

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

The General Assembly finds and declares as follows:

(1) Home health care agencies are widely accepted by the general public because they allow people to age in place, maintain their independence and exercise decision making and personal choice.

(2) Pennsylvanians have the right to seek out the medical care they feel is most appropriate to meet their needs.

(3) Nationally, 72% of home health care services recipients on average are elderly. Pennsylvania has the second oldest population in the nation, which is projected to grow from 16% to 25% over the next 20 years.

(4) Pennsylvania's home health care agencies provided direct services in the homes of nearly 500,000 Pennsylvania residents in 1999 alone.

(5) It is expected that the need for home health care services by Pennsylvania residents will continue to increase in the coming years.

(6) Some Pennsylvanians have been denied access to home health care services because their out-of-State physicians are not authorized to write orders for the delivery of home health care services within Pennsylvania.

(7) It is in the best interest of all Pennsylvanians that the Commonwealth allow duly licensed out-of-State physicians to order home health care services to be delivered by licensed Pennsylvania agencies in the Commonwealth.

(Preamble added June 23, 2004, P.L.437, No.44)

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

Section 1. Short title.

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

Section 2. Definitions.

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

"Accredited medical college." An institution of higher learning which has been fully accredited, by any accrediting body recognized by the board, as an agency to provide courses in the art and science of medicine and surgery and empowered to grant academic degrees in medicine. Any accrediting bodies recognized by the board on the effective date of this act shall continue to serve in that capacity unless and until the board recognizes a successor.

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

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

"Athletic training services." The management and provision of care of injuries to a physically active person as defined in this act with the direction of a licensed physician. The term includes the rendering of emergency care, development of injury prevention programs and providing appropriate preventative and supporting devices for the physically active person. The term also includes the assessment, management, treatment, rehabilitation and reconditioning of the physically active person whose conditions are within the professional preparation and education of a certified athletic trainer. The term also includes the use of modalities such as mechanical stimulation, heat, cold, light, air, water, electricity, sound, massage and the use of therapeutic exercises, reconditioning exercise and fitness programs. Athletic training services shall not

include surgery, invasive procedures or prescription of any controlled substance. (Def. added Dec. 10, 2001, P.L.859, No.92)

"Board." The State Board of Medicine.

"Board regulated practitioner." A medical doctor, midwife, physician assistant, respiratory therapist, certified athletic trainer or drugless therapist or an applicant for a license or certificate the board may issue. (Def. amended July 4, 2008, P.L.580, No.45)

"Certified athletic trainer." A person who is certified to perform athletic training services by the State Board of Medicine or State Board of Osteopathic Medicine. (Def. added Dec. 10, 2001, P.L.859, No.92)

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

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

"Conviction." A judgment of guilt, an admission of guilt or a plea of nolo contendere.

"Direction." Supervision over the actions of a certified athletic trainer via referral by prescription to treat conditions for a physically active person from a licensed physician, dentist or podiatrist or written protocol approved by a supervising physician, dentist or podiatrist, except that the physical presence of the supervising physician, dentist or podiatrist is not required if the supervising physician, dentist or podiatrist is readily available for consultation by direct communication, radio, telephone, facsimile, telecommunications or via other electronic means. (Def. added Dec. 10, 2001, P.L.859, No.92)

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

"Extracorporeal circulation." The diversion of a patient's blood through a heart-lung machine or similar device that assumes the functions of the patient's heart, lungs, kidneys, liver or other organs. (Def. added June 11, 2008, P.L.154, No.19)

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

(1) accredited as graduate medical education by any accrediting body recognized by the board for the purpose of accrediting graduate medical education. Any accrediting bodies recognized by the board on the effective date of this act shall continue to serve in that capacity unless and until the board recognizes a successor; or

(2) provided by a hospital accredited by any accrediting body recognized by the board and is acceptable to an American specialty board towards the training it requires for the certification it issues in a medical specialty or subspecialty. Any accrediting bodies recognized by the board on the effective date of this act shall continue to serve in that capacity unless and until the board recognizes a successor.

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

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

"Home health care agency." An organization or part thereof licensed by the Department of Health under the act of July 19, 1979 (P.L.130, No.48), known as the Health Care Facilities Act, staffed and equipped to provide nursing and at least one therapeutic service to persons who are disabled, aged, injured or sick in their place of residence. The agency may also provide other health-related services to protect and maintain persons in their own home. (Def. added June 23, 2004, P.L.437, No.44)

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

"Legend drug." A drug:

(1) limited by the Federal Food, Drug and Cosmetic Act (52 Stat. 1040, 21 U.S.C. § 301 et seq.) to being dispensed by prescription; and

(2) the product label of which is required to contain the following statement: "CAUTION: FEDERAL LAW PROHIBITS DISPENSING WITHOUT A PRESCRIPTION."

(Def. added July 20, 2007, P.L.324, No.50)

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

(1) License without restriction.

(2) Interim limited license.

(3) Graduate license.

- (4) Institutional license.
- (5) Temporary license.
- (6) Extraterritorial license.

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

"Medical training facility." A medical college, hospital or other institution which provides courses in the art and science of medicine and surgery and related subjects for the purpose of enabling a matriculant to qualify for a license to practice medicine and surgery, graduate medical training, midwife certificate or physician assistant license. (Def. amended Dec. 9, 2002, P.L.1344, No.160)

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

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

"Perfusion." The functions necessary for the support, treatment, measurement or supplementation of the cardiovascular system or other organs, or a combination of those functions, and for ensuring the safe management of physiologic functions by monitoring and analyzing the parameters of the systems under the supervision of a physician licensed under this act or the act of October 5, 1978 (P.L.1109, No.261), known as the Osteopathic Medical Practice Act. (Def. added June 11, 2008, P.L.154, No.19)

"Perfusionist." An individual who is licensed to practice perfusion by the State Board of Medicine or the State Board of Osteopathic Medicine. (Def. added June 11, 2008, P.L.154, No.19)

"Physically active person." An individual who participates in organized, individual or team sports, athletic games or recreational sport activity. (Def. added Dec. 10, 2001, P.L.859, No.92)

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

"Physician assistant." An individual who is licensed as a physician assistant by the board. (Def. amended Dec. 9, 2002, P.L.1344, No.160)

"Referral." An order from a licensed physician, dentist or podiatrist to a certified athletic trainer for athletic training services. An order may be written or oral, except that an oral order must be reduced to writing within 72 hours of issuance. (Def. added Dec. 10, 2001, P.L.859, No.92)

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

"Respiratory care." A health care specialty employing evaluation, analysis, care and treatment of patients with cardiopulmonary disorders and related diseases. (Def. added July 2, 1993, P.L.424, No.60)

"Respiratory therapist." An individual who is licensed to practice respiratory care by the State Board of Medicine. (Def. amended July 4, 2008, P.L.580, No.45)

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

"Unaccredited medical college." An institution of higher learning which provides courses in the art and science of medicine and surgery and related subjects, is empowered to grant professional degrees in medicine, is not accredited by any accrediting body recognized by the board and is listed by the World Health Organization, its successors or assigns, or is otherwise recognized as a medical college by the country in which it is situated. Any accrediting bodies recognized by the board on the effective date of this act shall continue to serve in that capacity unless and until the board recognizes a successor.

