
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1158 Session of
1985

INTRODUCED BY BELL, OCTOBER 16, 1985

AS AMENDED ON THIRD CONSIDERATION, NOVEMBER 20, 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 practitioner." An individual, other than a
6 physician assistant, who is authorized to practice some
7 component of the healing arts by a license, permit, certificate
8 or registration issued by a Commonwealth licensing agency or
9 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 "Resident." A medical doctor who is participating in
12 graduate training.

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

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

28 Section 3. State Board of Medicine.

29 (a) Establishment.--The State Board of Medicine shall
30 consist of the commissioner, the Secretary of Health, two

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

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

19 (c) Quorum.--A majority of the members of the board serving
20 in accordance with law shall constitute a quorum for purposes of
21 conducting the business of the board. Except for temporary and
22 automatic suspensions under section 40, a member may not be
23 counted as part of a quorum or vote on any issue unless he or
24 she is physically in attendance at the meeting.

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

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

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

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

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

11 (h) Attendance at training seminars.--A public member who
12 fails to attend two consecutive statutorily mandated training
13 seminars in accordance with section 813(e) of the act of April
14 9, 1929 (P.L.177, No.175), known as The Administrative Code of
15 1929, shall forfeit his or her seat unless the commissioner,
16 upon written request from the public member, finds that the
17 public member should be excused from a meeting because of
18 illness or the death of a family member.

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

22 (j) Executive secretary.--The board, with the approval of
23 the commissioner, shall appoint and fix the compensation of an
24 executive secretary who shall be responsible for the day-to-day
25 operation of the board and administration of board activities.
26 Section 4. Impaired professionals.

27 (a) Appointment of Disciplinary Advisory Committee.--The
28 board, with the approval of the commissioner, shall appoint a
29 Disciplinary Advisory Committee composed of three medical
30 doctors, not members of the board, who shall be compensated at

1 the same rate as members of the board and who shall receive the
2 amount of reasonable traveling, hotel and other necessary
3 expenses incurred in the performance of their duties in
4 accordance with Commonwealth regulations.

5 (b) Recommendations involving potential disciplinary
6 actions.--The board may refer to the committee cases involving
7 potential disciplinary actions under this act. Upon such
8 referral, the committee shall review the case and make
9 recommendations to the board within such time as the board shall
10 designate; provided, that once the committee has accepted an
11 impaired professional in an approved treatment program in
12 accordance with this section, the committee may not thereafter
13 accept referral of a disciplinary case regarding that individual
14 from the board.

15 (c) Liaison.--The committee shall act as a liaison between
16 the board and treatment programs, such as alcohol and drug
17 treatment programs licensed by the Department of Health,
18 psychological counseling and impaired professional support
19 groups, which are approved by the board and which provide
20 services to licensees or certificate holders under this act.

21 (d) Review of corrective action by the board.--The board may
22 defer and ultimately dismiss any of the types of corrective
23 action set forth in this act for an impaired professional so
24 long as the professional is progressing satisfactorily in an
25 approved treatment program, provided that the provisions of this
26 subsection shall not apply to a professional convicted of a
27 felonious act prohibited by the act of April 14, 1972 (P.L.233,
28 No.64), known as The Controlled Substance, Drug, Device and
29 Cosmetic Act, or the conviction of a felony relating to a
30 controlled substance in a court of law of the United States or

1 any other state, territory or country. An approved program
2 provider shall, upon request, disclose to the Disciplinary
3 Advisory Committee all information in its possession regarding
4 an impaired professional in treatment.

5 (e) Voluntary suspension or limitation.--An impaired
6 professional who enrolls in an approved treatment program shall,
7 if necessary, agree to a limitation of his or her ability to
8 practice. Failure to do so disqualifies the professional from
9 the impaired professional program and shall activate an
10 immediate investigation and disciplinary proceeding by the
11 board.

