

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1158 Session of 1985

INTRODUCED BY BELL, OCTOBER 16, 1985

AS AMENDED ON THIRD CONSIDERATION, NOVEMBER 19, 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
6 CERTIFICATES and the suspension and revocation of licenses
7 AND CERTIFICATES; providing penalties; and making repeals.

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

17 Section 1. Short title.

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

20 Section 2. Definitions.

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

24 "Accredited medical college." An institution of higher
25 learning which has been fully accredited by the Association of
26 American Medical Colleges, its successors or assigns, or the
27 American Medical Association, either directly or through their
28 respective accrediting bodies, as an agency to provide courses
29 in the art and science of medicine and surgery and empowered to
30 grant Academic Degrees in Medicine.

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

6 "Applicant." An applicant for any license or certificate
7 issued by the board.

8 "Board." The State Board of Medicine.

9 "BOARD REGULATED PRACTITIONER." A MEDICAL DOCTOR, MIDWIFE, ←
10 PHYSICIAN ASSISTANT, DRUGLESS THERAPIST, OR AN APPLICANT FOR A
11 LICENSE OR CERTIFICATE THE BOARD MAY ISSUE.

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

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

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

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

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

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

1 issues in a medical specialty or subspecialty.

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

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

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

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

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

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

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

1 certificate or physician assistant certificate.

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

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

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

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

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

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

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

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

1 Section 3. State Board of Medicine.

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

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

22 (c) Quorum.--A majority of the members of the board serving
23 in accordance with law shall constitute a quorum for purposes of
24 conducting the business of the board. A EXCEPT FOR TEMPORARY AND <—
25 AUTOMATIC SUSPENSIONS UNDER SECTION 40, A member may not be
26 counted as part of a quorum or vote on any issue, ~~other than~~ <—
27 ~~temporary and automatic suspensions under section 40,~~ unless he
28 or she is physically in attendance at the meeting.

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

1 (e) Compensation.--Each member of the board, except the
2 commissioner and the Secretary of Health, shall receive \$60 per
3 diem when actually attending to the work of the board. Members
4 shall also receive the amount of reasonable traveling, hotel and
5 other necessary expenses incurred in the performance of their
6 duties in accordance with Commonwealth regulations.

7 (f) Sunset.--The board is subject to evaluation, review and
8 termination ~~within five years and~~ in the manner provided in the <—
9 act of December 22, 1981 (P.L.508, No.142), known as the Sunset
10 Act.

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

16 (h) Attendance at training seminars.--A public member who
17 fails to attend two consecutive statutorily mandated training
18 seminars in accordance with section 813(e) of the act of April
19 9, 1929 (P.L.177, No.175), known as The Administrative Code of
20 1929, shall forfeit his or her seat unless the commissioner,
21 upon written request from the public member, finds that the
22 public member should be excused from a meeting because of
23 illness or the death of a family member.

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

27 (j) Executive secretary.--The board, with the approval of
28 the commissioner, shall appoint and fix the compensation of an
29 executive secretary who shall be responsible for the day-to-day
30 operation of the board and administration of board activities.

1 Section 4. Impaired professionals.

2 (a) Appointment of Disciplinary Advisory Committee.--The
3 board, with the approval of the commissioner, shall appoint a
4 Disciplinary Advisory Committee composed of three medical
5 doctors, not members of the board, who shall be compensated at
6 the same rate as members of the board and who shall receive the
7 amount of reasonable traveling, hotel and other necessary
8 expenses incurred in the performance of their duties in
9 accordance with Commonwealth regulations.

10 (b) Recommendations involving potential disciplinary
11 ~~actions. The committee shall review and make recommendations to~~ <—
12 ~~the board on cases involving potential disciplinary actions~~
13 ~~under this act.~~ ACTIONS.--THE BOARD MAY REFER TO THE COMMITTEE <—
14 CASES INVOLVING POTENTIAL DISCIPLINARY ACTIONS UNDER THIS ACT.
15 UPON SUCH REFERRAL, THE COMMITTEE SHALL REVIEW THE CASE AND MAKE
16 RECOMMENDATIONS TO THE BOARD WITHIN SUCH TIME AS THE BOARD SHALL
17 DESIGNATE; PROVIDED, THAT ONCE THE COMMITTEE HAS ACCEPTED AN
18 IMPAIRED PROFESSIONAL IN AN APPROVED TREATMENT PROGRAM IN
19 ACCORDANCE WITH THIS SECTION, THE COMMITTEE MAY NOT THEREAFTER
20 ACCEPT REFERRAL OF A DISCIPLINARY CASE REGARDING THAT INDIVIDUAL
21 FROM THE BOARD.

22 (c) Liaison.--The committee shall act as a liaison between
23 the board and treatment programs, such as ~~Alcoholics Anonymous,~~ <—
24 ~~Narcotics Anonymous~~ ALCOHOL AND DRUG TREATMENT PROGRAMS LICENSED <—
25 BY THE DEPARTMENT OF HEALTH, psychological counseling and
26 impaired professional support groups, which are approved by the
27 board and which provide services to licensees or certificate
28 holders under this act.

