to
21 grant Academic Degrees in Medicine.

22 "Affiliate." A member of a group of two or more medical
23 training facilities legally united by an agreement of
24 affiliation, approved by the board and formed to enhance the
25 potential of all participants in the provision of health care
26 and medical education.

27 "Applicant." An applicant for any license or certificate
28 issued by the board.

29 "Board." The State Board of Medicine.

30 "Clinical clerk." An undergraduate student in good standing

1 in an accredited medical college who is assigned to provide
2 medical services in a hospital by the medical college and the
3 hospital.

4 "Commissioner." The Commissioner of Professional and
5 Occupational Affairs in the Department of State.

6 "Doctor of osteopathy or osteopathic doctor." An individual
7 licensed to practice osteopathic medicine and surgery by the
8 State Board of Osteopathic Medical Examiners.

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

11 (1) accredited as graduate medical education by the
12 Accreditation Council for Graduate Medical Education or by
13 any other accrediting body recognized by the board for the
14 purpose of accrediting graduate medical education; or

15 (2) provided by a hospital accredited by the Joint
16 Commission on Accreditation of Hospitals, its successors or
17 assigns, and is acceptable to an American specialty board
18 towards the training it requires for the certification it
19 issues in a medical specialty or subspecialty.

20 "Healing arts." The science and skill of diagnosis and
21 treatment in any manner whatsoever of disease or any ailment of
22 the human body.

23 "Health care professional." An individual, other than a
24 physician assistant, who is authorized to practice some
25 component of the healing arts by a license, permit, certificate
26 or registration issued by a Commonwealth licensing agency or
27 board.

28 "Hospital." An institution licensed or regulated as a
29 hospital by the Department of Health or the Department of Public
30 Welfare or a facility owned or operated by the Federal

1 Government and accredited by the Joint Commission on
2 Accreditation of Hospitals as a hospital.

3 "Medical doctor." An individual who has acquired one of the
4 following licenses to practice medicine and surgery issued by
5 the board:

6 (1) License without restriction.

7 (2) License with restriction.

8 (3) Graduate license.

9 (4) Institutional license.

10 (5) Temporary license.

11 (6) Extraterritorial license.

12 "Medical service." Activity which lies within the scope of
13 the practice of medicine and surgery.

14 "Medical training facility." A medical college, hospital or
15 other institution which provides courses in the art and science
16 of medicine and surgery and related subjects for the purpose of
17 enabling a matriculant to qualify for a license or practice
18 medicine and surgery, graduate medical training, midwife
19 certificate or physician assistant certificate.

20 "Medicine and surgery." The art and science of which the
21 objectives are the cure of diseases and the preservation of the
22 health of man, including the practice of the healing art with or
23 without drugs, except healing by spiritual means or prayer.

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

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

27 "Physician assistant." An individual who is certified as a
28 physician assistant by the board.

29 "Professional." A medical doctor, midwife, physician
30 assistant, drugless therapist, or an applicant for a license or

1 certificate the board may issue.

2 "Resident." A medical doctor who is participating in
3 graduate training.

4 "Technician." A person, other than a health care
5 professional or physician assistant, who through training,
6 education or experience has achieved expertise in the technical
7 details of a subject or occupation which is a component of the
8 healing art.

9 "Unaccredited medical college." An institution of higher
10 learning which provides courses in the art and science of
11 medicine and surgery and related subjects, is empowered to grant
12 professional degrees in medicine, is not accredited by the
13 Association of American Medical Colleges, its successors or
14 assigns, or the American Medical Association, either directly or
15 through their respective accrediting bodies, and is listed by
16 the World Health Organization, its successors or assigns, or is
17 otherwise recognized as a medical college by the country in
18 which it is situated.

19 Section 3. State Board of Medicine.

20 (a) Establishment.--The State Board of Medicine shall
21 consist of the commissioner, the Secretary of Health, two
22 members appointed by the Governor who shall be persons
23 representing the public at large and seven members appointed by
24 the Governor, six of whom shall be medical doctors with
25 unrestricted licenses to practice medicine and surgery in this
26 Commonwealth for five years immediately preceding their
27 appointment, and one who shall be a nurse midwife, physician
28 assistant or certified registered nurse practitioner licensed or
29 certified under the laws of this Commonwealth.

30 (b) Terms of office.--The term of each professional and

1 public member of the board shall be four years or until his or
2 her successor has been appointed and qualified, but not longer
3 than six months beyond the four-year period. In the event that
4 any of said members shall die or resign OR OTHERWISE BECOMES <—
5 DISQUALIFIED during his or her term, a successor shall be
6 appointed in the same way and with the same qualifications and
7 shall hold office for the unexpired term. No member shall be
8 eligible FOR APPOINTMENT to serve more than two consecutive <—
9 terms.

10 (c) Quorum.--A majority of the members of the board serving
11 in accordance with law shall constitute a quorum for purposes of
12 conducting the business of the board. A member may not be
13 counted as part of a quorum or vote on any issue, OTHER THAN <—
14 TEMPORARY AND AUTOMATIC SUSPENSIONS UNDER SECTION 40, unless he
15 or she is physically in attendance at the meeting.