12 (f) Failure to satisfactorily progress.--If, in the opinion
13 of the committee after consultation with the provider, an
14 impaired professional who is enrolled in an approved treatment
15 has not progressed satisfactorily, the committee shall disclose
16 to the board all information in its possession regarding the
17 professional; and such disclosure shall constitute the basis for
18 instituting proceedings to suspend or revoke the license or
19 certificate of said professional.

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

23 (h) Reports to the board.--Any hospital or health care
24 facility, peer or colleague who knows or has evidence to suspect
25 a professional has an addictive disease, is diverting a
26 controlled substance, or is mentally or physically incompetent
27 to carry out the duties of his or her license or certificate,
28 shall make, or cause to be made, a report to the board: Provided
29 that any person or facility who acts in a treatment capacity to
30 an impaired professional in an approved treatment program is

1 exempt from the mandatory reporting requirements of this
2 subsection. Any person or facility who reports pursuant to this
3 section in good faith and without malice shall be immune from
4 any civil or criminal liability arising from such report.
5 Failure to provide such report within a reasonable time from
6 receipt of knowledge of impairment shall subject the person or
7 facility to a fine not to exceed \$1,000. The board shall levy
8 this penalty only after affording the accused party the
9 opportunity for a hearing, as provided in Title 2 of the
10 Pennsylvania Consolidated Statutes (relating to administrative
11 law and procedure).

12 Section 5. Consultants.

13 The board shall establish consultant panels or use individual
14 consultants, as it deems appropriate, to assist it in carrying
15 out its responsibilities. The board may not delegate any of its
16 final decisionmaking responsibilities to a consultant or panel
17 of consultants.

18 Section 6. Fees, fines and civil penalties.

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

27 (b) Inadequate fees.--If the Bureau of Professional and
28 Occupational Affairs determines that the fees established by the
29 board under subsection (a) are inadequate to meet the minimum
30 enforcement efforts required by this act, then the bureau after

1 consultation with the board and subject to the Regulatory Review
2 Act, shall increase the fees by regulation in an amount that
3 adequate revenues are raised to meet the required enforcement
4 effort.

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

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

16 Section 7. Reports of the board.

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

21 (b) Reports to House and Senate Appropriations Committees.--
22 The board shall submit annually to the House and Senate
23 Appropriations Committees, 15 days after the Governor has
24 submitted his budget to the General Assembly, a copy of the
25 budget request for the upcoming fiscal year which the board
26 previously submitted to the department.

27 (c) Reports to other House and Senate committees.--The board
28 shall submit annually a report to the Professional Licensure
29 Committee of the House of Representatives and to the Consumer
30 Protection and Professional Licensure Committee of the Senate a

1 description of the types of complaints received, status of
2 cases, board action which has been taken and the length of time
3 from the initial complaint to final board resolution. The report
4 shall also include a statement of the numbers and types of
5 licenses granted and a statement on physician assistant use in
6 this Commonwealth, including geographic location and practice
7 settings.

8 Section 8. Regulatory powers of the board.

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

16 Section 9. Procedure, oaths and subpoenas.

17 (a) All actions of the board.--All actions of the board
18 shall be taken subject to the right of notice, hearing and
19 adjudication, and the right of appeal therefrom, in accordance
20 with the provisions in Title 2 of the Pennsylvania Consolidated
21 Statutes (relating to administrative law and procedure).

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

27 (c) Subpoena power.--The board shall have the authority to
28 issue subpoenas, upon application of an attorney responsible for
29 representing the Commonwealth in disciplinary matters before the
30 board, for the purpose of investigating alleged violations of

1 the disciplinary provisions administered by the board. The board
2 shall have the power to subpoena witnesses, to administer oaths,
3 to examine witnesses or to take testimony or compel the
4 production of books, records, papers and documents as it may
5 deem necessary or proper in and pertinent to any proceeding,
6 investigation or hearing held by it. Medical records may not be
7 subpoenaed without consent of the patient or without order of a
8 court of competent jurisdiction on a showing that the records
9 are reasonably necessary for the conduct of the investigation.
10 The court may impose such limitations on the scope of the
11 subpoena as are necessary to prevent unnecessary intrusion in
12 patient confidential information. The board is authorized to
13 apply to Commonwealth Court to enforce its subpoenas.