29 (d) Review of corrective action by the board.--The board may
30 defer and ultimately dismiss any of the types of corrective

1 action set forth in this act for an impaired professional so
2 long as the professional is progressing satisfactorily in an
3 approved treatment program, provided that the provisions of this
4 subsection shall not apply to a professional convicted of a
5 felonious act prohibited by the act of April 14, 1972 (P.L.233,
6 No.64), known as The Controlled Substance, Drug, Device and
7 Cosmetic Act, or the conviction of a felony relating to a
8 controlled substance in a court of law of the United States or
9 any other state, territory or country. An approved program
10 provider shall, upon request, disclose to the Disciplinary
11 Advisory Committee all information in its possession regarding
12 an impaired professional in treatment.

13 (e) Voluntary suspension or limitation.--An impaired
14 professional who enrolls in an approved treatment program shall,
15 if necessary, agree to a limitation of his or her ability to
16 practice. Failure to do so disqualifies the professional from
17 the impaired professional program and shall activate an
18 immediate investigation and disciplinary proceeding by the
19 board.

20 (f) Failure to satisfactorily progress.--If, in the opinion
21 of the committee after consultation with the provider, an
22 impaired professional who is enrolled in an approved treatment
23 has not progressed satisfactorily, the committee shall disclose
24 to the board all information in its possession regarding the
25 professional; and such disclosure shall constitute the basis for
26 instituting proceedings to suspend or revoke the license or
27 certificate of said professional.

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

1 (h) Reports to the board.--Any hospital or health care
2 facility, peer or colleague who knows or has evidence to suspect
3 a professional has an addictive disease, is diverting a
4 controlled substance, or is mentally or physically incompetent
5 to carry out the duties of his or her license or certificate,
6 shall make, or cause to be made, a report to the board: Provided
7 that any person or facility who acts in a treatment capacity to
8 an impaired professional in an approved treatment program is
9 exempt from the mandatory reporting requirements of this
10 subsection. Any person or facility who reports pursuant to this
11 section in good faith and without malice shall be immune from
12 any civil or criminal liability arising from such report.
13 Failure to provide such report within a reasonable time from
14 receipt of knowledge of impairment shall subject the person or
15 facility to a fine not to exceed \$1,000. The board shall levy
16 this penalty only after affording the accused party the
17 opportunity for a hearing, as provided in Title 2 of the
18 Pennsylvania Consolidated Statutes (relating to administrative
19 law and procedure).

20 Section 5. Consultants.

21 The board shall establish consultant panels or use individual
22 consultants, as it deems appropriate, to assist it in carrying
23 out its responsibilities. The board may not delegate any of its
24 final decisionmaking responsibilities to a consultant or panel
25 of consultants.

26 Section 6. Fees, fines and civil penalties.

27 (a) Setting of fees.--All fees required under this act shall
28 be fixed by the board by regulation and shall be subject to the
29 act of June 25, 1982 (P.L.633, No.181), known as the Regulatory
30 Review Act. If the revenues raised by fees, fines and civil

1 penalties imposed under this act are not sufficient to meet
2 expenditures over a two-year period, the board shall increase
3 those fees by regulation so that the projected revenues will
4 meet or exceed projected expenditures.

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

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

20 (d) Charging of fees.--The board may charge a reasonable
21 fee, as set by the board by regulation, for all examinations,
22 registrations, certificates, licensures or applications
23 permitted by this act or the regulations thereunder.

24 Section 7. Reports of the board.

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

29 (b) Reports to House and Senate Appropriations Committees.--
30 The board shall submit annually to the House and Senate

1 Appropriations Committees, 15 days after the Governor has
2 submitted his budget to the General Assembly, a copy of the
3 budget request for the upcoming fiscal year which the board
4 previously submitted to the department.

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

16 Section 8. Regulatory powers of the board.

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

24 Section 9. Procedure, oaths and subpoenas.

25 (a) All actions of the board.--All actions of the board
26 shall be taken subject to the right of notice, hearing and
27 adjudication, and the right of appeal therefrom, in accordance
28 with the provisions in Title 2 of the Pennsylvania Consolidated
29 Statutes (relating to administrative law and procedure).

30 (b) Disciplinary proceedings.--All disciplinary proceedings

1 conducted by hearing examiners shall be conducted in accordance
2 with sections 901 through 905 of the act of October 15, 1975
3 (P.L.390, No.111), known as the Health Care Services Malpractice
4 Act.

5 (c) Subpoena power.--The board shall have the authority to
6 issue subpoenas, upon application of an attorney responsible for
7 representing the Commonwealth in disciplinary matters before the
8 board, for the purpose of investigating alleged violations of
9 the disciplinary provisions ~~and~~ administered by the board. The ←
10 board shall have the power to subpoena witnesses, to administer
11 oaths, to examine witnesses or to take testimony or compel the
12 production of books, records, papers and documents as it may
13 deem necessary or proper in and pertinent to any proceeding,
14 investigation or hearing held by it. Medical records may not be
15 subpoenaed without consent of the patient or without order of a
16 court of competent jurisdiction on a showing that the records
17 are reasonably necessary for the conduct of the investigation.
18 The court may impose such limitations on the scope of the
19 subpoena as are necessary to prevent unnecessary intrusion in
20 patient confidential information. The board is authorized to
21 apply to Commonwealth Court to enforce its subpoenas.