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

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

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

28 (g) Attendance at meetings.--A member of the board who fails
29 to attend three consecutive meetings shall forfeit his or her
30 seat unless the commissioner, upon written request from the

1 member, finds that the member should be excused from a meeting
2 because of illness or the death of a family member.

3 (h) Attendance at training seminars.--A public member who
4 fails to attend TWO CONSECUTIVE statutorily mandated training <—
5 seminars in accordance with section 21 of the act of November <—
6 26, 1978 (P.L.1223, No.292), entitled "An act amending the act
7 of April 9, 1929 (P.L.177, No.175), entitled 'An act providing
8 for and reorganizing the conduct of the executive and
9 administrative work of the Commonwealth by the Executive
10 Department thereof and the administrative departments, boards,
11 commissions, and officers thereof, including the boards of
12 trustees of State Normal Schools, or Teachers Colleges;
13 abolishing, creating, reorganizing or authorizing the
14 reorganization of certain administrative departments, boards,
15 and commissions; defining the powers and duties of the Governor
16 and other executive and administrative officers, and of the
17 several administrative departments, boards, commissions, and
18 officers; fixing the salaries of the Governor, Lieutenant
19 Governor, and certain other executive and administrative
20 officers; providing for the appointment of certain
21 administrative officers, and of all deputies and other
22 assistants and employes in certain departments, boards, and
23 commissions; and prescribing the manner in which the number and
24 compensation of the deputies and all other assistants and
25 employes of certain departments, boards and commissions shall be
26 determined,' adding members of the public at large to certain
27 licensing boards, changing the name of the State Board of
28 Osteopathic Examiners, adding a dental hygienist to the State
29 Dental Council and Examining Board, including the State Board of
30 Psychologist Examiners, the State Board of Public Accountants

1 ~~and the State Board of Landscape Architects within the act,~~
2 ~~making editorial changes, further providing for the powers and~~
3 ~~duties of the Bureau of Professional and Occupational Affairs~~
4 ~~and the Bureau of Consumer Protection and making repeals," shall~~
5 ~~forfeit his or her seat unless the commissioner,~~ ACCORDANCE WITH <—
6 SECTION 813(E) OF THE ACT OF APRIL 9, 1929 (P.L.177, NO.175),
7 KNOWN AS THE ADMINISTRATIVE CODE OF 1929, SHALL FORFEIT HIS OR
8 HER SEAT UNLESS THE COMMISSIONER, upon written request from the
9 public member, finds that the public member should be excused
10 from a meeting because of illness or the death of a family
11 member.

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

15 (j) Executive secretary.--The board, with the approval of
16 the commissioner, shall appoint and fix the compensation of an
17 executive secretary who shall be responsible for the day to day
18 operation of the board and administration of board activities.

19 Section 4. Impaired professionals.

20 (a) Appointment of Disciplinary Advisory Committee.--The
21 board, with the approval of the commissioner, shall appoint a
22 Disciplinary Advisory Committee composed of three medical
23 doctors, not members of the board, who shall be compensated at
24 the same rate as members of the board and who shall receive the
25 amount of reasonable traveling, hotel and other necessary
26 expenses incurred in the performance of their duties in
27 accordance with Commonwealth regulations.

28 (b) Recommendations involving potential disciplinary
29 actions.--The committee shall review and make recommendations to
30 the board on cases involving potential disciplinary actions

1 under this act.

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

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

22 (e) Voluntary suspension or limitation.--An impaired
23 professional who enrolls in an approved treatment program shall
24 ~~request a voluntary suspension of his or her license or~~ <—
25 ~~certificate or~~, IF NECESSARY, agree to a limitation of his or <—
26 her ability to practice. Failure to do so disqualifies the
27 professional from the impaired professional program and shall
28 activate an immediate investigation and disciplinary proceeding
29 by the board.

30 (f) Failure to satisfactorily progress.--If, in the opinion

1 of the committee after consultation with the provider, an
2 impaired professional who is enrolled in an approved treatment
3 has not progressed satisfactorily, the committee shall disclose
4 to the board all information in its possession regarding the
5 professional; and such disclosure shall constitute the basis for
6 instituting proceedings to suspend or revoke the license or
7 certificate of said professional.

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

11 (h) Reports to the board.--Any hospital or health care
12 facility, ~~licensee, certificate holder,~~ peer or colleague who ←
13 knows or has evidence to suspect a professional has an addictive
14 disease, is diverting a controlled substance, or is mentally or
15 physically incompetent to carry out the duties of his or her
16 license or certificate, shall make, or cause to be made, a
17 report to the board: PROVIDED THAT ANY PERSON OR FACILITY WHO ←
18 ACTS IN A TREATMENT CAPACITY TO AN IMPAIRED PROFESSIONAL IN AN
19 APPROVED TREATMENT PROGRAM IS EXEMPT FROM THE MANDATORY
20 REPORTING REQUIREMENTS OF THIS SUBSECTION. Any person or
21 facility who reports pursuant to this section in good faith and
22 without malice shall be immune from any civil or criminal
23 liability arising from such report. Failure to provide such
24 report within a reasonable time from receipt of knowledge of
25 impairment shall subject the person or facility to a fine not to
26 exceed \$1,000. The board shall levy this penalty only after
27 affording the accused party the opportunity for a hearing, as
28 provided in Title 2 of the Pennsylvania Consolidated Statutes
29 (relating to administrative law and procedure).