14 Section 10. Unauthorized practice of medicine and surgery.

15 No person other than a medical doctor shall engage in any of
16 the following conduct except as authorized or exempted in this
17 act:

18 (1) Practice medicine and surgery.

19 (2) Purport to practice medicine and surgery.

20 (3) Hold forth as authorized to practice medicine and
21 surgery through use of a title, including, but not
22 necessarily limited to, medical doctor, doctor of medicine,
23 doctor of medicine and surgery, doctor of a designated
24 disease, physician, physician of a designated disease, or any
25 abbreviation for the foregoing.

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

28 Section 11. Clinical clerks.

29 (a) Authorized services.--A clinical clerk may perform the
30 following services in a hospital to which the clerk is assigned,

1 provided the services are performed within the restrictions
2 contained in or authorized by this section:

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

4 (2) Conduct a physical examination.

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

6 (b) Regulations.--A clinical clerk shall not perform a
7 medical service unless the performance of such by the clinical
8 clerk under the circumstances is consistent with the standards
9 of acceptable medical practice embraced by the medical doctor
10 community in this Commonwealth. The board shall promulgate
11 regulations which define the medical services those standards
12 permit a clinical clerk to perform and the circumstances under
13 which those standards permit a clinical clerk to perform a
14 medical service.

15 (c) Supervision.--A clinical clerk shall not perform a
16 medical service without the direct and immediate supervision of
17 the medical doctor members of the medical staff or residents at
18 the hospital in which the service is performed. The board shall
19 promulgate regulations which define the supervision required by
20 those standards.

21 (d) Drugs.--A clinical clerk shall not prescribe or dispense
22 drugs.

23 (e) Notes on patients' charts.--Notes made on a patient's
24 chart by a clinical clerk become official only when
25 countersigned by a medical doctor member of the hospital's
26 medical staff or resident beyond a first-year level of graduate
27 medical education at the hospital.

28 (f) Other licenses or certificates.--Nothing in this section
29 or the regulations authorized by this section shall be construed
30 to prohibit a clinical clerk who is licensed or certified to

1 practice a profession by a Commonwealth agency or board from
2 practicing within the scope of that license or certificate or as
3 otherwise authorized by law.

4 Section 12. Midwifery.

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

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

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

16 Section 13. Physician assistants.

17 (a) Authorized services.--A physician assistant may perform
18 a medical service delegated by an approved physician and as
19 approved by the appropriate board. An approved physician is a
20 physician identified in the writing required by subsection (e).

21 (b) Use of title.--A physician assistant may use the title
22 physician assistant or an appropriate abbreviation for that
23 title, such as "P.A.-C."

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

27 (d) Supervision.--A physician assistant shall not perform a
28 medical service without the supervision and personal direction
29 of an approved physician. The board shall promulgate regulations
30 which define the supervision and personal direction required by

1 those standards.

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

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

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

9 (3) Describes the nature and degree of supervision and
10 direction each named physician will provide the physician
11 assistant.

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

15 (5) Has been approved by the board as satisfying the
16 foregoing and as consistent with the restrictions contained
17 in or authorized by this section.

18 A physician assistant shall not assist a physician in a manner
19 not described in the agreement or without the nature and degree
20 of supervision and direction described in the agreement. The
21 physician designated as having primary responsibility for the
22 physician assistant shall not have primary responsibility for
23 more than two physician assistants.

24 (f) Drugs.--A physician assistant shall not independently
25 prescribe or dispense drugs. The board and the State Board of
26 Pharmacy shall jointly promulgate regulations which permit a
27 physician assistant to prescribe and dispense drugs at the
28 direction of a physician.