"Ventricular assist device." A mechanical device used to partially or completely replace the function of a failing heart through connections to the heart and great vessels that may be located intracorporeally or extracorporeally. The term includes a device that is placed intravascularly or extravascularly and provides support through direct means or via counterpulsation. (Def. added June 11, 2008, P.L.154, No.19)

"Written protocol." A written agreement developed in conjunction with one or more supervising physicians which identifies and is signed by the supervising physician and the certified athletic trainer. It describes the manner and frequency in which the certified athletic trainer regularly communicates with the supervising physician. It includes standard operating procedures developed in agreement with the supervising physician and certified athletic trainer that the certified athletic trainer follows when not directly supervised on site by the supervising physician. (Def. added Dec. 10, 2001, P.L.859, No.92)

Compiler's Note: Section 8(a) of Act 45 of 2008, which amended section 2, provided that the State Board of Osteopathic Medicine and the State Board of Medicine shall jointly promulgate regulations to implement the amendment or addition of sections 2, 3(a) and (b), 8.1, 13.1 and 36.1 within 18 months of the effective date of section 8.

Section 3. State Board of Medicine.

(a) Establishment.--The State Board of Medicine shall consist of the commissioner or his designee, the

Secretary of Health or his designee, two members appointed by the Governor who shall be persons representing the public at large and seven members appointed by the Governor, six of whom shall be medical doctors with unrestricted licenses to practice medicine and surgery in this Commonwealth for five years immediately preceding their appointment and one who shall be a nurse midwife, physician assistant, certified registered nurse practitioner, respiratory therapist, certified athletic trainer or perfusionist licensed or certified under the laws of this Commonwealth. All professional and public members of the board shall be appointed by the Governor, with the advice and consent of a majority of the members elected to the Senate. ((a) amended July 4, 2008, P.L.580, No.45)

(b) Terms of office.--The term of each professional and public member of the board shall be four years or until his or her successor has been appointed and qualified, but not longer than six months beyond the four-year period. In the event that any of said members shall die or resign or otherwise become disqualified during his or her term, a successor shall be appointed in the same way and with the same qualifications and shall hold office for the unexpired term. No member shall be eligible for appointment to serve more than two consecutive terms. The Governor shall assure that nurse midwives, physician assistants, certified registered nurse practitioners, perfusionists and respiratory therapists are appointed to four-year terms on a rotating basis so that, of every four appointments to a four-year term, one is a nurse midwife, one is a physician assistant, one is a certified registered nurse practitioner and one is a respiratory therapist. ((b) amended July 4, 2008, P.L.580, No.45)

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

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

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

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

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

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

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

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

Compiler's Note: Section 8(a) of Act 45 of 2008, which amended section 3(a), provided that the State Board of Osteopathic Medicine and the State Board of Medicine shall jointly promulgate regulations to implement the amendment or addition of sections 2, 3(a) and (b), 8.1, 13.1 and 36.1 within 18 months of the effective date of section 8.

Compiler's Note: Section 3 of Act 87 of 1996 provided that section 3 is repealed insofar as it is inconsistent with Act 87.

Section 4. Impaired professionals.

(a) Consultants.--The board, with the approval of the commissioner, shall appoint and fix the compensation of a professional consultant who is a licensee of the board, or such other professional as the board may determine, with education and experience in the identification, treatment and rehabilitation of persons with physical or mental impairments. Such consultant shall be accountable to the board and shall act as a liaison between the board and treatment programs, such as alcohol and drug treatment programs licensed by the Department of Health, psychological counseling and impaired professional support groups, which are approved by the board and which provide services to licensees under this act.

(b) Eligibility and disclosure.--The board may defer and ultimately dismiss any of the types of

corrective action set forth in this act for an impaired professional so long as the professional is progressing satisfactorily in an approved treatment program, provided that the provisions of this subsection shall not apply to a professional convicted of a felonious act prohibited by the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, or convicted of a felony relating to a controlled substance in a court of law of the United States or any other state, territory or country. An approved program provider shall, upon request, disclose to the consultant such information in its possession regarding an impaired professional in treatment which the program provider is not prohibited from disclosing by an act of this Commonwealth, another state or the United States. Such requirement of disclosure by an approved program provider shall apply in the case of impaired professionals who enter into an agreement in accordance with this section, impaired professionals who are the subject of a board investigation or disciplinary proceeding and impaired professionals who voluntarily enter a treatment program other than under the provisions of this section but who fail to complete the program successfully or to adhere to an after-care plan developed by the program provider.

(c) Agreement with board.--An impaired professional who enrolls in an approved treatment program shall enter into an agreement with the board under which the professional's license shall be suspended or revoked, but enforcement of that suspension or a revocation may be stayed for the length of time the professional remains in the program and makes satisfactory progress, complies with the terms of the agreement and adheres to any limitations on his practice imposed by the board to protect the public. Failure to enter into such an agreement shall disqualify the professional from the impaired professional program and shall activate an immediate investigation and disciplinary proceeding by the board.

(d) Disciplinary action.--If, in the opinion of the consultant after consultation with the provider, an impaired professional who is enrolled in an approved treatment program has not progressed satisfactorily, the consultant shall disclose to the board all information in his possession regarding said professional, and the board shall institute proceedings to determine if the stay of the enforcement of the suspension or revocation of the impaired professional's license shall be vacated.

(e) Immunity.--An approved program provider who makes a disclosure pursuant to this section shall not be subject to civil liability for such disclosure or its consequences.

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

Section 5. Consultants.

The board, with the approval of the commissioner, may use consultants, as it deems appropriate, to assist it in carrying out its responsibilities. The board may not delegate any of its final decisionmaking responsibilities to a consultant or panel of consultants.

Section 6. Fees, fines and civil penalties.

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

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

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

(d) Charging of fees.--The board may charge a reasonable fee, as set by the board by regulation, for all

examinations, registrations, certificates, licensures or applications permitted by this act or the regulations thereunder.

Section 7. Reports of the board.

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

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

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

Section 8. Regulatory powers of the board.

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

Section 8.1. Jointly promulgated regulations.

The State Board of Medicine and the State Board of Osteopathic Medicine shall jointly promulgate regulations implementing sections 13.1 and 36.1, relating to the licensure and practice of respiratory therapists.

(8.1 added July 4, 2008, P.L.580, No.45)

Compiler's Note: Section 8.1 of Act 45 of 2008, which added section 8.1, provided that the State Board of Osteopathic Medicine and the State Board of Medicine shall jointly promulgate regulations to implement the amendment or addition of sections 2, 3(a) and (b), 8.1, 13.1 and 36.1 within 18 months of the effective date of section 8.

Section 9. Procedure, oaths and subpoenas.

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

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

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

(d) Reports to the board.--An attorney responsible for representing the Commonwealth in disciplinary matters before the board shall notify the board immediately upon receiving notification of an alleged violation of this act. The board shall maintain current records of all reports of alleged violations and periodically review the records for the purpose of determining that each alleged violation has been resolved in a timely manner.

Section 10. Unauthorized practice of medicine and surgery.