30 Section 5. Consultants.

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

6 Section 6. Fees, fines and civil penalties.

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

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

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

30 (D) CHARGING OF FEES.--THE BOARD MAY CHARGE A REASONABLE

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1 FEE, AS SET BY THE BOARD BY REGULATION, FOR ALL EXAMINATIONS,
2 REGISTRATIONS, CERTIFICATES, LICENSURES OR APPLICATIONS
3 PERMITTED BY THIS ACT OR THE REGULATIONS THEREUNDER.

4 Section 7. Reports of the board.

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

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

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

26 ~~Section 8. Fees.~~

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

1 Section 9 8. Regulatory powers of the board. ←

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

9 Section ~~10~~ 9. Procedure, oaths and subpoenas. ←

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

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

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

1 court of competent jurisdiction on a showing that the records
2 are reasonably necessary for the conduct of the investigation.
3 The court may impose such limitations on the scope of the
4 subpoena as are necessary to prevent unnecessary intrusion in
5 patient confidential information. The board is authorized to
6 apply to Commonwealth Court to enforce its subpoenas.

7 Section ~~11~~ 10. Unauthorized practice of medicine and surgery. ←

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

11 (1) Practice medicine and surgery.

12 (2) Purport to practice medicine and surgery.

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

19 (4) Otherwise hold forth as authorized to practice
20 medicine and surgery.

21 Section ~~12~~ 11. Clinical clerks. ←

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

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

27 (2) Conduct a physical examination.

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

29 (b) Regulations.--A clinical clerk shall not perform a
30 medical service unless the performance of such by the clinical

1 clerk under the circumstances is consistent with the standards
2 of acceptable medical practice embraced by the medical doctor
3 community in this Commonwealth. The board shall promulgate
4 regulations which define the medical services those standards
5 permit a clinical clerk to perform and the circumstances under
6 which those standards permit a clinical clerk to perform a
7 medical service.

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

14 (d) Drugs.--A clinical clerk shall not prescribe or dispense
15 drugs.

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

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

27 Section ~~13~~ 12. Midwifery.

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

←

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

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

9 Section ~~14~~ 13. Physician assistants. ←

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

14 (b) Use of title.--A physician assistant may use the title
15 physician assistant or an appropriate abbreviation for that
16 title, such as ~~P.A.~~ "P.A.-C." ←

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

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

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

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

30 (2) Describes the manner in which the physician

1 assistant will be assisting each named physician.

2 (3) Describes the nature and degree of supervision and
3 direction each named physician will provide the physician
4 assistant.

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

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

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

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

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

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

1 employee reimbursement procedures.

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

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

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

17 Section ~~15~~ 14. Drugless therapist. ←

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

22 (b) Drugs.--A drugless therapist shall not prescribe or
23 dispense drugs.

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

30 Section ~~16~~ 15. Certified registered nurse practitioner. ←

1 (a) General rule.--A certified registered nurse practitioner
2 shall act in accordance with regulations authorized by this
3 section.

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

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

15 Section ~~17~~ 16. Consultation. ←

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

21 Section ~~18~~ 17. Delegation of duties to health care professional ←
22 or technician.

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

25 (1) The performance of the service was delegated by a
26 medical doctor.

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

30 (3) The delegation is not prohibited by regulations

1 promulgated by the board.

2 (4) The delegation is not prohibited by statutes or
3 regulations relating to other licensed health care
4 professionals.

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

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

15 Section ~~19~~ 18. Federal medical personnel. <—

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

21 Section ~~20~~ 19. Osteopathic act. <—

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

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

30 Section ~~21~~ 20. Other health care professionals. <—

1 Nothing in this act shall be construed to prohibit a health
2 care professional from practicing that profession within the
3 scope of the health care professional's license or certificate
4 or as otherwise authorized by the law, including using the title
5 authorized by the professional's licensing act.

6 Section ~~22~~ 21. Acts outside nonmedical doctor license or
7 certificate. ←

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

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

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

23 Section ~~23~~ 22. Licenses and certificates; general
24 qualification. ←

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

- 27 (1) License without restriction.
- 28 (2) License with restriction.
- 29 (3) Graduate license.
- 30 (4) Institutional license.

- 1 (5) Temporary license.
- 2 (6) Extraterritorial license.
- 3 (7) Midwife ~~certificate~~ LICENSE. ←
- 4 (8) Physician assistant certificate.

5 (b) Qualifications.--The board shall not issue a license or
6 certificate to an applicant unless the applicant establishes
7 with evidence, verified by an affidavit or affirmation of the
8 applicant, that the applicant IS OF LEGAL AGE, IS OF GOOD MORAL ←
9 CHARACTER AND IS NOT ADDICTED TO THE INTEMPERATE USE OF ALCOHOL
10 OR THE HABITUAL USE OF NARCOTICS OR OTHER HABIT-FORMING DRUGS,
11 AND THAT THE APPLICANT HAS COMPLETED THE EDUCATIONAL
12 REQUIREMENTS PRESCRIBED BY THE BOARD, AND OTHERWISE satisfies
13 the qualifications for the license or certificate contained in
14 or authorized by this act.