22 Section 10. Unauthorized practice of medicine and surgery.

23 No person other than a medical doctor shall engage in any of
24 the following conduct except as authorized or exempted in this
25 act:

- 26 (1) Practice medicine and surgery.
- 27 (2) Purport to practice medicine and surgery.
- 28 (3) Hold forth as authorized to practice medicine and
29 surgery through use of a title, including, but not
30 necessarily limited to, medical doctor, doctor of medicine,

1 doctor of medicine and surgery, doctor of a designated
2 disease, physician, physician of a designated disease, or any
3 abbreviation for the foregoing.

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

6 Section 11. Clinical clerks.

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

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

12 (2) Conduct a physical examination.

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

14 (b) Regulations.--A clinical clerk shall not perform a
15 medical service unless the performance of such by the clinical
16 clerk under the circumstances is consistent with the standards
17 of acceptable medical practice embraced by the medical doctor
18 community in this Commonwealth. The board shall promulgate
19 regulations which define the medical services those standards
20 permit a clinical clerk to perform and the circumstances under
21 which those standards permit a clinical clerk to perform a
22 medical service.

23 (c) Supervision.--A clinical clerk shall not perform a
24 medical service without the direct and immediate supervision of
25 the medical doctor members of the medical staff or residents at
26 the hospital in which the service is performed. The board shall
27 promulgate regulations which define the supervision required by
28 those standards.

29 (d) Drugs.--A clinical clerk shall not prescribe or dispense
30 drugs.

1 (e) Notes on patients' charts.--Notes made on a patient's
2 chart by a clinical clerk become official only when
3 countersigned by a medical doctor member of the hospital's
4 medical staff or resident beyond a first-year level of graduate
5 medical education at the hospital.

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

12 Section 12. Midwifery.

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

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

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

24 Section 13. Physician assistants.

25 (a) Authorized services.--A physician assistant may perform
26 a medical service delegated by an approved physician and as
27 approved by the appropriate board. An approved physician is a
28 physician identified in the writing required by subsection (e).

29 (b) Use of title.--A physician assistant may use the title
30 physician assistant or an appropriate abbreviation for that

1 title, such as "P.A.-C."

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

5 (d) Supervision.--A physician assistant shall not perform a
6 medical service without the supervision and personal direction
7 of an approved physician. The board shall promulgate regulations
8 which define the supervision and personal direction required by
9 those standards.

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

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

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

17 (3) Describes the nature and degree of supervision and
18 direction each named physician will provide the physician
19 assistant.

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

23 (5) Has been approved by the board as satisfying the
24 foregoing and as consistent with the restrictions contained
25 in or authorized by this section.

26 A physician assistant shall not assist a physician in a manner
27 not described in the agreement or without the nature and degree
28 of supervision and direction described in the agreement. The
29 physician designated as having primary responsibility for the
30 physician assistant shall not have primary responsibility for

1 more than two physician assistants.

2 (f) Drugs.--A physician assistant shall not independently
3 prescribe or dispense drugs. The board and the State Board of
4 Pharmacy shall jointly promulgate regulations which permit a
5 physician assistant to prescribe and dispense drugs at the
6 direction of a physician.

7 (g) Supervision.--A physician assistant may be employed by a
8 medical care facility under the supervision and direction of an
9 approved physician or group of such physicians, provided one of
10 those physicians is designated as having the primary
11 responsibility for supervising and directing the physician
12 assistant and provided that a physician assistant shall not be
13 responsible to more than three physicians.

14 (h) Reimbursement.--For reimbursement purposes a physician
15 assistant shall be an employee subject to the normal employer-
16 employee reimbursement procedures.

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

23 (j) Chiropractic practice.--Nothing in this act shall be
24 construed to allow physician assistants to practice
25 chiropractic.

26 (k) Other licenses or certificates.--Nothing in this section
27 or the regulations authorized by this section shall be construed
28 to prohibit a physician assistant who is licensed or certified
29 to practice another profession by a Commonwealth agency or board
30 from practicing within the scope of that license or certificate

1 or as otherwise authorized by law.

2 Section 14. Drugless therapist.

3 (a) Previous licensure.--A drugless therapist who has been
4 licensed previously by the board may continue to provide
5 drugless therapy in accordance with the regulations promulgated
6 by the board.

7 (b) Drugs.--A drugless therapist shall not prescribe or
8 dispense drugs.

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 drugless therapist who is licensed or certified to
12 practice another profession by a Commonwealth agency or board
13 from practicing within the scope of that license or certificate
14 or as otherwise authorized by law.

15 Section 15. Certified registered nurse practitioner.

16 (a) General rule.--A certified registered nurse practitioner
17 shall act in accordance with regulations authorized by this
18 section.