29 (g) Supervision.--A physician assistant may be employed by a
30 medical care facility under the supervision and direction of an

1 approved physician or group of such physicians, provided one of
2 those physicians is designated as having the primary
3 responsibility for supervising and directing the physician
4 assistant and provided that a physician assistant shall not be
5 responsible to more than three physicians.

6 (h) Reimbursement.--For reimbursement purposes a physician
7 assistant shall be an employee subject to the normal employer-
8 employee reimbursement procedures.

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

15 (j) Chiropractic practice.--Nothing in this act shall be
16 construed to allow physician assistants to practice
17 chiropractic.

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

24 Section 14. Drugless therapist.

25 (a) Previous licensure.--A drugless therapist who has been
26 licensed previously by the board may continue to provide
27 drugless therapy in accordance with the regulations promulgated
28 by the board.

29 (b) Drugs.--A drugless therapist shall not prescribe or
30 dispense drugs.

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

7 Section 15. Certified registered nurse practitioner.

8 (a) General rule.--A certified registered nurse practitioner
9 shall act in accordance with regulations authorized by this
10 section.

11 (b) Regulations.--The board and the State Board of Nurse
12 Examiners shall jointly promulgate regulations authorizing a
13 certified registered nurse practitioner to perform acts of
14 medical diagnoses and prescription of medical, therapeutic,
15 diagnostic or corrective measures.

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

22 Section 16. Consultation.

23 A person authorized to practice medicine or surgery or
24 osteopathy without restriction by any other state may, upon
25 request by a medical doctor, provide consultation to the medical
26 doctor regarding the treatment of a patient under the care of
27 the medical doctor.

28 Section 17. Delegation of duties to health care practitioner or
29 technician.

30 (a) General rule.--A health care practitioner or technician

1 may perform a medical service if:

2 (1) The performance of the service was delegated by a
3 medical doctor.

4 (2) The delegation is consistent with the standards of
5 acceptable medical practice embraced by the medical doctor
6 community in this Commonwealth.

7 (3) The delegation is not prohibited by regulations
8 promulgated by the board.

9 (4) The delegation is not prohibited by statutes or
10 regulations relating to other licensed health care
11 practitioners.

12 (b) Regulations.--The board may promulgate regulations which
13 establish criteria pursuant to which a medical doctor may
14 delegate the performance of medical services, preclude a medical
15 doctor from delegating the performance of certain types of
16 medical services, or otherwise limit the ability of a medical
17 doctor to delegate medical services.

18 (c) Responsibility.--Nothing in this section shall be
19 construed to limit the medical doctor's responsibility for the
20 medical service delegated to the health care practitioner or
21 technician.

22 Section 18. Federal medical personnel.

23 Nothing in this act shall be construed to prohibit a medical
24 doctor in the medical service of the armed forces of the United
25 States, the United States Public Health Service or the Veterans'
26 Administration, or a Federal employee, from discharging official
27 duties.

28 Section 19. Osteopathic act.

29 (a) General rule.--Nothing in this act shall be construed to
30 prohibit a doctor of osteopathy from practicing osteopathic

1 medicine and surgery.

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

7 Section 20. Other health care practitioners.

8 Nothing in this act shall be construed to prohibit a health
9 care practitioner from practicing that profession within the
10 scope of the health care practitioner's license or certificate
11 or as otherwise authorized by the law, including using the title
12 authorized by the practitioner's licensing act.

13 Section 21. Acts outside nonmedical doctor license or
14 certificate.

15 (a) Medical doctor involvement.--In the event the law,
16 including this act, conditions a person's authorization to
17 perform one or more medical services upon medical doctor
18 involvement, and the person performs a covered service without
19 the required involvement, the person shall be deemed to have
20 acted outside the scope of the person's license or certificate.