15 (c) Refusal.--The board may refuse to issue a license or
16 certificate to an applicant based upon a ground for such action
17 contained in section ~~43~~ 41. ←

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

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

30 Section ~~24~~ 23. Standards for medical training facilities. ←

1 (a) General rule.--The educational qualifications for
2 acceptance as a matriculant in a medical college or other
3 medical training facility incorporated within this Commonwealth
4 and the curricula and training to be offered by such medical
5 colleges or other medical training facility shall meet the
6 requirements set by the board and any accrediting body which may
7 be recognized by the board.

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

28 (c) Refusal of recognition.--In the event that the board
29 determines that a medical training facility has failed to
30 provide adequate facilities, curricula or training, the board

1 shall not recognize the education or degrees obtained from the
2 medical training facility during the period of inadequacy.

3 Section ~~25~~ 24. Examinations. ←

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

6 (b) Proficiency in English language.--In addition to any
7 other examination required by this act or by regulation of the
8 board, applicants for a license or certificate, whose principal
9 language is other than English, may also be required to
10 demonstrate, by examination, proficiency in the English language
11 to any agency considered competent by the board.

12 (c) Authority to call in medical consultants.--For the
13 purpose of conducting all examinations, the board shall have the
14 privilege of calling to its aid medical consultants who shall be
15 compensated for their services at a reasonable rate in an amount
16 as determined, from time to time, by the board in addition to
17 all incurred expenses.

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

28 Section ~~26~~ 25. Licenses and certificates; biennial ←
29 registration.

30 (a) Issuance of licenses and certificates.--All applicants

1 who have complied with the requirements of the board, and who
2 shall have passed a final examination, and who have otherwise
3 complied with the provisions of this act, shall receive from the
4 commissioner, or whoever exercises equivalent authority acting
5 for the board, a license or certificate entitling them to the
6 right to practice in this Commonwealth. Each such license or
7 certificate shall be duly recorded in the office of the board,
8 in a record to be properly kept for that purpose which shall be
9 open to public inspection and a certified copy of said record
10 shall be received as evidence in all courts in this Commonwealth
11 in the trial of any case.

12 (b) Renewals.--It shall be the duty of all persons now or
13 hereafter licensed or certified to be registered with the board
14 and, thereafter, to register in like manner at such intervals
15 and by such methods as the board shall determine by regulations,
16 but in no case shall such renewal period be longer than two
17 years. The form and method of such registration shall be
18 determined by the board.

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

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

28 Section ~~27~~ 26. Certification of license or certificate. ←

29 The status of a license or certificate issued by the board
30 shall be certified by the board to other jurisdictions or

1 persons upon formal application and payment of a reasonable fee.

2 Section ~~28~~ 27. Reciprocity or endorsement. <—

3 Reciprocity or endorsement may be established at the
4 discretion of the board. As used in this section, the term
5 "reciprocity" means the act of the board and a licensing
6 authority in another jurisdiction, each recognizing that the
7 requirements for a license or certificate in this Commonwealth
8 and in the other jurisdiction are equivalent, issuing a license
9 or certificate to an applicant who possesses a similar license
10 or certificate in the other jurisdiction. As used in this
11 section, the term "endorsement" means the issuance of a license
12 or certificate by the board to an applicant who does not meet
13 standard requirements, if the applicant has achieved cumulative
14 qualifications which are accepted by the board as being
15 equivalent to the standard requirements for the license or
16 certificate.

17 Section ~~29~~ 28. License to practice medicine and surgery. <—

18 An individual is not qualified for a license to practice
19 medicine and surgery unless the individual has received an
20 academic degree in medicine and surgery from a medical college
21 and the individual satisfies the other qualifications for the
22 license contained in or authorized by this act.

23 Section ~~30~~ 29. License without restriction. <—

24 (a) General rule.--A license without restriction empowers
25 the licensee to practice medicine and surgery without any
26 restriction or limitation.

27 (b) Graduates of accredited medical colleges.--No license
28 without restriction may be issued to a graduate of an ~~approved~~ <—
29 ACCREDITED medical college unless the applicant has completed <—
30 successfully as a resident two years of approved graduate

1 medical training.

2 (c) Graduates of unaccredited medical colleges.--No license
3 without restriction may be issued to a graduate of an ~~unapproved~~ <—
4 UNACCREDITED medical college unless the applicant has completed <—
5 successfully as a resident three years of approved graduate
6 medical training, educational requirements prescribed by the
7 board and certification by the Educational Council for Foreign
8 Medical Graduates, or its successors.

9 (d) Examinations.--The board shall hold at least two
10 examinations for applicants for a license without restriction
11 each year. Special examinations may be designated by the board.
12 The examinations shall be held at such times and places as
13 designated by the board. In case of failure at any such
14 examination, the applicant shall have, after the expiration of
15 six months and within two years, the privilege of a second
16 examination by the board. In case of failure in a second
17 examination, or after the expiration of two years, the applicant
18 must thereafter successfully complete, as a resident, one year
19 of graduate medical training approved by the board, apply de
20 novo, and qualify under the conditions in existence at the time
21 of the application.