19 (b) Regulations.--The board and the State Board of Nurse
20 Examiners shall jointly promulgate regulations authorizing a
21 certified registered nurse practitioner to perform acts of
22 medical diagnoses and prescription of medical, therapeutic,
23 diagnostic or corrective measures.

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 certified registered nurse practitioner who is
27 licensed or certified to practice another profession by a
28 Commonwealth agency or board from practicing within the scope of
29 that license or certificate as otherwise authorized by law.

30 Section 16. Consultation.

1 A person authorized to practice medicine or surgery or
2 osteopathy without restriction by any other state may, upon
3 request by a medical doctor, provide consultation to the medical
4 doctor regarding the treatment of a patient under the care of
5 the medical doctor.

6 Section 17. Delegation of duties to health care ~~professional~~ <—
7 PRACTITIONER or technician. <—

8 (a) General rule.--A health care ~~professional~~ PRACTITIONER <—
9 or technician may perform a medical service if:

10 (1) The performance of the service was delegated by a
11 medical doctor.

12 (2) The delegation is consistent with the standards of
13 acceptable medical practice embraced by the medical doctor
14 community in this Commonwealth.

15 (3) The delegation is not prohibited by regulations
16 promulgated by the board.

17 (4) The delegation is not prohibited by statutes or
18 regulations relating to other licensed health care
19 ~~professionals~~ PRACTITIONERS. <—

20 (b) Regulations.--The board may promulgate regulations which
21 establish criteria pursuant to which a medical doctor may
22 delegate the performance of medical services, preclude a medical
23 doctor from delegating the performance of certain types of
24 medical services, or otherwise limit the ability of a medical
25 doctor to delegate medical services.

26 (c) Responsibility.--Nothing in this section shall be
27 construed to limit the medical doctor's responsibility for the
28 medical service delegated to the health care ~~professional~~ <—
29 PRACTITIONER or technician. <—

30 Section 18. Federal medical personnel.

1 Nothing in this act shall be construed to prohibit a medical
2 doctor in the medical service of the armed forces of the United
3 States, the United States Public Health Service or the Veterans'
4 Administration, or a Federal employee, from discharging official
5 duties.

6 Section 19. Osteopathic act.

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

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

15 Section 20. Other health care ~~professionals~~ PRACTITIONERS. <—

16 Nothing in this act shall be construed to prohibit a health
17 care ~~professional~~ PRACTITIONER from practicing that profession <—
18 within the scope of the health care ~~professional's~~ <—
19 PRACTITIONER'S license or certificate or as otherwise authorized <—
20 by the law, including using the title authorized by the
21 ~~professional's~~ PRACTITIONER'S licensing act. <—

22 Section 21. Acts outside nonmedical doctor license or
23 certificate.

24 (a) Medical doctor involvement.--In the event the law,
25 including this act, conditions a person's authorization to
26 perform one or more medical services upon medical doctor
27 involvement, and the person performs a covered service without
28 the required involvement, the person shall be deemed to have
29 acted outside the scope of the person's license or certificate.

30 (b) Included involvements.--The medical doctor involvement

1 referred to in subsection (a) shall include, but shall not
2 necessarily be limited to, any of the following:

- 3 (1) An order.
- 4 (2) Direction or supervision.
- 5 (3) Presence.
- 6 (4) Immediate availability.
- 7 (5) Referral.
- 8 (6) Consultation.

9 Section 22. Licenses and certificates; general qualification.

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

- 12 (1) License without restriction.
- 13 (2) License with restriction.
- 14 (3) Graduate license.
- 15 (4) Institutional license.
- 16 (5) Temporary license.
- 17 (6) Extraterritorial license.
- 18 (7) Midwife license.
- 19 (8) Physician assistant certificate.

20 (b) Qualifications.--The board shall not issue a license or
21 certificate to an applicant unless the applicant establishes
22 with evidence, verified by an affidavit or affirmation of the
23 applicant, that the applicant is of legal age, is of good moral
24 character and is not addicted to the intemperate use of alcohol
25 or the habitual use of narcotics or other habit-forming drugs,
26 and that the applicant has completed the educational
27 requirements prescribed by the board, and otherwise satisfies
28 the qualifications for the license or certificate contained in
29 or authorized by this act.

30 (c) Refusal.--The board may refuse to issue a license or

1 certificate to an applicant based upon a ground for such action
2 contained in section 41.

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

6 (e) Action on application.--The application, upon filing by
7 the applicant of the evidence required under subsection (b) and
8 the expiration of a period of 90 days, shall be deemed to meet
9 the requirements of this act and become effective, the license
10 or certificate shall be deemed issued, and the board shall take
11 no action against the applicant for practicing without a license
12 or certificate, unless within that period the application has
13 been disapproved by the board or proceedings have been initiated
14 against the applicant under this act.

15 Section 23. Standards for medical training facilities.

16 (a) General rule.--The educational qualifications for
17 acceptance as a matriculant in a medical college or other
18 medical training facility incorporated within this Commonwealth
19 and the curricula and training to be offered by such medical
20 colleges or other medical training facility shall meet the
21 requirements set by the board and any accrediting body which may
22 be recognized by the board.