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

(1) Practice medicine and surgery.

(2) Purport to practice medicine and surgery.

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

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

Section 11. Clinical clerks.

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

- (1) Make notes on a patient's chart.
- (2) Conduct a physical examination.
- (3) Perform a medical procedure or laboratory test.

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

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

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

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

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

Section 12. Midwifery.

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

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

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

Section 13. Physician assistants.

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

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

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

(c.1) Except as limited by subsection (c.2), and in addition to existing authority, a physician assistant shall have authority to do all of the following, provided that the physician assistant is acting within the supervision and direction of the supervising physician:

- (1) Order durable medical equipment.
- (2) Issue oral orders to the extent permitted by a health care facility's bylaws, rules,

regulations or administrative policies and guidelines.

- (3) Order physical therapy and dietitian referrals.
- (4) Order respiratory and occupational therapy referrals.
- (5) Perform disability assessments for the program providing Temporary Assistance to

Needy Families (TANF).

(6) Issue homebound schooling certifications.

(7) Perform and sign the initial assessment of methadone treatment evaluations in accordance with Federal and

State law and regulations, provided that any order for methadone treatment shall be made only by a physician.

((c.1) added July 4, 2008, P.L.580, No.45)

(c.2) Nothing in this section shall be construed to:

(1) Supersede the authority of the Department of Health and the Department of Public Welfare to regulate the types

of health care professionals who are eligible for medical staff membership or clinical privileges.

(2) Restrict the authority of a health care facility to determine the scope of practice and supervision or other oversight requirements for health care professionals practicing within the facility.

((c.2) added July 4, 2008, P.L.580, No.45)

(d) Supervision.--A physician assistant shall not perform a medical service without the supervision and personal direction of an approved physician. The board shall promulgate regulations which define the supervision and personal direction required by the standards of acceptable medical practice embraced by the medical doctor community in this Commonwealth.

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

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

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

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

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

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

A physician assistant shall not assist a physician in a manner not described in the agreement or without the nature and degree of supervision and direction described in the agreement. There shall be no more than four physician assistants for whom a physician has responsibility or supervises pursuant to a written agreement at any time. In health care facilities licensed under the act of July 19, 1979 (P.L.130, No.48), known as the Health Care Facilities Act, a physician assistant shall be under the supervision and direction of a physician or physician group pursuant to a written agreement, provided that a physician supervises no more than four physician assistants at any time. A physician may apply for a waiver to employ or supervise more than four physician assistants at any time under this section for good cause, as determined by the board.

((e) amended July 20, 2007, P.L.314, No.46)

(f) Drugs.--A physician assistant shall not independently prescribe or dispense drugs. The board shall promulgate regulations which permit a physician assistant to prescribe and dispense drugs at the direction of a physician. The board shall request the comments and recommendations of the State Board of Pharmacy.

(g) Supervision.--A physician assistant may be employed by a health care facility licensed under the Health Care Facilities Act under the supervision and direction of an approved physician or group of such physicians, provided one of those physicians is designated as having the primary responsibility for supervising and directing the physician assistant. In health care facilities licensed under the Health Care Facilities Act, the attending physician of record for a particular patient shall act as the primary supervising physician for the physician assistant while that patient is under the care of the attending physician. ((g) amended July 20, 2007, P.L.314, No.46)

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

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

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

(k) Other licenses or certificates.--Nothing in this section or the regulations authorized by this section shall be construed to prohibit a physician assistant who is licensed or certified to practice another profession

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

Compiler's Note: Section 2 of Act 46 of 2007, which amended subsections (e) and (g), provided that the State Board of Medicine shall promulgate regulations to implement the amendment of subsections (e) and (g) within 18 months of the effective date of Act 46.

Section 13.1. Respiratory therapists.

(a) Qualifications.--An individual shall be eligible to apply for licensure as a respiratory therapist if that individual satisfies all of the following:

(1) Submits evidence satisfactory to the board, on forms approved by the board, that the applicant has met one or more of the following criteria:

(i) Has graduated from a respiratory care program approved by the Committee on Accreditation for Respiratory Care and passed the Certified Respiratory Therapist Examination as determined by the National Board for Respiratory Care.

(ii) Holds a valid license, certificate or registration as a respiratory therapist in another state, territory or the District of Columbia which has been issued based on requirements substantially similar to those required by the Commonwealth, including having successfully passed the entry level examination.

(2) Has paid a licensure fee as established by the board by regulation.

(3) Has proved to the satisfaction of the board that the individual is of good moral character and is not unfit or unable to practice as a respiratory therapist by reason of physical or mental impairment.

(a.1) License required.--It shall be unlawful for any individual to hold himself out to the public as a respiratory therapist or to practice or offer to practice respiratory therapy unless the individual holds a valid, current license issued by the board or the State Board of Osteopathic Medicine.

(a.2) Use of title.--It shall be unlawful for an individual to use the title of "licensed respiratory therapist" or to use the letters "LRT" or "RT" or to hold oneself out as a licensed respiratory therapist unless that individual is licensed to practice respiratory care as provided under this act or the act of October 5, 1978 (P.L.1109, No.261), known as the Osteopathic Medical Practice Act.

(b) Licensure without examination.--For a period of two years following the effective date of this act, an individual shall be eligible to apply for licensure without examination if the individual meets the qualifications for licensure under subsection (a) and holds valid certification as a respiratory care practitioner as issued by the board or the State Board of Osteopathic Medicine.

(c) Regulations.--The board is authorized to promulgate regulations to implement this section.

(d) Supervision and scope of practice.--A respiratory therapist licensed by the board may implement direct respiratory care to an individual being treated by either a licensed medical doctor or a licensed doctor of osteopathic medicine upon prescription or referral by a physician, certified registered nurse practitioner or physician assistant, or under medical direction and approval consistent with standing orders or protocols of an institution or health care facility. This care may constitute indirect services such as consultation or evaluation of an individual and also includes, but is not limited to, the following services:

(1) Administration of medical gases.

(2) Humidity and aerosol therapy.

(3) Administration of aerosolized medications.

(4) Intermittent positive pressure breathing.

(5) Incentive spirometry.

(6) Bronchopulmonary hygiene.

(7) Management and maintenance of natural airways.

(8) Maintenance and insertion of artificial airways.

(9) Cardiopulmonary rehabilitation.

(10) Management and maintenance of mechanical ventilation.

(11) Measurement of ventilatory flows, volumes and pressures.

(12) Analysis of ventilatory gases and blood gases.

(e) Exemptions.--This section shall not prevent or restrict the practices, services or activities of:

(1) A person licensed or certified in this Commonwealth to provide another health care service, including, but not limited to, physicians, physical therapists, chiropractors, nurses, dentists, physician assistants and podiatrists.

(2) A person rendering respiratory care services pursuant to employment by a Federal agency.

(3) A person pursuing a course of study leading to a degree or certificate in respiratory

care in an accredited educational program, if he is clearly designated as a student and provides care under supervision implemented through that program.

(4) A person executing or conveying medical orders pursuant to lawful delegation by a physician.

(5) A person who, pursuant to lawful delegation by a physician, delivers, installs, monitors or maintains a device which enables an individual to self-administer respiratory care.