22 Section ~~31~~ 30. License with restriction. <—

23 (a) General rule.--A license with restriction empowers the
24 licensee to practice medicine and surgery with such restrictions
25 or limitations as may be established by the board, including
26 restrictions in the scope of permitted practice, a requirement
27 that the applicant take one or more refresher educational
28 courses or mandated submission of medical care, counseling or
29 treatment.

30 (b) Prerequisite.--No license with restriction may by issued

1 unless the applicant has otherwise been issued, or is qualified
2 to be issued, a license without restriction in accordance with
3 this act.

4 (c) Disciplinary proceedings or voluntary request.--The
5 board may issue a license with restriction only upon completion
6 of disciplinary proceedings in accordance with this act or upon
7 a voluntary request of the applicant.

8 Section ~~32~~ 31. Graduate license. ←

9 (a) General rule.--A graduate license empowers the licensee
10 to participate for a period of up to 12 consecutive months in
11 graduate medical training within the complex of the hospital to
12 which the licensee is assigned.

13 (b) Requirements.--No graduate license may be issued unless
14 the applicant is a graduate of an accredited medical college or
15 an unaccredited medical college and has received a medical
16 degree. A graduate license may be issued to an applicant who
17 holds the equivalent of a license without restriction granted by
18 another state or territory of the United States or the Dominion
19 of Canada.

20 (c) Extensions; waivers.--The board may extend the validity
21 of a graduate license upon application when such action is
22 warranted. In the event a graduate license holder is issued a
23 license without restriction and wishes to continue graduate
24 medical training, the graduate license holder shall complete and
25 keep current a form satisfactory to the board containing
26 information desired by the board on the graduate medical
27 training program. A graduate of an unaccredited medical college,
28 who does not possess all of the qualifications for the issuance
29 of a graduate license but desires to train in a hospital within
30 this Commonwealth in an area of advanced medical training, may

1 have the unmet qualifications waived by the board if the board
2 determines that the applicant possesses the technical skills and
3 educational background to participate in such training and that
4 its issuance is beneficial to the health, safety and welfare of
5 the general public of this Commonwealth.

6 Section ~~33~~ 32. Institutional license. ←

7 (a) General rule.--An institutional license empowers the
8 licensee to teach or practice medicine and surgery in one of the
9 medical colleges, affiliates or hospitals within this
10 Commonwealth.

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

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

16 (2) is not otherwise licensed to practice medicine and
17 surgery in this Commonwealth but has achieved outstanding
18 medical skills in a particular area of medicine and surgery
19 and wishes to practice, demonstrate or teach with those
20 outstanding medical skills.

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

28 Section ~~34~~ 33. Temporary license. ←

29 (a) General rule.--A temporary license empowers the licensee
30 to:

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

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

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

9 (c) Additional conditions.--The board may impose any
10 appropriate limitation in scope, duration or site of practice on
11 the temporary license. Temporary licensees shall be deemed
12 health care providers who conduct 50% or less of their health
13 care business or practice within this Commonwealth for the
14 purposes of the act of October 15, 1975 (P.L.390, No.111), known
15 as the Health Care Services Malpractice Act.

16 Section ~~35~~ 34. Extraterritorial license. <—

17 (a) General rule.--An extraterritorial license empowers the
18 licensee residing in or maintaining the office of practice in
19 any adjoining state near the boundary line between such state
20 and this Commonwealth, whose medical practice extends into this
21 Commonwealth, to practice medicine and surgery with or without
22 restriction in this Commonwealth on such patients.

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

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

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

30 (2) ~~A copy of the~~ A CERTIFICATION BY THE AUTHORIZED <—

1 LICENSING BODY OF SUCH STATE OF THE current license in the
2 state of residence and primary practice ~~certified by the~~ ←
3 ~~authorized licensing body of such state.~~

4 The exercise of the discretion of the board in granting such a
5 license will depend primarily upon the needs of patients in this
6 Commonwealth, the availability of medical care in the specific
7 area involved and whether the adjoining state of licensure
8 reciprocates by extending similar privileges to medical doctors
9 who reside and have their office of practice in this
10 Commonwealth. Such a license will be automatically revoked if
11 such medical doctor relocates the office of practice or
12 residence. A medical doctor granted such a license has the duty
13 to inform the board of any changes in practice which may in any
14 way affect the maintenance of the license.

15 Section ~~36~~ 35. Nurse-midwife ~~certificate~~ LICENSE. ←

16 (a) General rule.--A nurse-midwife ~~certificate~~ LICENSE ←
17 empowers the licensee to practice midwifery in this Commonwealth
18 as provided in this act. The board shall formulate and issue
19 such rules and regulations, from time to time, as may be
20 necessary for the examination, licensing and proper conduct of
21 the practice of midwifery.

22 (b) Requirements.--No nurse-midwife ~~certificate~~ LICENSE will ←
23 be issued unless the applicant is a registered nurse licensed in
24 this Commonwealth. AN APPLICANT FOR A MIDWIFE LICENSE MUST HAVE ←
25 COMPLETED AN ACADEMIC AND CLINICAL PROGRAM OF STUDY IN MIDWIFERY
26 WHICH HAS BEEN APPROVED BY THE BOARD OR AN ACCREDITING BODY
27 RECOGNIZED BY THE BOARD.