23 (b) Duties of the board.--It shall be the duty of the board,
24 in its discretion, periodically to ascertain the character of
25 the instruction and the facilities possessed by each of the
26 medical colleges and other medical training facilities offering
27 or desiring to offer medical training in accordance with the
28 requirements of this act. It shall further be the duty of the
29 board, by inspection and otherwise, to ascertain the facilities
30 and qualifications of medical colleges and other medical

1 training facilities outside this Commonwealth, whose graduates
2 or trainees desire to obtain licensure, graduate medical
3 training or certification in this Commonwealth, provided further
4 that the board shall have the authority to refuse to license
5 graduates of any such medical institutions, colleges or
6 hospitals which in its judgment do not meet similar standards
7 for medical training and facilities as are required of medical
8 institutions in this Commonwealth. In enforcing this provision,
9 the board shall give due notice to any medical institution,
10 college or hospital upon which it has rendered a decision that
11 its training and facilities do not meet the standards required
12 by the board.

13 (c) Refusal of recognition.--In the event that the board
14 determines that a medical training facility has failed to
15 provide adequate facilities, curricula or training, the board
16 shall not recognize the education or degrees obtained from the
17 medical training facility during the period of inadequacy.

18 Section 24. Examinations.

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

21 (b) Proficiency in English language.--In addition to any
22 other examination required by this act or by regulation of the
23 board, applicants for a license or certificate, whose principal
24 language is other than English, may also be required to
25 demonstrate, by examination, proficiency in the English language
26 to any agency considered competent by the board.

27 (c) Authority to call in medical consultants.--For the
28 purpose of conducting all examinations, the board shall have the
29 privilege of calling to its aid medical consultants who shall be
30 compensated for their services at a reasonable rate in an amount

1 as determined, from time to time, by the board in addition to
2 all incurred expenses, IN ACCORDANCE WITH COMMONWEALTH
3 REGULATIONS. ←

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

14 Section 25. Licenses and certificates; biennial registration.

15 (a) Issuance of licenses and certificates.--All applicants
16 who have complied with the requirements of the board, and who
17 shall have passed a final examination, and who have otherwise
18 complied with the provisions of this act, shall receive from the
19 commissioner, or whoever exercises equivalent authority acting
20 for the board, a license or certificate entitling them to the
21 right to practice in this Commonwealth. Each such license or
22 certificate shall be duly recorded in the office of the board,
23 in a record to be properly kept for that purpose which shall be
24 open to public inspection and a certified copy of said record
25 shall be received as evidence in all courts in this Commonwealth
26 in the trial of any case.

27 (b) Renewals.--It shall be the duty of all persons now or
28 hereafter licensed or certified to be registered with the board
29 and, thereafter, to register in like manner at such intervals
30 and by such methods as the board shall determine by regulations,

1 but in no case shall such renewal period be longer than two
2 years. The form and method of such registration shall be
3 determined by the board.

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

7 (d) Evidence of registration.--Upon receiving a proper
8 application for such registration accompanied by the fee, if
9 any, above provided for, the board shall issue a certificate of
10 registration to the applicant. Said certificate together with
11 its renewals shall be good and sufficient evidence of
12 registration under the provisions of this act.

13 Section 26. Certification of license or certificate.

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

17 Section 27. Reciprocity or endorsement.

18 Reciprocity or endorsement may be established at the
19 discretion of the board. As used in this section, the term
20 "reciprocity" means the act of the board and a licensing
21 authority in another jurisdiction, each recognizing that the
22 requirements for a license or certificate in this Commonwealth
23 and in the other jurisdiction are equivalent, issuing a license
24 or certificate to an applicant who possesses a similar license
25 or certificate in the other jurisdiction. As used in this
26 section, the term "endorsement" means the issuance of a license
27 or certificate by the board to an applicant who does not meet
28 standard requirements, if the applicant has achieved cumulative
29 qualifications which are accepted by the board as being
30 equivalent to the standard requirements for the license or

1 certificate.

2 Section 28. License to practice medicine and surgery.

3 An individual is not qualified for a license to practice
4 medicine and surgery unless the individual has received an
5 academic degree in medicine and surgery from a medical college
6 and the individual satisfies the other qualifications for the
7 license contained in or authorized by this act.

8 Section 29. License without restriction.

9 (a) General rule.--A license without restriction empowers
10 the licensee to practice medicine and surgery without any
11 restriction or limitation.

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

16 (c) Graduates of unaccredited medical colleges.--No license
17 without restriction may be issued to a graduate of an
18 unaccredited medical college unless the applicant has completed
19 successfully as a resident three years of approved graduate
20 medical training, educational requirements prescribed by the
21 board and certification by the Educational Council for Foreign
22 Medical Graduates, or its successors.