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

- 24 (1) An order.
- 25 (2) Direction or supervision.
- 26 (3) Presence.
- 27 (4) Immediate availability.
- 28 (5) Referral.
- 29 (6) Consultation.

30 Section 22. Licenses and certificates; general qualification.

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

- 3 (1) License without restriction.
- 4 (2) License with restriction.
- 5 (3) Graduate license.
- 6 (4) Institutional license.
- 7 (5) Temporary license.
- 8 (6) Extraterritorial license.
- 9 (7) Midwife license.
- 10 (8) Physician assistant certificate.

11 (b) Qualifications.--The board shall not issue a license or
12 certificate to an applicant unless the applicant establishes
13 with evidence, verified by an affidavit or affirmation of the
14 applicant, that the applicant is of legal age, is of good moral
15 character and is not addicted to the intemperate use of alcohol
16 or the habitual use of narcotics or other habit-forming drugs,
17 and that the applicant has completed the educational
18 requirements prescribed by the board, and otherwise satisfies
19 the qualifications for the license or certificate contained in
20 or authorized by this act. THE BOARD SHALL NOT ISSUE A LICENSE <—

21 OR CERTIFICATE TO AN APPLICANT WHO HAS BEEN CONVICTED OF A
22 FELONY UNDER THE ACT OF APRIL 14, 1972 (P.L.233, NO.64), KNOWN
23 AS THE CONTROLLED SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT, OR
24 OF AN OFFENSE UNDER THE LAWS OF ANOTHER JURISDICTION WHICH IF
25 COMMITTED IN THIS COMMONWEALTH WOULD BE A FELONY UNDER THE
26 CONTROLLED SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT, UNLESS:

- 27 (1) AT LEAST TEN YEARS HAVE ELAPSED FROM THE DATE OF
28 CONVICTION;
- 29 (2) THE APPLICANT SATISFACTORILY DEMONSTRATES TO THE
30 BOARD THAT HE HAS MADE SIGNIFICANT PROGRESS IN PERSONAL

1 REHABILITATION SINCE THE CONVICTION SUCH THAT LICENSURE OF
2 THE APPLICANT SHOULD NOT BE EXPECTED TO CREATE A SUBSTANTIAL
3 RISK OF HARM TO THE HEALTH AND SAFETY OF HIS PATIENTS OR THE
4 PUBLIC OR A SUBSTANTIAL RISK OF FURTHER CRIMINAL VIOLATIONS;
5 AND

6 (3) THE APPLICANT OTHERWISE SATISFIES THE QUALIFICATIONS
7 CONTAINED IN OR AUTHORIZED BY THIS ACT.

8 AS USED IN THIS SECTION THE TERM "CONVICTED" SHALL INCLUDE A
9 JUDGMENT, AND ADMISSION OF GUILT OR A PLEA OF NOLO CONTENDERE.

10 (c) Refusal.--The board may refuse to issue a license or
11 certificate to an applicant based upon a ground for such action
12 contained in section 41.

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

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

25 Section 23. Standards for medical training facilities.

26 (a) General rule.--The educational qualifications for
27 acceptance as a matriculant in a medical college or other
28 medical training facility incorporated within this Commonwealth
29 and the curricula and training to be offered by such medical
30 colleges or other medical training facility shall meet the

1 requirements set by the board and any accrediting body which may
2 be recognized by the board.

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

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

28 Section 24. Examinations.

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

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

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

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

24 Section 25. Licenses and certificates; biennial registration.

25 (a) Issuance of licenses and certificates.--All applicants
26 who have complied with the requirements of the board, and who
27 shall have passed a final examination, and who have otherwise
28 complied with the provisions of this act, shall receive from the
29 commissioner, or whoever exercises equivalent authority acting
30 for the board, a license or certificate entitling them to the

1 right to practice in this Commonwealth. Each such license or
2 certificate shall be duly recorded in the office of the board,
3 in a record to be properly kept for that purpose which shall be
4 open to public inspection and a certified copy of said record
5 shall be received as evidence in all courts in this Commonwealth
6 in the trial of any case.