28 ~~(c) Examinations. The board will conduct at least two~~ ←
29 ~~examinations each year. In the case of failure at the first~~
30 ~~examination, the applicant shall have the privilege of a second~~

~~1 examination. In case of failure in the second examination, the
2 applicant shall apply de novo and qualify under the conditions
3 in force at the time of the third examination. No applicant will
4 be admitted to the examination who is unable to present, at the
5 time of application, evidence of a satisfactory course in
6 midwifery from an approved institution.~~

7 Section ~~37~~ 36. Physician assistant certificate. <—

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

12 (b) Requirements.--No physician assistant certificate may be
13 issued to the applicant unless the requirements set forth by
14 this act and such rules and regulations issued by the board are
15 met, including requirements for the physician assistant
16 certificate of training and educational programs which shall be
17 formulated by the board in accordance with such national
18 criteria as are established by national organizations or
19 societies as the board may accept.

20 (c) Criteria.--The board shall grant physician assistant
21 certificates to applicants who have fulfilled the following
22 criteria:

23 (1) Satisfactory performance on the proficiency
24 examination to the extent that a proficiency examination
25 exists.

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

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

30 (e) Description of manner of assistance.--The application

1 shall include a written request from the applicant's supervising
2 medical doctor who shall file with the board a description of
3 the manner in which the physician assistant will assist the
4 supervising medical doctor, which description shall be subject
5 to the approval of the board.

6 Section ~~38~~ 37. Reporting of multiple licensure. <—

7 Any licensed medical doctor in this Commonwealth who is also
8 licensed to practice medicine and surgery in any other state,
9 territory or country shall report this information to the board
10 on the biennial registration application OR WITHIN 90 DAYS OF <—
11 FINAL DISPOSITION, WHICHEVER IS SOONER. Any disciplinary action
12 taken in other states must be reported to the board on the
13 biennial registration application. Multiple licensure will be
14 noted on the medical doctor's record and such state, territory
15 or country will be notified of any disciplinary actions taken
16 against said medical doctor in this Commonwealth.

17 Section ~~39~~ 38. Injunctions against unlawful practice. <—

18 It shall be unlawful for any person to practice, or attempt
19 to offer to practice, medicine and surgery, as defined in this
20 act, without having at the time of so doing a valid, unexpired,
21 unrevoked and unsuspended license issued under this act. The
22 unlawful practice of medicine and surgery as defined in this act
23 may be enjoined by the courts on petition of the board or by the
24 commissioner. In any such proceeding it shall not be necessary
25 to show that any person is individually injured by the actions
26 complained of. If ~~the respondent is found guilty of~~ IT IS <—
27 DETERMINED THE RESPONDENT HAS ENGAGED IN the unlawful practice
28 of medicine and surgery, the court shall enjoin him from so
29 practicing unless and until he has been duly licensed. Procedure
30 in such cases shall be the same as in any other injunction suit.

1 The remedy by injunction hereby given is in addition to any
2 other civil or criminal prosecution and punishment.

3 Section ~~40~~ 39. Penalties. ←

4 (a) General rule.--Any person, or the responsible officer or
5 employee of any corporation or partnership, institution or
6 association, violating any provisions of this act, or any rule
7 or regulation of the board commits of a misdemeanor of the third
8 degree and shall, upon conviction, be sentenced to pay a fine of
9 not more than \$2,000 or to imprisonment for not more than six
10 months, or both, for the first violation. On the second and each
11 subsequent conviction, he or she shall be sentenced to pay a
12 fine of not less than \$5,000 nor more than \$20,000 or to
13 imprisonment for not less than six months nor more than one
14 year, or both.

15 (b) Civil penalties.--In addition to any other civil remedy
16 or criminal penalty provided for in this act, the board, by a
17 vote of the majority of the maximum number of the authorized
18 membership of the board as provided by law, or by a vote of the
19 majority of the duly qualified and confirmed membership or a
20 minimum of four members, whichever is greater, may levy a civil
21 penalty of up to \$1,000 on any current licensee who violates any
22 provision of this act or on any person who practices medicine or
23 other areas of practice regulated by the board without being
24 properly licensed or certificated to do so under this act. The
25 board shall levy this penalty only after affording the accused
26 party the opportunity for a hearing, as provided in Title 2 of
27 the Pennsylvania Consolidated Statutes (relating to
28 administrative law and procedure). The board shall, within six
29 months after the effective date of this act, adopt ~~regulations~~ ←
30 ~~establishing~~ guidelines setting forth the amounts and

1 circumstances for which a fine may be imposed. No fines may be
2 imposed in accordance with this subsection until the board has
3 adopted the required ~~regulations~~. GUIDELINES. NOTHING IN THIS ←
4 SUBSECTION SHALL BE CONSTRUED TO GIVE THE BOARD AUTHORITY TO
5 IMPOSE A CIVIL PENALTY UPON ANY PERSON LICENSED BY ANOTHER
6 LICENSING BOARD WHEN ACTING WITHIN THE SCOPE OF PRACTICE OF THAT
7 PROFESSION.