(6) A person qualified by academic and clinical education to operate extracorporeal circulation equipment in a medical or surgical setting which requires support to or the temporary replacement of a patient's circulatory or respiratory functions.

(f) Referrals to State Board of Osteopathic Medicine.--Information or allegations filed with the board against a respiratory therapist licensed by the State Board of Osteopathic Medicine shall be referred to that board for appropriate action.

(13.1 amended July 4, 2008, P.L.580, No.45)

Compiler's Note: Section 13(a) of Act 45 of 2008, which amended section 13.1, provided that the State Board of Osteopathic Medicine and the State Board of Medicine shall jointly promulgate regulations to implement the amendment or addition of sections 2, 3(a) and (b), 8.1, 13.1 and 36.1 within 18 months of the effective date of section 8. Section 13(b) of Act 45 provided that the State Board of Medicine, the Department of Public Welfare and the Department of Health shall promulgate regulations to implement the addition of section 13(c.1) and (c.2) within 18 months of the effective date of section 8.

Section 13.2. Graduate physician assistant.

(a) Practice.--Graduates of a physician assistant program recognized by the board may register with the board and practice only under direct supervision of a physician until licensed by a process recognized by the board. Practice under this section shall be limited to the period between graduation and receipt of the results of the first examination after graduation offered by an examination agency in accordance with section 24. If the person applying for licensure fails the examination, the authority to practice under this section shall expire.

(b) Use of title.--The title "graduate physician assistant" or the abbreviation "GPA" shall be used until licensure is obtained.

(c) Drugs.--A graduate physician assistant shall not be permitted to prescribe or dispense drugs at the direction of a physician until licensure has been completed.

(13.2 amended Dec. 9, 2002, P.L.1344, No.160)

Section 13.3. Perfusionist.

(a) License required.--Two years after the effective date of this section, it shall be unlawful for any person to hold himself out to the public as a perfusionist or to practice or offer to practice perfusion unless the person holds a valid, current license issued by the board or the State Board of Osteopathic Medicine.

(b) Use of title.--A perfusionist who holds a valid, current license issued by either board may use the title perfusionist or licensed perfusionist or an appropriate abbreviation of the title, such as "LP."

(c) Regulations.--The board is authorized to promulgate regulations to implement this section.

(d) Supervision and scope of practice.--A perfusionist may perform perfusion on an individual being treated by a physician licensed under this act or the act of October 5, 1978 (P.L.1109, No.261), known as the Osteopathic Medical Practice Act under medical supervision and approval consistent with standing orders or protocols of a hospital that are promulgated and approved by the physician designated as the medical director of the cardiovascular surgery program. These services shall include:

(1) The use of extracorporeal circulation, long-term cardiopulmonary support techniques, including extracorporeal carbon dioxide removal, extracorporeal membrane oxygenation and associated therapeutic and diagnostic techniques.

(2) Counterpulsion, ventricular assistance, autotransfusion, blood and blood component conservation techniques, myocardial and organ preservation, extracorporeal life support and isolated limb perfusion.

(3) Blood and blood component management techniques, advanced life support and other related functions.

(4) In the performance of the acts described in paragraphs (1), (2) and (3):

(i) The administration of:

(A) Pharmacological and therapeutic agents.

(B) Blood products or anesthetic agents through the extracorporeal circuit or through an intravenous line in conjunction with extracorporeal

support, under the supervision of the treating physician.

(ii) The performance and use of:

- (A) Anticoagulation monitoring and analysis.
- (B) Physiologic monitoring and analysis.
- (C) Blood gas and chemistry monitoring and analysis.
- (D) Hematologic monitoring and analysis.

(E) Hypothermia.

(F) Hyperthermia.

(G) Normothermia.

(H) Hemoconcentration and hemodilution.

(I) Hemodialysis in conjunction with perfusion service.

(iii) The observation of signs and symptoms related to perfusion services, the determination of whether the signs and symptoms exhibit abnormal characteristics and the implementation of appropriate reporting, perfusion protocols or changes in or the initiation of emergency procedures.

(e) Exemptions.--The following persons may perform perfusion, as indicated:

(1) A person licensed under any other section of this act or any other law of this Commonwealth while engaging in the practice for which the person is licensed.

(2) A student enrolled in an accredited perfusion education program if perfusion performed by the student:

(i) is an integral part of the student's course of study; and

(ii) is performed under the direct supervision of a perfusionist who is assigned to supervise the student and who is on duty and immediately available in the assigned patient care area.

(3) A graduate of an accredited perfusion education program if perfusion services:

(i) are necessary to fulfill the eligibility requirements for a certification examination; and

(ii) are performed under the supervision and responsibility of a perfusionist who is on duty and assigned to supervise the graduate.

(4) A legally qualified person employed by the Federal Government to practice perfusion while in the discharge of the person's official duties.

(5) For a ventricular assist device under investigative trials by the United States Food and Drug Administration or approved by the United States Food and Drug Administration solely as a ventricular assist device, a person who:

(i) has satisfactorily completed specific ventricular assist device training in a course provided by the ventricular assist device manufacturer; and

(ii) provides care related to the ventricular assist device under the supervision of a licensed physician.

(6) A person who performs autotransfusion or blood conservation techniques under the supervision of a licensed physician.

(7) A person who:

(i) is trained according to the extracorporeal membrane oxygenation specialist guidelines of the Extracorporeal Life Support Organization; and

(ii) operates an extracorporeal membrane oxygenation circuit under the supervision of a licensed physician.

(f) Qualifications.--An applicant shall be licensed to practice perfusion under this act if the applicant meets all of the following qualifications and has otherwise complied with the provisions of this act:

(1) The person is at least 18 years of age.

(2) The person is of good moral character.

(3) The person has graduated from an accredited perfusion program approved by the board.

(4) The person is certified by a certifying agency approved by a nationally recognized accrediting agency approved by the board. The certification shall include an examination approved by the board.

(5) The person has completed an application form provided by the board and paid the appropriate fee.

(g) Certain certified persons not graduates of accredited programs.--Within two years of the effective date of this section, an applicant who was not a graduate of an accredited program prior to 1981, but met the

then-current eligibility requirements for certification as a certified clinical perfusionist and subsequently was certified, shall be licensed as a perfusionist if the applicant otherwise complies with the provisions of this act.

(h) Temporary graduate license to practice perfusion.--

(1) The board may issue a temporary graduate license to practice perfusion to an individual who has graduated from an educational program that complies with the education requirements of this act. All of the following shall apply:

(i) The individual has applied for the examination and is eligible to take the required examination.

(ii) The individual's authorization to practice perfusion is granted only under the supervision and direction of a perfusionist licensed under this act.

(iii) The license shall be issued for a period of two years and shall be nonrenewable.

(iv) The license shall expire immediately upon notice that the individual has failed the required examination under this act.

(2) (Reserved).

(i) Temporary provisional license to practice perfusion.--

(1) The board may issue a temporary provisional license to practice perfusion if all the following requirements are met:

(i) The individual holds a current license which is in good standing under the laws of another state, the District of Columbia or a territory of the United States, which includes certification by a certifying agency approved by a nationally recognized accrediting agency.