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

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

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

23 Section 26. Certification of license or certificate.

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

27 Section 27. Reciprocity or endorsement.

28 Reciprocity or endorsement may be established at the
29 discretion of the board. As used in this section, the term
30 "reciprocity" means the act of the board and a licensing

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

12 Section 28. License to practice medicine and surgery.

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

18 Section 29. License without restriction.

19 (a) General rule.--A license without restriction empowers
20 the licensee to practice medicine and surgery without any
21 restriction or limitation.

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

26 (c) Graduates of unaccredited medical colleges.--No license
27 without restriction may be issued to a graduate of an
28 unaccredited medical college unless the applicant has completed
29 successfully as a resident three years of approved graduate
30 medical training, educational requirements prescribed by the

1 board and certification by the Educational Council for Foreign
2 Medical Graduates, or its successors.

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

16 Section 30. License with restriction.

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

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

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

1 a voluntary request of the applicant.

2 Section 31. Graduate license.

3 (a) General rule.--A graduate license empowers the licensee
4 to participate for a period of up to 12 consecutive months in
5 graduate medical training within the complex of the hospital to
6 which the licensee is assigned and any satellite facility or
7 other training location utilized in the graduate training
8 program.

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

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

1 the general public of this Commonwealth.

2 Section 32. Institutional license.

3 (a) General rule.--An institutional license empowers the
4 licensee to teach or practice medicine and surgery in one of the
5 medical colleges, affiliates or hospitals within this
6 Commonwealth.

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

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

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

17 (c) Determinations by the board.--The board shall issue an
18 institutional license valid for no more than three years, as the
19 board shall determine and only when it determines that its
20 issuance is beneficial to the health, safety and welfare of the
21 general public of this Commonwealth. A person granted an
22 institutional license who subsequently desires to obtain a
23 license without restriction shall be required to meet all of the
24 requirements of such license as set forth in this act.

25 Section 33. Temporary license.

26 (a) General rule.--A temporary license empowers the licensee
27 to:

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

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

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

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

13 Section 34. Extraterritorial license.

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

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

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

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

27 (2) A certification by the authorized licensing body of
28 such state of the current license in the state of residence
29 and primary practice.

30 The exercise of the discretion of the board in granting such a

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

11 Section 35. Nurse-midwife license.

12 (a) General rule.--A nurse-midwife license empowers the
13 licensee to practice midwifery in this Commonwealth as provided
14 in this act. The board shall formulate and issue such rules and
15 regulations, from time to time, as may be necessary for the
16 examination, licensing and proper conduct of the practice of
17 midwifery.

18 (b) Requirements.--No nurse-midwife license will be issued
19 unless the applicant is a registered nurse licensed in this
20 Commonwealth. An applicant for a midwife license must have
21 completed an academic and clinical program of study in midwifery
22 which has been approved by the board or an accrediting body
23 recognized by the board.

24 Section 36. Physician assistant certificate.

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

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

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

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

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

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

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

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

23 Section 37. Reporting of multiple licensure.

24 Any licensed medical doctor in this Commonwealth who is also
25 licensed to practice medicine and surgery in any other state,
26 territory or country shall report this information to the board
27 on the biennial registration application or within 90 days of
28 final disposition, whichever is sooner. Any disciplinary action
29 taken in other states must be reported to the board on the
30 biennial registration application. Multiple licensure will be

1 noted on the medical doctor's record and such state, territory
2 or country will be notified of any disciplinary actions taken
3 against said medical doctor in this Commonwealth.

4 Section 38. Injunctions against unlawful practice.

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

20 Section 39. Penalties.

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

1 year, or both.