8 Section ~~41~~ 40. Temporary and automatic suspensions. ←

9 (a) Temporary suspensions.--A license or certificate issued
10 under this act may be temporarily suspended under circumstances
11 as determined by the board to be an immediate and clear danger
12 to the public health and safety. The board shall issue an order
13 to that effect without a hearing, but upon due notice, to the
14 licensee or certificate holder concerned at his or her last
15 known address, which shall include a written statement of all
16 allegations against the licensee or certificate holder. The
17 provisions of section ~~10~~ 9 shall not apply to temporary ←
18 suspension. The board shall thereupon commence formal action to
19 suspend, revoke and restrict the license or certificate of the
20 person concerned as otherwise provided for in this act. All
21 actions shall be taken promptly and without delay. Within 30
22 days following the issuance of an order temporarily suspending a
23 license, the board shall conduct or cause to be conducted, a
24 preliminary hearing to determine that there is a prima facie
25 case supporting the suspension. The licensee or certificate
26 holder whose license or certificate has been temporarily
27 suspended may be present at the preliminary hearing and may be
28 represented by council, cross-examine witnesses, inspect
29 physical evidence, call witnesses, offer evidence and testimony
30 and make a record of the proceedings. If it is determined that

1 there is not a prima facie case, the suspended license shall be
2 immediately restored. The temporary suspension shall remain in
3 effect until vacated by the board, but in no event longer than
4 180 days.

5 (b) Automatic suspensions.--A license or certificate issued
6 under this act shall automatically be suspended upon the legal
7 commitment to an institution of a licensee or certificate holder
8 because of mental incompetency from any cause upon filing with
9 the board a certified copy of such commitment, conviction of a
10 felony under the act of April 14, 1972 (P.L.233, No.64), known
11 as The Controlled Substance, Drug, Device and Cosmetic Act, or
12 conviction of an offense under the laws of another jurisdiction,
13 which if committed in this Commonwealth, would be a felony under
14 The Controlled Substance, Drug, Device and Cosmetic Act. As used
15 in this section the term "conviction" shall include a judgment,
16 an admission of guilt or a plea of nolo contendere. Automatic
17 suspension under this subsection shall not be stayed pending any
18 appeal of a conviction. Restoration of such license or
19 certificate shall be made as hereinafter provided in the case of
20 revocation or suspension of such license or certificate.

21 Section ~~42~~ 41. Reasons for refusal, revocation, suspension or ←
22 other corrective actions against a licensee or
23 certificate holder.

24 The board shall have authority to impose disciplinary or
25 corrective measures on a professional for any or all of the
26 following reasons:

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

30 (2) Making misleading, deceptive, untrue or fraudulent

1 representations in the practice of the profession or
2 practicing fraud or deceit, either alone or as a conspirator
3 in obtaining a license, certification or registration, or in
4 obtaining admission to a medical college.

5 (3) Being convicted of a felony, a misdemeanor relating
6 to a health profession, or receiving probation without
7 verdict, disposition in lieu of trial or an accelerated
8 rehabilitative disposition in the disposition of felony
9 charges, in the courts of this Commonwealth, a Federal court
10 or a court of any other state, territory or country.

11 (4) Having a license or other authorization to practice
12 the profession revoked or suspended or having other
13 disciplinary action taken, or an application for a license or
14 other authorization refused, revoked or suspended by a proper
15 licensing authority of another state, territory or country,
16 or a branch of the federal government.

17 (5) Being unable to practice the profession with
18 reasonable skill and safety to patients by reason of illness,
19 addiction to drugs or alcohol, having been convicted of a
20 felonious act prohibited by the act of April 14, 1972
21 (P.L.233, No.64), known as The Controlled Substance, Drug,
22 Device and Cosmetic Act, or convicted of a felony relating to
23 a controlled substance in a court of law of the United States
24 or any other state, territory or country, or if he or she is
25 or shall become mentally incompetent. An applicant's
26 statement on the application declaring the absence of a
27 conviction shall be deemed satisfactory evidence of the
28 absence of a conviction unless the board has some evidence to
29 the contrary. In enforcing this paragraph, the board shall,
30 upon probable cause, have authority to compel a professional

1 to submit to a mental or physical examination by physicians
2 approved by the board. Failure of a professional to submit to
3 such examination when directed by the board, unless such
4 failure is due to circumstances beyond his or her control,
5 shall constitute an admission of the allegations against him
6 or her, consequent upon which a default and final order may
7 be entered without the taking of testimony or presentation of
8 evidence. A professional affected under this paragraph shall
9 at reasonable intervals be afforded an opportunity to
10 demonstrate that he or she can resume a competent practice of
11 his or her profession with reasonable skill and safety to
12 patients.

13 (6) Violating a lawful regulation promulgated by the
14 board or violating a lawful order of the board previously
15 entered by the board in a disciplinary proceeding.

16 (7) Knowingly maintaining a professional connection or
17 association with any person who is in violation of this act
18 or regulations of the board or knowingly aiding, assisting,
19 procuring or advising any unlicensed person to practice a
20 profession contrary to this act, or regulations of the board.

21 (8) Being guilty of immoral or unprofessional conduct.
22 Unprofessional conduct shall include departure from or
23 failing to conform to an ethical or quality standard of the
24 profession.