23 (d) Examinations.--The board shall hold at least two
24 examinations for applicants for a license without restriction
25 each year. Special examinations may be designated by the board.
26 The examinations shall be held at such times and places as
27 designated by the board. In case of failure at any such
28 examination, the applicant shall have, after the expiration of
29 six months and within two years, the privilege of a second
30 examination by the board. In case of failure in a second

1 examination, or after the expiration of two years, the applicant
2 must thereafter successfully complete, as a resident, one year
3 of graduate medical training approved by the board, apply de
4 novo, and qualify under the conditions in existence at the time
5 of the application.

6 Section 30. License with restriction.

7 (a) General rule.--A license with restriction empowers the
8 licensee to practice medicine and surgery with such restrictions
9 or limitations as may be established by the board, including
10 restrictions in the scope of permitted practice, a requirement
11 that the applicant take one or more refresher educational
12 courses or mandated submission of medical care, counseling or
13 treatment.

14 (b) Prerequisite.--No license with restriction may be issued
15 unless the applicant has otherwise been issued, or is qualified
16 to be issued, a license without restriction in accordance with
17 this act.

18 (c) Disciplinary proceedings or voluntary request.--The
19 board may issue a license with restriction only upon completion
20 of disciplinary proceedings in accordance with this act or upon
21 a voluntary request of the applicant.

22 Section 31. Graduate license.

23 (a) General rule.--A graduate license empowers the licensee
24 to participate for a period of up to 12 consecutive months in
25 graduate medical training within the complex of the hospital to
26 which the licensee is assigned AND ANY SATELLITE FACILITY OR ←
27 OTHER TRAINING LOCATION UTILIZED IN THE GRADUATE TRAINING
28 PROGRAM.

29 (b) Requirements.--No graduate license may be issued unless
30 the applicant is a graduate of an accredited medical college or

1 an unaccredited medical college and has received a medical
2 degree. A graduate license may be issued to an applicant who
3 holds the equivalent of a license without restriction granted by
4 another state or territory of the United States or the Dominion
5 of Canada.

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

22 Section 32. Institutional license.

23 (a) General rule.--An institutional license empowers the
24 licensee to teach or practice medicine and surgery in one of the
25 medical colleges, affiliates or hospitals within this
26 Commonwealth.

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

29 (1) is a graduate of an unaccredited medical college who
30 has attained through professional growth and teaching

1 experience the status of teacher; or

2 (2) is not otherwise licensed to practice medicine and
3 surgery in this Commonwealth but has achieved outstanding
4 medical skills in a particular area of medicine and surgery
5 and wishes to practice, demonstrate or teach with those
6 outstanding medical skills.

7 (c) Determinations by the board.--The board shall issue an
8 institutional license VALID FOR NO MORE THAN THREE YEARS, AS THE ←
9 BOARD SHALL DETERMINE AND only when it determines that its
10 issuance is beneficial to the health, safety and welfare of the
11 general public of this Commonwealth. A person granted an
12 institutional license who subsequently desires to obtain a
13 license without restriction shall be required to meet all of the
14 requirements of such license as set forth in this act.

15 Section 33. Temporary license.

16 (a) General rule.--A temporary license empowers the licensee
17 to:

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

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

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

26 (c) Additional conditions.--The board may impose any
27 appropriate limitation in scope, duration or site of practice on
28 the temporary license. Temporary licensees shall be deemed
29 health care providers who conduct 50% or less of their health
30 care business or practice within this Commonwealth for the

1 purposes of the act of October 15, 1975 (P.L.390, No.111), known
2 as the Health Care Services Malpractice Act.

3 Section 34. Extraterritorial license.

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

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

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

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

17 (2) A certification by the authorized licensing body of
18 such state of the current license in the state of residence
19 and primary practice.

20 The exercise of the discretion of the board in granting such a
21 license will depend primarily upon the needs of patients in this
22 Commonwealth, the availability of medical care in the specific
23 area involved and whether the adjoining state of licensure
24 reciprocates by extending similar privileges to medical doctors
25 who reside and have their office of practice in this
26 Commonwealth. Such a license will be automatically revoked if
27 such medical doctor relocates the office of practice or
28 residence. A medical doctor granted such a license has the duty
29 to inform the board of any changes in practice which may in any
30 way affect the maintenance of the license.

1 Section 35. Nurse-midwife license.

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

8 (b) Requirements.--No nurse-midwife license will be issued
9 unless the applicant is a registered nurse licensed in this
10 Commonwealth. An applicant for a midwife license must have
11 completed an academic and clinical program of study in midwifery
12 which has been approved by the board or an accrediting body
13 recognized by the board.

14 Section 36. Physician assistant certificate.

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

19 (b) Requirements.--No physician assistant certificate may be
20 issued to the applicant unless the requirements set forth by
21 this act and such rules and regulations issued by the board are
22 met, including requirements for the physician assistant
23 certificate of training and educational programs which shall be
24 formulated by the board in accordance with such national
25 criteria as are established by national organizations or
26 societies as the board may accept.

27 (c) Criteria.--The board shall grant physician assistant
28 certificates to applicants who have fulfilled the following
29 criteria:

30 (1) Satisfactory performance on the proficiency

1 examination to the extent that a proficiency examination
2 exists.

