

No. 1978-79

AN ACT

SB 586

Amending the act of July 20, 1974 (P.L.551, No.190), entitled "An act relating to the right to practice medicine and surgery in the Commonwealth of Pennsylvania; and establishing means and methods whereby the right to practice medicine and surgery and any of its branches and limited right to practice medically related acts may be obtained, and exemptions therefrom; imposing powers and duties on the State Board of Medical Education and Licensure; providing for appropriation of board fees to carry out the provisions thereof, and for the granting, revocation and suspension of licenses; providing penalties for violations; and making repeals," further regulating the practice of medicine and surgery, imposing certain duties and providing penalties.

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

Section 1. Section 2, act of July 20, 1974 (P.L.551, No.190), known as the "Medical Practice Act of 1974," is amended by adding definitions to read:

Section 2. Definitions.—As used in this act, the following terms shall have the following meanings ascribed to them in this section unless the context clearly determines otherwise:

* * *

(11) "Certification." *The approval of individuals by the board to serve as physician assistants. It shall also mean the approval of programs by the board for the training and education of physician assistants.*

(12) "Medical care facility." *A general, tuberculosis, mental, chronic disease or other type of hospital, an ambulatory clinic or center, a health maintenance organization, institution and corporation medical departments and centers, student health centers, a physical rehabilitation facility, a skilled or intermediate care nursing facility, a radiology laboratory, a renal dialysis center, a diagnostic center, a home health care agency, or a clinical laboratory, regardless of whether such medical care facility is for profit, nonprofit or governmental; or a program affiliated with a medical care facility which renders treatment or care for drug or alcohol abuse or dependence; or other settings where medical care and services are rendered.*

(13) "Physician assistant." *A person certified by the board to assist a physician or group of physicians in the provision of medical care and services and under the supervision and direction of the physician or group of physicians.*

(14) "Physician assistant to a primary care physician." *A person certified by the board to assist a physician or group of physicians engaged in primary care.*

(15) "Proficiency examination." *An examination approved by the board for the national certification of physician assistants, including those*

examinations, approved for such purpose by the National Commission on Certification of Physician Assistants.

Section 2. Section 3 of the act is amended to read:

Section 3. Practice of Medicine and Surgery without License Prohibited; Penalties.—It shall be unlawful for any person in the Commonwealth to engage in the practice of medicine and surgery, or pretend to a knowledge of any branch or branches of medicine and surgery, or to hold himself or herself forth as a practitioner in medicine and surgery, or to assume the title of doctor of medicine and surgery or doctor of any specific disease, or to diagnose diseases, or to treat diseases by the use of medicines and surgery as defined in clause (3) of section 2 of this act or by any other means, or to sign any death certificate, unless otherwise authorized by law or to hold himself or herself forth as able to do so, excepting those hereinafter exempted, unless he or she has first fulfilled the requirements of this act and has received a certificate of licensure or permission from the board, which license shall be properly recorded in the office of the board. Acts of medical diagnosis or prescription of medical therapeutic or corrective measures may be performed by persons licensed pursuant to the act of May 22, 1951 (P.L.317, No.69), known as "The Professional Nursing Law," if authorized by rules and regulations jointly promulgated by the board and the State Board of Nurse Examiners. ***Nothing in this act shall be construed to prohibit services and acts rendered by a qualified physician assistant, technician or other allied medical person if such services and acts are rendered under the supervision, direction or control of a licensed physician. It shall be unlawful for any person to practice as a physician assistant unless certified and approved by the board. It shall also be unlawful for any physician assistant to render medical care and services except under the supervision and direction of the supervising physician.*** The aborting of a pregnancy shall be considered the practice of surgery. On first offense any person wilfully violating the provisions of this section of this act shall, upon conviction, be guilty of a misdemeanor and shall be subject to a fine of not more than one thousand dollars (\$1,000) or imprisonment for not more than six months in the county prison, or both, at the discretion of the court; and on each additional offense shall be subject to a fine of not less than two thousand dollars (\$2,000) and imprisonment of not less than six months or more than one year, at the discretion of the court. In the event the violation is the aborting of a pregnant woman the person convicted thereof shall be guilty of a misdemeanor and shall be subject to a fine of not less than ten thousand dollars (\$10,000) or imprisonment for five years, or both.'

Section 3. Section 5 of the act is amended by adding a subsection to read:

Section 5. Standards for Medical Training and Facilities.—* * *

(d) Requirements for the certification of training and educational programs for physician assistants 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.