(ii) The individual meets the requirements as set forth in subsection (f)(1), (2) and (3).

(2) The license shall be issued for a period of one year and shall be nonrenewable.

(j) Temporary emergency exemption.--

(1) An individual who holds a current license as a perfusionist in another state, the District of Columbia or a territory of the United States or has obtained national certification may provide a one-time emergency perfusionist service in this Commonwealth without first obtaining a license from the board if:

(i) Prior to the out-of-State perfusionist performing the emergency perfusionist services in this Commonwealth, the out-of-State perfusionist submits by electronic means and on forms approved by the board, notification of emergency practice which shall include an acknowledgment that the out-of-State perfusionist is subject to the jurisdiction of the board in the same manner as if the out-of-State perfusionist were licensed by the board.

(ii) The health care facility licensed by the Department of Health certifies to the board, by electronic means and on forms approved by the board, prior to the out-of-State perfusionist performing the emergency perfusionist services in this Commonwealth that all of the following apply:

(A) The emergency perfusionist services were provided for a patient of the health care facility.

(B) The perfusionist licensed by the board and retained by the health care facility that would normally perform the emergency perfusionist services was not available or incapable of providing the perfusionist services.

(C) No other perfusionist licensed by the board was available to provide or capable of providing the emergency perfusion service.

(D) The out-of-State perfusionist provided only the emergency perfusionist services for the patient of the health care facility and no other perfusionist services at the health care facility.

(2) The out-of-State perfusionist shall obtain a license from the board if a health care facility licensed by the Department of Health retains the perfusionist or if the perfusionist provides any future perfusionist services.

(3) The out-of-State perfusionist shall not perform any other perfusionist services other than the emergency perfusionist services.

(k) Professional liability.--

(1) A licensed perfusionist practicing in this Commonwealth shall maintain a level of professional liability insurance coverage in the minimum amount of \$1,000,000 per occurrence or claims made. Failure to maintain insurance coverage as required shall subject the licensee to

disciplinary proceedings. The board shall accept from perfusionists as satisfactory evidence of insurance coverage any of the following:

- (i) self-insurance;
- (ii) personally purchased liability insurance; or
- (iii) professional liability insurance coverage provided by the perfusionist's employer or similar insurance coverage acceptable to the board.

(2) A license applicant shall provide proof that the applicant has obtained professional liability insurance in accordance with paragraph (1). It is sufficient if the applicant files with the application a copy of a letter from the applicant's professional liability insurance carrier indicating that the applicant will be covered against professional liability in the required amounts effective upon the issuance of the applicant's license to practice perfusion in this Commonwealth. Upon issuance of the license, the licensee has 30 days to submit to the board the certificate of insurance or a copy of the policy declaration page.

(l) Licensure fees.--All application and licensure fees shall be set by the board by regulation.

(m) Reciprocal disciplinary action.--Disciplinary action taken by the State Board of Medicine against a perfusionist licensed by it shall be enforceable by the State Board of Osteopathic Medicine against that same individual if the individual holds or seeks a license to practice as a perfusionist with the State Board of Osteopathic Medicine.

(n) Continuing education.--

(1) The board shall adopt, promulgate and enforce rules and regulations consistent with the provisions of this act establishing requirements of continuing education to be met by individuals licensed as perfusionists under this act as a condition for renewal of their licenses. The regulations shall include any fees necessary for the board to carry out its responsibilities under this section.

(2) Beginning with the license period designated by regulation, licensees shall be required to attend and complete 30 hours of mandatory continuing education during each two-year license period. Nationally certified education courses shall be considered as creditable, in addition to any other courses the board deems creditable toward meeting the requirements for continuing education.

(3) An individual applying for the first time for licensure in this Commonwealth shall be exempted from the continuing education requirements for the biennial renewal period following initial licensure.

(4) (i) The board may waive all or a portion of the continuing education requirement for biennial renewal for a licensee who shows to the satisfaction of the board that the licensee was unable to complete the requirements due to serious illness, military service or other demonstrated hardship.

(ii) The request shall be made in writing with appropriate documentation and shall include a description of circumstances sufficient to show why the licensee is unable to comply with the continuing education requirement.

(5) A licensee seeking to reinstate an inactive or lapsed license shall show proof of compliance with the continuing education requirement for the preceding biennium.

(6) All courses, locations, instructors and providers shall be approved by the board. No credit shall be given for any course in office management.

(13.3 added June 11, 2008, P.L.154, No.19)

Compiler's Note: Section 4 of Act 19 of 2008, which added section 13.3, provided that the State Board of Medicine shall promulgate regulations to carry out the provisions of Act 19 within 18 months of the effective date of section 4.

Section 14. Drugless therapist.

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

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

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

Section 15. Certified registered nurse practitioner. (15 repealed Dec. 9, 2002, P.L.1567, No.206)

Section 16. Consultation.

A person authorized to practice medicine or surgery or osteopathy without restriction by any other state may, upon request by a medical doctor, provide consultation to the medical doctor regarding the treatment of

a patient under the care of the medical doctor.

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

(a) General rule.--A medical doctor may delegate to a health care practitioner or technician the performance of a medical service if:

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

(2) The delegation is not prohibited by regulations promulgated by the board.

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

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

(c) Responsibility.--A medical doctor shall be responsible for the medical services delegated to the health care practitioner or technician in accordance with subsections (a) and (b). A medical doctor's responsibility for the medical service delegated to the health care practitioner or technician is not limited by any provisions of this section.

Section 18. Federal medical personnel.

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

Section 19. Osteopathic act.

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

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

Section 20. Other health care practitioners.

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

Section 21. Acts outside nonmedical doctor license or certificate.

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

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

(1) An order.

(2) Direction or supervision.

(3) Presence.

(4) Immediate availability.

(5) Referral.

(6) Consultation.

(c) Limitation on providing services.--Nothing herein shall be construed as authorizing a health care practitioner or technician to perform any medical service which is not within the scope of that person's practice, as defined by the practitioner's licensing act under which that person is licensed, certificated or registered.

Section 22. Licenses and certificates; general qualification.

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

(1) License without restriction.

(2) Interim limited license.

(3) Graduate license.

(4) Institutional license.

(5) Temporary license.

(6) Extraterritorial license.

(7) Midwife license.

(8) Physician assistant license.

(b) Qualifications.--The board shall not issue a license or certificate to an applicant unless the applicant establishes with evidence, verified by an affidavit or affirmation of the applicant, that the applicant is of legal age, is of good moral character and is not addicted to the intemperate use of alcohol or the habitual use of narcotics or other habit-forming drugs and that the applicant has completed the educational requirements prescribed by the board and otherwise satisfies the qualifications for the license or certificate contained in or authorized by this act. The board shall not issue a license or certificate to an applicant who has been convicted of a felony under the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, or of an offense under the laws of another jurisdiction which, if committed in this Commonwealth, would be a felony under The Controlled Substance, Drug, Device and Cosmetic Act, unless:

- (1) at least ten years have elapsed from the date of conviction;
- (2) the applicant satisfactorily demonstrates to the board that he has made significant progress in personal rehabilitation since the conviction such that licensure of the applicant should not be expected to create a substantial risk of harm to the health and safety of his patients or the public or a substantial risk of further criminal violations; and
- (3) the applicant otherwise satisfies the qualifications contained in or authorized by this act.