25 (i) The ethical standards of a profession are those
26 ethical tenets which are embraced by the professional
27 community in this Commonwealth.

28 (ii) A professional departs from, or fails to
29 conform to, a quality standard of the profession when the
30 professional provides a medical service at a level

1 beneath the accepted standard of care. The board may
2 promulgate regulations which define the accepted standard
3 of care. In the event the board has not promulgated an
4 applicable regulation, the accepted standard of care for
5 a professional is that which would be normally exercised
6 by the average professional of the same kind in this
7 Commonwealth under the circumstances, including locality
8 and whether the professional is or purports to be a
9 specialist in the area.

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

12 (10) Acting outside the scope of a license or
13 certificate.

14 Section ~~43~~ 42. Types of corrective action. ←

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

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

21 (2) Administer a public reprimand with or without
22 probation.

23 (3) Administer a private reprimand with or without
24 probation.

25 (4) Revoke, suspend, limit or otherwise restrict a
26 license or certificate.

27 (5) Require the professional to submit to the care,
28 counseling or treatment of a physician or other health care
29 professional designated by the board.

30 (6) Require the professional to take refresher

1 educational courses.

2 (7) Suspend enforcement of any suspension, other than
3 that imposed in accordance with section ~~42~~ 41, or revocation ←
4 and place a professional on probation with the right to
5 vacate the probationary order from noncompliance.

6 (8) Impose a monetary penalty in accordance with this
7 act.

8 (b) Failure to comply with conditions.--Failure of a
9 professional to comply with conditions set forth by the board
10 shall be grounds for reconsideration of the matter and
11 institution of formal charges against the licensee or
12 certificate holder.

13 Section ~~44~~ 43. Reinstatement of license, certificate or ←
14 registration.

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

25 Section ~~45~~ 44. Surrender of suspended or revoked license. ←

26 The board shall require a person whose license, certificate
27 or registration has been suspended or revoked to return, in such
28 manner as the board directs, the license, certificate or
29 registration. A person who fails to do so commits a misdemeanor
30 of the third degree.

1 Section ~~46~~ 45. Reestablishment. <—

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

6 Section ~~47~~ 46. Severability. <—

7 The provisions of this act are severable. If any provision of
8 this act or its application to any person or circumstance is
9 held invalid, the invalidity shall not affect other provisions
10 or applications of this act which can be given effect without
11 the invalid provision or application.

12 Section ~~48~~ 47. Repeals. <—

13 (a) ~~Repeals~~ SPECIFIC REPEALS.--Section 412 of the act of <—
14 April 9, 1929 (P.L.177, No.175), know as The Administrative Code
15 of 1929, is repealed.

16 ~~(b)~~ The act of July 20, 1974 (P.L.551, No.190), known as the <—
17 Medical Practice Act of 1974, is repealed.

18 ~~(c)~~ (B) GENERAL REPEAL.--All other acts and parts of acts <—
19 are repealed insofar as they are inconsistent with this act.

20 Section 48. Applicability of act.

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

24 (1) Chiropractic, as authorized by the act of August 10,
25 1951 (P.L.1182, No.264), known as the Chiropractic
26 Registration Act of 1951.

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

29 (3) Optometry, as authorized by the act of June 6, 1980
30 (P.L.197, No.57), known as the Optometric Practice and

1 Licensure Act.

2 (4) Osteopathy, as authorized by the act of October 5,
3 1978 (P.L.1109, No.261), known as the Osteopathic Medical
4 Practice Act.

5 (5) Pharmacy, as authorized by the acts of April 14,
6 1972 (P.L.233, No.64), known as The Controlled Substance,
7 Drug, Device and Cosmetic Act, and September 27, 1961
8 (P.L.1700, No.699), known as the Pharmacy Act.

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

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

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

17 (9) Psychologists, as authorized by the act of March 23,
18 1972 (P.L.136, No.52), referred to as the Psychologists
19 License Act.

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

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

26 Section ~~50~~ 49. Existing board.

←

27 The presently confirmed members of the State Board of Medical
28 Education and Licensure constituted under section 412 of the act
29 of April 9, 1929 (P.L.177, No.175), known as The Administrative
30 Code of 1929, as of December 31, 1985, shall continue to serve

1 as board members until their present terms of office expire AND <—
2 A SUCCESSOR HAS BEEN APPOINTED AND QUALIFIED, BUT NO LONGER THAN
3 SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ACT.

4 Section ~~51~~ 50. Existing rules and regulations. <—

5 Each rule and regulation of the board in effect on December
6 31, 1985, not inconsistent with this act, shall remain in effect
7 after such date until repealed or amended by the board. EACH FEE <—
8 OF THE BOARD IN EFFECT ON DECEMBER 31, 1985, AND NOT
9 INCONSISTENT WITH THIS ACT, SHALL REMAIN IN EFFECT AFTER SUCH
10 DATE UNTIL REPEALED OR AMENDED BY THE BOARD OR THE COMMISSIONER.

11 Section ~~52~~ 51. Existing licenses, certificates and <—
12 registrations.

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

21 Section ~~53~~ 52. Effective date. <—

22 This act shall take effect January 1, 1986.