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

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

7 (e) Description of manner of assistance.--The application
8 shall include a written request from the applicant's supervising
9 medical doctor who shall file with the board a description of
10 the manner in which the physician assistant will assist the
11 supervising medical doctor, which description shall be subject
12 to the approval of the board.

13 Section 37. Reporting of multiple licensure.

14 Any licensed medical doctor in this Commonwealth who is also
15 licensed to practice medicine and surgery in any other state,
16 territory or country shall report this information to the board
17 on the biennial registration application or within 90 days of
18 final disposition, whichever is sooner. Any disciplinary action
19 taken in other states must be reported to the board on the
20 biennial registration application. Multiple licensure will be
21 noted on the medical doctor's record and such state, territory
22 or country will be notified of any disciplinary actions taken
23 against said medical doctor in this Commonwealth.

24 Section 38. Injunctions against unlawful practice.

25 It shall be unlawful for any person to practice, or attempt
26 to offer to practice, medicine and surgery, as defined in this
27 act, without having at the time of so doing a valid, unexpired,
28 unrevoked and unsuspended license issued under this act. The
29 unlawful practice of medicine and surgery as defined in this act
30 may be enjoined by the courts on petition of the board or by the

1 commissioner. In any such proceeding it shall not be necessary
2 to show that any person is individually injured by the actions
3 complained of. If it is determined the respondent has engaged in
4 the unlawful practice of medicine and surgery, the court shall
5 enjoin him from so practicing unless and until he has been duly
6 licensed. Procedure in such cases shall be the same as in any
7 other injunction suit. The remedy by injunction hereby given is
8 in addition to any other civil or criminal prosecution and
9 punishment.

10 Section 39. Penalties.

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

22 (b) Civil penalties.--In addition to any other civil remedy
23 or criminal penalty provided for in this act, the board, by a
24 vote of the majority of the maximum number of the authorized
25 membership of the board as provided by law, or by a vote of the
26 majority of the duly qualified and confirmed membership or a
27 minimum of four members, whichever is greater, may levy a civil
28 penalty of up to \$1,000 on any current licensee who violates any
29 provision of this act or on any person who practices medicine or
30 other areas of practice regulated by the board without being

1 properly licensed or certificated to do so under this act. The
2 board shall levy this penalty only after affording the accused
3 party the opportunity for a hearing, as provided in Title 2 of
4 the Pennsylvania Consolidated Statutes (relating to
5 administrative law and procedure). The board shall, within six
6 months after the effective date of this act, adopt guidelines
7 setting forth the amounts and circumstances for which a fine may
8 be imposed. No fines may be imposed in accordance with this
9 subsection until the board has adopted the required guidelines.
10 Nothing in this subsection shall be construed to give the board
11 authority to impose a civil penalty upon any person licensed by
12 another licensing board when acting within the scope of practice
13 of that profession.

14 Section 40. Temporary and automatic suspensions.

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

1 case supporting the suspension. The licensee or certificate
2 holder whose license or certificate has been temporarily
3 suspended may be present at the preliminary hearing and may be
4 represented by counsel, cross-examine witnesses, inspect
5 physical evidence, call witnesses, offer evidence and testimony
6 and make a record of the proceedings. If it is determined that
7 there is not a prima facie case, the suspended license shall be
8 immediately restored. The temporary suspension shall remain in
9 effect until vacated by the board, but in no event longer than
10 180 days.

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

27 Section 41. Reasons for refusal, revocation, suspension or
28 other corrective actions against a licensee or
29 certificate holder.

30 The board shall have authority to impose disciplinary or

1 corrective measures on a ~~professional~~ PRACTITIONER for any or
2 all of the following reasons:

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

6 (2) Making misleading, deceptive, untrue or fraudulent
7 representations in the practice of the profession or
8 practicing fraud or deceit, either alone or as a conspirator
9 in obtaining a license, certification or registration, or in
10 obtaining admission to a medical college.

11 (3) Being convicted of a felony, a misdemeanor relating
12 to a health profession, or receiving probation without
13 verdict, disposition in lieu of trial or an accelerated
14 rehabilitative disposition in the disposition of felony
15 charges, in the courts of this Commonwealth, a Federal court
16 or a court of any other state, territory or country.

17 (4) Having a license or other authorization to practice
18 the profession revoked or suspended or having other
19 disciplinary action taken, or an application for a license or
20 other authorization refused, revoked or suspended by a proper
21 licensing authority of another state, territory or country,
22 or a branch of the Federal Government.