As used in this section the term "convicted" shall include a judgment, an admission of guilt or a plea of nolo contendere.

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

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

(22 amended Dec. 9, 2002, P.L.1344, No.160)

Section 23. Standards for medical training facilities.

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

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

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

Section 24. Examinations.

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

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

(c) Third-party testing.--All written, oral and practical examinations shall be prepared and administered by a qualified and approved professional testing organization in the manner prescribed for written examinations by the provisions of section 812.1 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929.

(d) Examining agency.--When the board accepts an examination given by an examining agency, the board may establish the criteria for passing, or may accept the criteria for passing, established by the examining agency. If the examination is offered in parts, the board may establish, by regulation, a time period in which the entire examination must be successfully completed. The board may establish, by

regulation, a maximum number of examination attempts it will recognize for the purpose of receiving a passing score on an examination recognized but not given by the board.

Section 25. Licenses and certificates; biennial registration.

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

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

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

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

Section 26. Certification of license or certificate.

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

Section 27. Reciprocity or endorsement.

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

Section 28. License to practice medicine and surgery.

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

Section 29. License without restriction.

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

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

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

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

Section 30. Interim limited license.

(a) General rule.--An interim limited license empowers the licensee to provide medical service other than at the training location of the licensee's approved graduate training program for a period of up to 12 consecutive months.

(b) Requirements.--No interim limited license may be issued unless the applicant is a graduate of an

accredited medical college and holds a valid graduate license, has successfully completed one full year of approved graduate training, has received the written approval of the director of the graduate training program and is in compliance with applicable regulations of the board.

(c) Extensions.--The board, upon application when such action is warranted, may extend the validity of an interim limited license for a period of up to 12 additional consecutive months, but in no event shall the extension be for a greater period of time.

Section 31. Graduate license.

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

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

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

Section 32. Institutional license.

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

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

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

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

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

Section 33. Temporary license.

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

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

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

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

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

Section 34. Extraterritorial license.

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

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

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

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

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

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

Section 35. Nurse-midwife license.

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

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

(c) Authorization.--

(1) A nurse-midwife is authorized to practice midwifery pursuant to a collaborative agreement with a physician and regulations promulgated by the board.

(2) A nurse-midwife who possesses a master's degree or its substantial equivalent and national certification may prescribe, dispense, order and administer drugs, including legend drugs and Schedule II through Schedule V controlled substances, as defined in the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, provided that the nurse-midwife demonstrates to the board that:

(i) The nurse-midwife has successfully completed at least 45 hours of coursework specific to advanced pharmacology at a level above that required by a professional nursing education program.

(ii) As a condition of biennial license renewal by the board, a nurse-midwife shall complete the continuing education requirement as required by the act of May 22, 1951 (P.L.317, No.69), known as The Professional Nursing Law. In case of a nurse-midwife who has prescriptive authority under this act, the continuing education required by The Professional Nursing Law shall include at least 16 hours in pharmacology in that two-year period.

(iii) The nurse-midwife acts in accordance with a collaborative agreement with a physician which shall at a minimum identify the categories of drugs from which the nurse-midwife may prescribe or dispense and the drugs which require referral, consultation or comanagement.

(iv) The nurse-midwife acts in accordance with the following restrictions:

(A) A nurse-midwife shall not prescribe, dispense, order or administer a controlled substance except for a woman's acute pain. In the case of a Schedule II controlled substance, the dose shall be limited to 72 hours and shall not be extended except with the approval of the collaborating physician. In the case of a Schedule III or IV controlled substance, the prescription shall be limited to 30 days and shall only be refilled with the approval of the collaborating physician.

(B) A nurse-midwife shall prescribe, dispense, order or administer psychotropic drugs only after consulting with the collaborating physician.

(3) A nurse-midwife may, in accordance with a collaborative agreement with a physician and consistent with the nurse-midwife's academic educational preparation and national certification, prescribe, dispense, order and administer:

(i) Medical devices.

(ii) Immunizing agents.

(iii) Laboratory tests.

(iv) Therapeutic, diagnostic and preventative measures.

((c) added July 20, 2007, P.L.324, No.50)

(d) Collaborative agreements.--The physician with whom a nurse-midwife has a collaborative

agreement shall have hospital clinical privileges in the specialty area of the care for which the physician is providing collaborative services. ((d) added July 20, 2007, P.L.324, No.50)

Compiler's Note: Section 3 of Act 50 of 2007, which added subsections (c) and (d), provided that the State Board of Medicine shall promulgate regulations to implement subsections (c) and (d) within 12 months of the effective date of Act 50. The board shall report every three months on the status of the regulations to the Consumer Protection and Professional Licensure Committee of the Senate and the Professional Licensure Committee of the House of Representatives.

Section 36. Physician assistant license.

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

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

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

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

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

(3) For candidates for initial licensure after January 1, 2004, obtainment of a baccalaureate or higher degree from a college or university and completion of not less than 60 clock hours of didactic instruction in pharmacology or other related courses as the board may approve by regulation.

(d) Biennial renewal.--A physician assistant license shall be subject to biennial renewal by the board. As part of biennial renewal, a physician assistant shall complete continuing medical education as required by the National Commission on Certification of Physician Assistants.

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

(f) Professional liability.--

(1) A licensed physician assistant in this Commonwealth shall maintain a level of professional liability insurance coverage in the minimum amount of \$1,000,000 per occurrence or claims made. Failure to maintain insurance coverage as required shall subject the licensee to disciplinary proceedings. The board shall accept from physician assistants as satisfactory evidence of insurance coverage any of the following:

(i) self-insurance;

(ii) personally purchased liability insurance; or

(iii) professional liability insurance coverage provided by the physician assistant's employer or similar insurance coverage acceptable to the board.

(2) A license applicant shall provide proof that the applicant has obtained professional liability insurance in accordance with paragraph (1). It is sufficient if the applicant files with the application a copy of a letter from the applicant's professional liability insurance carrier indicating that the applicant will be covered against professional liability in the required amounts effective upon the issuance of the applicant's license to practice as a physician assistant in this Commonwealth. Upon issuance of the license, the licensee has 30 days to submit to the board the certificate of insurance or a copy of the policy declaration page.

(36 amended July 4, 2008, P.L.580, No.45)

Section 36.1. Respiratory therapist licenses and permits.

(a) General rule.--A respiratory therapist license issued by the board empowers the holder to practice respiratory care under the supervision of a licensed medical doctor or a licensed doctor of osteopathic medicine. In a health care facility, that supervision may consist of standing orders or protocols approved by the institution, consistent with acceptable and prevailing medical standards, which may include services

rendered directly to the patient in his home or other residence.

(b) Temporary permits.--The board shall issue temporary permits for the practice of respiratory care to individuals who have applied for licensure from the board and who meet any of the following requirements:

(1) Graduation from an accredited respiratory care training program recognized by the board.