2 (b) Civil penalties.--In addition to any other civil remedy
3 or criminal penalty provided for in this act, the board, by a
4 vote of the majority of the maximum number of the authorized
5 membership of the board as provided by law, or by a vote of the
6 majority of the duly qualified and confirmed membership or a
7 minimum of four members, whichever is greater, may levy a civil
8 penalty of up to \$1,000 on any current licensee who violates any
9 provision of this act or on any person who practices medicine or
10 other areas of practice regulated by the board without being
11 properly licensed or certificated to do so under this act. The
12 board shall levy this penalty only after affording the accused
13 party the opportunity for a hearing, as provided in Title 2 of
14 the Pennsylvania Consolidated Statutes (relating to
15 administrative law and procedure). The board shall, within six
16 months after the effective date of this act, adopt guidelines
17 setting forth the amounts and circumstances for which a fine may
18 be imposed. No fines may be imposed in accordance with this
19 subsection until the board has adopted the required guidelines.
20 Nothing in this subsection shall be construed to give the board
21 authority to impose a civil penalty upon any person licensed by
22 another licensing board when acting within the scope of practice
23 of that profession.

24 Section 40. Temporary and automatic suspensions.

25 (a) Temporary suspensions.--A license or certificate issued
26 under this act may be temporarily suspended under circumstances
27 as determined by the board to be an immediate and clear danger
28 to the public health and safety. The board shall issue an order
29 to that effect without a hearing, but upon due notice, to the
30 licensee or certificate holder concerned at his or her last

1 known address, which shall include a written statement of all
2 allegations against the licensee or certificate holder. The
3 provisions of section 9 shall not apply to temporary suspension.
4 The board shall thereupon commence formal action to suspend,
5 revoke and restrict the license or certificate of the person
6 concerned as otherwise provided for in this act. All actions
7 shall be taken promptly and without delay. Within 30 days
8 following the issuance of an order temporarily suspending a
9 license, the board shall conduct or cause to be conducted, a
10 preliminary hearing to determine that there is a prima facie
11 case supporting the suspension. The licensee or certificate
12 holder whose license or certificate has been temporarily
13 suspended may be present at the preliminary hearing and may be
14 represented by counsel, cross-examine witnesses, inspect
15 physical evidence, call witnesses, offer evidence and testimony
16 and make a record of the proceedings. If it is determined that
17 there is not a prima facie case, the suspended license shall be
18 immediately restored. The temporary suspension shall remain in
19 effect until vacated by the board, but in no event longer than
20 180 days.

21 (b) Automatic suspensions.--A license or certificate issued
22 under this act shall automatically be suspended upon the legal
23 commitment to an institution of a licensee or certificate holder
24 because of mental incompetency from any cause upon filing with
25 the board a certified copy of such commitment, conviction of a
26 felony under the act of April 14, 1972 (P.L.233, No.64), known
27 as The Controlled Substance, Drug, Device and Cosmetic Act, or
28 conviction of an offense under the laws of another jurisdiction,
29 which if committed in this Commonwealth, would be a felony under
30 The Controlled Substance, Drug, Device and Cosmetic Act. As used

1 in this section the term "conviction" shall include a judgment,
2 an admission of guilt or a plea of nolo contendere. Automatic
3 suspension under this subsection shall not be stayed pending any
4 appeal of a conviction. Restoration of such license or
5 certificate shall be made as hereinafter provided in the case of
6 revocation or suspension of such license or certificate.

7 Section 41. Reasons for refusal, revocation, suspension or
8 other corrective actions against a licensee or
9 certificate holder.

10 The board shall have authority to impose disciplinary or
11 corrective measures on a practitioner for any or all of the
12 following reasons:

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

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

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

27 (4) Having a license or other authorization to practice
28 the profession revoked or suspended or having other
29 disciplinary action taken, or an application for a license or
30 other authorization refused, revoked or suspended by a proper

1 licensing authority of another state, territory or country,
2 or a branch of the Federal Government.

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

29 (6) Violating a lawful regulation promulgated by the
30 board or violating a lawful order of the board previously

1 entered by the board in a disciplinary proceeding.