23 (5) Being unable to practice the profession with
24 reasonable skill and safety to patients by reason of illness,
25 addiction to drugs or alcohol, having been convicted of a
26 felonious act prohibited by the act of April 14, 1972
27 (P.L.233, No.64), known as The Controlled Substance, Drug,
28 Device and Cosmetic Act, or convicted of a felony relating to
29 a controlled substance in a court of law of the United States
30 or any other state, territory or country, or if he or she is

1 or shall become mentally incompetent. An applicant's
2 statement on the application declaring the absence of a
3 conviction shall be deemed satisfactory evidence of the
4 absence of a conviction unless the board has some evidence to
5 the contrary. In enforcing this paragraph, the board shall,
6 upon probable cause, have authority to compel a ~~professional~~ ←
7 PRACTITIONER to submit to a mental or physical examination by ←
8 physicians approved by the board. Failure of a ~~professional~~ ←
9 PRACTITIONER to submit to such examination when directed by ←
10 the board, unless such failure is due to circumstances beyond
11 his or her control, shall constitute an admission of the
12 allegations against him or her, consequent upon which a
13 default and final order may be entered without the taking of
14 testimony or presentation of evidence. A ~~professional~~ ←
15 PRACTITIONER affected under this paragraph shall at ←
16 reasonable intervals be afforded an opportunity to
17 demonstrate that he or she can resume a competent practice of
18 his or her profession with reasonable skill and safety to
19 patients.

20 (6) Violating a lawful regulation promulgated by the
21 board or violating a lawful order of the board previously
22 entered by the board in a disciplinary proceeding.

23 (7) Knowingly maintaining a professional connection or
24 association with any person who is in violation of this act
25 or regulations of the board or knowingly aiding, assisting,
26 procuring or advising any unlicensed person to practice a
27 profession contrary to this act, or regulations of the board.

28 (8) Being guilty of immoral or unprofessional conduct.
29 Unprofessional conduct shall include departure from or
30 failing to conform to an ethical or quality standard of the

1 profession.

2 (i) The ethical standards of a profession are those
3 ethical tenets which are embraced by the professional
4 community in this Commonwealth.

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

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

20 (10) Acting outside the scope of a license or
21 certificate.

22 Section 42. Types of corrective action.

23 (a) Authorized actions.--When the board is empowered to take
24 disciplinary or corrective action against a ~~professional~~ <—
25 PRACTITIONER under the provisions of this act or pursuant to <—
26 other statutory authority, the board may:

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

29 (2) Administer a public reprimand with or without
30 probation.

1 (3) Administer a private reprimand with or without
2 probation.

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

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

8 (6) Require the professional to take refresher
9 educational courses.

10 (7) Suspend enforcement of any suspension, other than
11 that imposed in accordance with section 41, or revocation and
12 place a ~~professional~~ PRACTITIONER on probation with the right ←
13 to vacate the probationary order from noncompliance.

14 (8) Impose a monetary penalty in accordance with this
15 act.

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

21 Section 43. Reinstatement of license, certificate or
22 registration.

23 Unless ordered to do so by Commonwealth Court or an ON appeal ←
24 therefrom, the board shall not reinstate the license,
25 certificate or registration of a person to practice medicine
26 pursuant to this act which has been revoked. Any person whose
27 license, certificate or registration has been revoked may apply
28 for reinstatement, after a period of at least five years, but
29 must meet all of the licensing qualifications of this act for
30 the license applied for, to include the examination requirement,

1 if he or she desires to practice at any time after such
2 revocation.

3 Section 44. Surrender of suspended or revoked license.

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

9 Section 45. Reestablishment.

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

14 Section 46. Severability.

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

20 Section 47. Repeals.

21 (a) Specific repeals.--Section 412 of the act of April 9,
22 1929 (P.L.177, No.175), know as The Administrative Code of 1929,
23 is repealed.

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

26 (b) General repeal.--All other acts and parts of acts are
27 repealed insofar as they are inconsistent with this act.

28 Section 48. Applicability of act.

29 (a) General rule.--The provisions of this act shall not
30 apply either directly or indirectly, by intent or purpose, to

1 affect the practice of:

2 (1) Chiropractic, as authorized by the act of August 10,
3 1951 (P.L.1182, No.264), known as the Chiropractic
4 Registration Act of 1951.

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

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

10 (4) Osteopathy, as authorized by the act of October 5,
11 1978 (P.L.1109, No.261), known as the Osteopathic Medical
12 Practice Act.

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

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

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

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

25 (9) Psychologists, as authorized by the act of March 23,
26 1972 (P.L.136, No.52), referred to as the Psychologists
27 License Act.

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

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

4 Section 49. Existing board.

5 The presently confirmed members of the State Board of Medical
6 Education and Licensure constituted under section 412 of the act
7 of April 9, 1929 (P.L.177, No.175), known as The Administrative
8 Code of 1929, as of December 31, 1985, shall continue to serve
9 as board members until their present terms of office expire and
10 a successor has been appointed and qualified, but no longer than
11 six months after the effective date of this act.

12 Section 50. Existing rules and regulations.

13 Each rule and regulation of the board in effect on December
14 31, 1985, not inconsistent with this act, shall remain in effect
15 after such date until repealed or amended by the board. Each fee
16 of the board in effect on December 31, 1985, and not
17 inconsistent with this act, shall remain in effect after such
18 date until repealed or amended by the board or the commissioner.

19 Section 51. Existing licenses, certificates and registrations.

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

28 Section 52. Effective date.

29 This act shall take effect January 1, 1986.