(2) Enrollment in an accredited respiratory care training program recognized by the board, if the individual is expected to graduate within 30 days from the date of application.

(3) Recognition as a credentialed respiratory therapist as approved by the board.

(c) Duration and effect of temporary permits.--Temporary permits shall be valid for a period of 12 months and for such additional period as the board may, in each case, specially determine, except that a temporary permit shall expire if the holder fails the examination. An appropriate fee for a temporary permit shall be established by the board by regulation. If the temporary permit holder is not in violation of any other provision of this act, a holder of a temporary permit qualifies for admission to the examination and shall apply for the next regularly scheduled licensure examination administered by the board. The board is authorized to promulgate regulations to establish procedures for application, credentials verification, examination and licensure, together with appropriate fees.

(d) Examination.--Pursuant to section 812.1 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, the board shall contract for the development and administration of an examination for the licensure of respiratory therapists. The examination shall be given at least twice per year.

(e) Biennial renewal.--A respiratory therapist license shall be renewed biennially upon application on a form prescribed by the board and upon payment of a renewal fee adopted by the board by regulation.

(f) Continuing education.--

(1) The board shall adopt, promulgate and enforce rules and regulations consistent with the provisions of this act establishing requirements of continuing education to be met by individuals holding licensure as respiratory therapists under this act as a condition of biennial license renewal. The regulations shall include any fees necessary for the board to carry out its responsibilities under this section.

(2) Beginning with the first biennial license renewal period following promulgation of regulations, license holders shall be required to attend and complete 30 hours of mandatory continuing education during each two-year license period. At least one credit hour shall be in ethics, and one credit hour shall be in patient safety.

(3) An individual applying for the first time for licensure in this Commonwealth shall be exempted from the continuing education requirement for the biennial renewal period in which licensure is obtained.

(4) The board shall, by regulation, provide for the waiver of continuing education requirements in case of illness, hardship and armed services duties. A request for waiver shall be evaluated on a case-by-case basis.

(5) A licensee seeking to reinstate an inactive or lapsed license shall show proof of compliance with the continuing education requirement for the preceding biennium.

(6) All courses, locations, instructors and providers shall be approved by the board. No credit shall be given for any course in office management or practice building.

(36.1 amended July 4, 2008, P.L.580, No.45)

Compiler's Note: Section 8(a) of Act 45 of 2008, which amended section 36.1, provided that the State Board of Osteopathic Medicine and the State Board of Medicine shall jointly promulgate regulations to implement the amendment or addition of sections 2, 3(a) and (b), 8.1, 13.1 and 36.1 within 18 months of the effective date of section 8.

Section 36.2. Home health care services ordered by physicians.

(a) General rule.--A home health care agency may deliver home health care services to a patient who resides in this Commonwealth based upon an order from a physician from another state who meets all of the following requirements:

(1) Holds a license in good standing conferred by the medical board or other medical licensing authority in another state, as shown by a photocopy or facsimile of the physician's valid license submitted to the home health care agency, and available upon request by the board or the department.

(2) Prescribes home health care services pursuant to an in-person physical examination of the patient performed within the jurisdictional boundaries of the state in which the physician is licensed.

(b) Duties of referring physician from another state.--A referring physician from another state shall ask

the patient if the patient has a primary care physician in this Commonwealth. If so, the referring physician shall contact the primary care physician and obtain the concurrence of that individual for ordering home health care services. The referring physician shall make a notation of such contact in the patient's medical record.

(36.2 added June 23, 2004, P.L.437, No.44)

Section 37. Reporting of multiple licensure.

Any licensed medical doctor in this Commonwealth who is also licensed to practice medicine and surgery in any other state, territory, possession or country and any other board-regulated practitioner who is licensed or certificated to practice shall report this information to the board on the biennial registration application. Any disciplinary action taken in such other jurisdiction shall be reported to the board on the biennial registration application or within 90 days of final disposition, whichever is sooner. Multiple licensure shall be noted by the board on the board-regulated practitioner's record, and such state, territory, possession or country shall be notified by the board of any disciplinary actions taken against said board-regulated practitioner in this Commonwealth.

Section 38. Injunctions against unlawful practice.

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

Section 39. Penalties.

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

(b) Civil penalties.--In addition to any other civil remedy or criminal penalty provided for in this act, the board, by a vote of the majority of the maximum number of the authorized membership of the board as provided by law, or by a vote of the majority of the duly qualified and confirmed membership or a minimum of five members, whichever is greater, may levy a civil penalty of up to \$1,000 on any current licensee who violates any provision of this act or on any person who practices medicine and surgery or other areas of practice requiring a license, certificate or registration from the board without being properly licensed, certificated or registered to do so under this act. The board shall levy this penalty only after affording the accused party the opportunity for a hearing, as provided in Title 2 of the Pennsylvania Consolidated Statutes (relating to administrative law and procedure).

Section 40. Temporary and automatic suspensions.

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

board, but in no event longer than 180 days.

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

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

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

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

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

(3) Being convicted of a felony or being convicted of a misdemeanor relating to a health profession or receiving probation without verdict, disposition in lieu of trial or an Accelerated Rehabilitative Disposition in the disposition of felony charges, in the courts of this Commonwealth, a Federal court or a court of any other state, territory or country. ((3) amended May 6, 1987, P.L.8, No.2)

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

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

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

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

(8) Being guilty of immoral or unprofessional conduct. Unprofessional conduct shall include departure from or failing to conform to an ethical or quality standard of the profession. In proceedings based on this paragraph, actual injury to a patient need not be established.

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

(ii) A practitioner departs from, or fails to conform to, a quality standard of the profession when the practitioner provides a medical service at a level beneath the accepted standard of care. The board may promulgate regulations which define the accepted standard of care. In the event the board has not promulgated an applicable regulation, the accepted standard of care for a practitioner is that which would be normally exercised by the average professional

of the same kind in this Commonwealth under the circumstances, including locality and whether the practitioner is or purports to be a specialist in the area.

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

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

(11) Making a false or deceptive biennial registration with the board.

Section 42. Types of corrective action.

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

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

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

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

(4) Require the board-regulated practitioner to submit to the care, counseling or treatment of a physician or a psychologist designated by the board.

(5) Require the board-regulated practitioner to take refresher educational courses.

(6) Stay enforcement of any suspension, other than that imposed in accordance with section 40, and place a board-regulated practitioner on probation with the right to vacate the probationary order for noncompliance.

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

(b) Failure to comply with conditions.--Failure of a board-regulated practitioner to comply with conditions set forth by the board shall be grounds for reconsideration of the matter and institution of formal charges against the board-regulated practitioner.

Section 43. Reinstatement of license, certificate or registration.

(a) In general.--Unless ordered to do so by Commonwealth Court or on appeal therefrom, the board shall not reinstate the license, certificate or registration of a person to practice medicine and surgery or other areas of practice requiring a license, certificate or registration from the board pursuant to this act which has been revoked. Except as provided in subsection (b), any person whose license, certificate or registration has been revoked may apply for reinstatement, after a period of at least five years, but must meet all of the licensing qualifications of this act for the license applied for, to include the examination requirement, if he or she desires to practice at any time after such revocation.