2 (7) Knowingly maintaining a professional connection or
3 association with any person who is in violation of this act
4 or regulations of the board or knowingly aiding, assisting,
5 procuring or advising any unlicensed person to practice a
6 profession contrary to this act, or regulations of the board.

7 (8) Being guilty of immoral or unprofessional conduct.
8 Unprofessional conduct shall include departure from or
9 failing to conform to an ethical or quality standard of the
10 profession.

11 (i) The ethical standards of a profession are those
12 ethical tenets which are embraced by the professional
13 community in this Commonwealth.

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

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

28 (10) Acting outside the scope of a license or
29 certificate.

30 Section 42. Types of corrective action.

1 (a) Authorized actions.--When the board is empowered to take
2 disciplinary or corrective action against a practitioner under
3 the provisions of this act or pursuant to other statutory
4 authority, the board may:

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

7 (2) Administer a public reprimand with or without
8 probation.

9 (3) Administer a private reprimand with or without
10 probation.

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

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

16 (6) Require the professional to take refresher
17 educational courses.

18 (7) Suspend enforcement of any suspension, other than
19 that imposed in accordance with section 41, or revocation and
20 place a practitioner on probation with the right to vacate
21 the probationary order from noncompliance.

22 (8) Impose a monetary penalty in accordance with this
23 act.

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

29 Section 43. Reinstatement of license, certificate or
30 registration.

1 (A) IN GENERAL.--Unless ordered to do so by Commonwealth ←
2 Court or on appeal therefrom, the board shall not reinstate the
3 license, certificate or registration of a person to practice
4 medicine pursuant to this act which has been revoked. ~~Any~~ EXCEPT ←
5 AS PROVIDED IN SUBSECTION (B), ANY person whose license,
6 certificate or registration has been revoked may apply for
7 reinstatement, after a period of at least five years, but must
8 meet all of the licensing qualifications of this act for the
9 license applied for, to include the examination requirement, if
10 he or she desires to practice at any time after such revocation.

11 (B) REINSTATEMENT AFTER FELONY CONVICTION.--ANY PERSON WHOSE ←
12 LICENSE, CERTIFICATE OR REGISTRATION HAS BEEN SUSPENDED OR
13 REVOKED BECAUSE OF A FELONY CONVICTION UNDER THE ACT OF APRIL
14 14, 1972 (P.L.233, NO.64), KNOWN AS THE CONTROLLED SUBSTANCE,
15 DRUG, DEVICE AND COSMETIC ACT, OR SIMILAR LAW OF ANOTHER
16 JURISDICTION, MAY APPLY FOR REINSTATEMENT AFTER A PERIOD OF AT
17 LEAST TEN YEARS HAS ELAPSED FROM THE DATE OF CONVICTION. THE
18 BOARD MAY REINSTATE THE LICENSE IF THE BOARD IS SATISFIED THAT
19 THE PERSON HAS MADE SIGNIFICANT PROGRESS IN PERSONAL
20 REHABILITATION SINCE THE CONVICTION SUCH THAT HIS REINSTATEMENT
21 SHOULD NOT BE EXPECTED TO CREATE A SUBSTANTIAL RISK OF HARM TO
22 THE HEALTH AND SAFETY OF HIS PATIENTS OR THE PUBLIC OR A
23 SUBSTANTIAL RISK OF FURTHER CRIMINAL VIOLATIONS AND IF THE
24 PERSON MEETS ALL OTHER LICENSING QUALIFICATIONS OF THIS ACT.

25 Section 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 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 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 47. Repeals.

13 (a) Specific repeals.--Section 412 of the act of April 9,
14 1929 (P.L.177, No.175), know as The Administrative Code of 1929,
15 is repealed.

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

18 (b) General repeal.--All other acts and parts of acts are
19 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 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 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 51. Existing licenses, certificates and registrations.

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

20 Section 52. Effective date.

21 This act shall take effect January 1, 1986.