(b) Reinstatement after felony conviction.--Any person whose license, certificate or registration has been suspended or revoked because of a felony conviction under the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, or similar law of another jurisdiction, may apply for reinstatement after a period of at least ten years has elapsed from the date of conviction. The board may reinstate the license if the board is satisfied that the person has made significant progress in personal rehabilitation since the conviction such that his reinstatement should not be expected to create a substantial risk of harm to the health and safety of his patients or the public or a substantial risk of further criminal violations and if the person meets all other licensing qualifications of this act, including the examination requirement.

Section 44. Surrender of suspended or revoked license, certificate or registration.

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

Section 45. Radiologic procedures; education and training required.

(a) Supervision.--On and after January 1, 1988, no auxiliary personnel shall perform radiologic procedures on the premises of a medical doctor unless such person is under the direct supervision of a medical doctor and unless such person has passed an examination approved by the board and administered in accordance with section 812.1 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, provided that no such auxiliary personnel shall perform radiologic procedures for therapeutic purposes unless the medical doctor under whose direct supervision such auxiliary personnel is acting is on the premises at the time the radiologic procedures are performed.

(b) Exclusion.--The board shall have the authority, after notice and hearing, to prohibit an auxiliary personnel from performing radiologic procedures if the continued performance of radiologic procedures by the auxiliary personnel is determined by the board to pose a threat to the health, safety or welfare of the public.

(c) Penalty.--It shall be unlawful under this act to knowingly permit radiologic procedures to be

performed in violation of this section or in violation of the regulations promulgated or orders issued in accordance with this section.

(d) Education and testing.--No auxiliary personnel who has or obtains a license, certificate or registration issued by, or on behalf of, a board within the Bureau of Professional and Occupational Affairs or a comparable board of another state, or who has obtained certification as the result of satisfactory completion of a test and an educational course accredited by an accrediting body recognized by the board, shall be required to undergo any additional education or testing pursuant to this section if radiologic procedures were included in the education or the examination which he or she was required to complete successfully in order to be eligible for such license, certificate, registration or certification.

(e) Definition.--As used in this section, the term "radiologic procedures" means the use of ionizing radiation for diagnostic or therapeutic purposes.

(45 amended May 6, 1987, P.L.8, No.2)

Section 46. Reestablishment.

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

Section 47. Severability.

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

Section 48. Repeals.

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

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

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

Section 49. Applicability of act.

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

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

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

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

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

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

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

(7) Podiatry, as authorized by the act of March 2, 1956 (1955 P.L.1206, No.375), known as the Podiatry Act of 1956.

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

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

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

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

Section 50. Existing board.

The presently confirmed members of the State Board of Medical Education and Licensure constituted under section 412 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, as of December 31, 1985, shall continue to serve as board members until their present terms of office expire, provided that any present board member whose term has expired on or before the effective date of this act shall serve until a successor has been appointed and qualified, but no longer than six months after the

effective date of this act.

Section 51. Existing rules and regulations.

Each rule and regulation of the board in effect on December 31, 1985, not inconsistent with this act, shall remain in effect after such date until repealed or amended by the board, provided that the board shall immediately initiate the repeal or amendment of any rule or regulation which is inconsistent with the provisions of this act. Each fee of the board in effect on December 31, 1985, and not inconsistent with this act, shall remain in effect after such date until repealed or amended in accordance with the provisions of this act.

Section 51.1. Athletic trainers.

(a) General rule.--An athletic trainer certified by the board may, under the direction of a physician, podiatrist or dentist, provide athletic training services to a physically active person under the care of a physician, dentist or podiatrist. An athletic trainer certified under this section shall refer a physically active person with conditions outside the scope of athletic training services to a physician, dentist or podiatrist.

(b) Temporary certifications.--Any athletic trainer who holds a valid certificate issued by the State Board of Physical Therapy under the act of October 10, 1975 (P.L.383, No.110), known as the Physical Therapy Practice Act, relating to the practice of athletic training, prior to the effective date of this act shall, on and after the effective date hereof, be deemed to be certified by the State Board of Medicine or State Board of Osteopathic Medicine as provided for in this act.

(c) Certification, title and limitation on practice.--An athletic trainer who meets the requirements of this section shall be certified, may use the title "athletic trainer" or the abbreviation for the title, "A.T.C.," and may perform athletic training services. A person who is not certified under this section may not use the designation of certified athletic trainer, athletic trainer or any of the listed abbreviations for that title, including "C.A.T." or "A.T.C.," or any similar designation. This section shall not prohibit any person trained and licensed or certified under any other law from engaging in the licensed or certified practice in which the person is trained.

(d) Regulations.--The State Board of Medicine and the State Board of Osteopathic Medicine shall jointly promulgate regulations which:

- (1) establish approved education and training programs for certification; and
- (2) define the circumstances and protocol under which a certified athletic trainer may perform athletic training services.

Until such regulations are promulgated by the State Board of Medicine and the State Board of Osteopathic Medicine, the athletic trainer shall be regulated by the regulations, duly promulgated by the State Board of Physical Therapy prior to the enactment of this amendatory act governing the activities of certified athletic trainers, which are not inconsistent with this act.

(e) Doctors of Osteopathic Medicine.--Notwithstanding any provision of the act of October 5, 1978 (P.L.1109, No.261), known as the Osteopathic Medical Practice Act, to the contrary, doctors of osteopathic medicine may supervise and direct the activities of athletic trainers to the same extent as physicians regulated by this act.

(f) Jurisdiction.--The State Board of Medicine shall be responsible for the certification of athletic trainers. Jurisdiction will be determined by the type of physician who supervises and directs the certified athletic trainer. Certified athletic trainers supervised by physicians regulated by the Medical Practice Act of 1985 shall fall within the jurisdiction of the State Board of Medicine.

(51.1 added Dec. 10, 2001, P.L.859, No.92)

Compiler's Note: Section 4 of Act 92 of 2001, which added section 51.1, provided that the practice of athletic training shall not include the practice of physical therapy as defined by the act of October 10, 1975 (P.L.383, No.110), known as the Physical Therapy Practice Act; however, that exclusion shall not operate to prohibit the rendering of athletic training service as defined in Act 110.

Section 52. Existing licenses, certificates and registrations.

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

Section 53. Effective date.

This act shall take effect as follows:

- (1) For the purposes of determining if applicants have satisfactorily completed the

approved graduate medical training required for eligibility to receive a license without restriction, applicants who are participating in a residency program on or before June 30, 1987, shall be subject to the provisions of the act of July 20, 1974 (P.L.551, No.190), known as the Medical Practice Act of 1974.

(2) This act shall take effect January 1, 1986, or immediately, whichever is later.

APPENDIX

Supplementary Provisions of Amendatory Statutes

1993, JULY 2, P.L.424, NO.60

The General Assembly finds and declares that the practice of respiratory care in this Commonwealth affects the public health, safety and welfare and is to be subject to regulation and control in the public interest to protect the public from the unauthorized and unqualified practice of respiratory care and from unprofessional conduct by persons certified to practice respiratory care.

Compiler's Note: Act 60 amended or added sections 2, 3, 13.1 and 36.1 of Act 112.