Section 4. Sections 10 and 12 of the act are amended to read:

Section 10. Licenses; Exemptions, Non-resident Practitioners; Graduate Students; Biennial Registration.—(a) All physicians who have complied with the requirements of the board, and who shall have passed a final examination, and who have otherwise complied with the provisions of this act, shall receive from the Commissioner of Professional and Occupational Affairs in the Department of State, or whoever exercises equivalent authority acting for the board, a license entitling them to the right to practice medicine and surgery without restriction in this Commonwealth. Each such license 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: Provided, That this section relating to licenses to practice medicine and surgery shall not apply to medical officers in the medical service of the Armed Forces of the United States, or the United States Public Health Service, or Veterans Administration, or physicians employed within Federal services, while in discharge of their official duties; or to any one who may be a duly licensed practitioner of medicine in any state or commonwealth who may be called upon by a licensed physician of this Commonwealth to consult with him in a case under treatment; or to physicians of other jurisdictions who are training **[for certification] to be certified** in special departments of medicine and surgery under subsection (b) of this section; or anyone while actually serving as a clinical clerk under the supervision of the medical or surgical staff in any hospital. Nothing contained in this section shall be construed to entitle a clinical clerk to practice medicine and surgery or to prescribe drugs: And provided further, That any duly licensed physician residing in or maintaining his office of practice in any state near the boundary line between said state and this Commonwealth whose practice extends into this Commonwealth shall have the right to practice in this Commonwealth, at the discretion of the board, provided he files with the secretary of the board a certified copy of his license in the state where he resides, and provided that the board of examiners of the adjoining state reciprocates by extending the same privilege to physicians in this Commonwealth when he shall receive from the secretary of the board a license which shall be automatically revoked if he changes his said residence or office of practice. A record of all persons so licensed shall be kept in the office of the board and shall have the standing before the law of any other license issued by the board.

(b) Physicians who are legally authorized to practice medicine and surgery in *this or* other states or territories of the United States and the Dominion of Canada, and who apply for training and **[certification] to be certified** in special departments of medicine and surgery in institutions in this Commonwealth recognized by the board with advice and consultation with the various examining boards in medical specialties approved by the Council on Medical Education of the American Medical Association as

proper for such training, shall receive a graduate certificate that is limited to said training within the complex of the hospital and/or its affiliates or community hospitals where he is engaged in such training. This training experience shall not be converted into a staff service. It shall be valid for one year but may be renewed from year to year. Any person who has been certified in a specialty discipline recognized by the board, and who makes an application for licensure to practice medicine and surgery without restriction in the Commonwealth, upon the payment of a reasonable fee as determined from time to time by the board and at the discretion of the board may be given a qualifying examination. Such examination shall emphasize the subject matter of the specialty discipline for which the applicant has been trained but may also include material from the general field of medical science.

(c) It shall be the duty of all persons now or hereafter licensed to practice medicine and surgery without restriction 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.

(d) Each person so registering with the board shall pay, for each biennial registration, a reasonable fee as determined from time to time by the board which fee shall accompany the application for such registration.

(e) Upon receiving a proper application for such registration accompanied by the fee above provided for, the board shall issue its 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.

(f) The board shall grant certification to physician assistants. The board shall grant certification to applicants who have fulfilled the following criteria:

(1) satisfactory performance on the proficiency examination, to the extent that a proficiency examination exists; and

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

In the event that completion of a formal training and educational program is a prerequisite to taking the proficiency examination, the board shall have the power if it determines that the experience of the applicant is of such magnitude and scope so as to render further formal training and education nonessential to the applicant in assisting a physician in the provision of medical care and services, to waive the training and education requirements under this section for a period not to extend beyond two years from the effective date of this act.

(g) The certification of physician assistants shall be subject to biennial renewal by the board.

(h) The application shall include a written request from the applicant's supervising physician.

(i) The supervising physician shall file with the board an application to utilize a physician assistant containing a description of the manner in which the physician assistant will assist the supervising physician in his practice, the method and frequency of supervision, the geographic location of the physician assistant and in no instance may a physician supervise more than two physician assistants at any time. In cases where a group of physicians will supervise a physician assistant, the names of all supervisory physicians shall be included on the application.

(j) The board shall approve the applications which meet the criteria set by this act and the regulations promulgated pursuant thereto.

(k) The board shall establish such rules and regulations as it deems necessary to protect the public and to implement the provisions of this act, including, but not limited to the following:

(1) Reasonable procedures for identification of physician assistants and for informing patients and the public at large of the use of physician assistants.

(2) Physician assistant shall be collected and reports thereof furnished to the General Assembly annually by the Board of Medical Education and Licensure, including the geographic location of physician assistants and the setting of their practice i.e., rural, clinic, hospitals or physician's offices.

(l) Nothing in this act shall be construed to permit a certified physician assistant to practice medicine without the supervision and direction of a licensed physician approved by the appropriate board, but such supervision and direction shall not be construed to necessarily require the personal presence of the supervising physician at the place where the services are rendered.

(m) This act shall not be construed to prohibit the performance by the physician assistant of any service within his skills, which is delegated by the supervising physician, and which forms a usual component of that physician's scope of practice.

(n) Nothing in this act shall be construed to prohibit the employment of physician assistants by a medical care facility where such physician assistants function under the supervision and direction of a physician or group of physicians.

(o) The physician assistant being certified in this act and functioning under the supervision of the physician defines his/her status as an employe and subject to the normal employer/employe reimbursement procedures.

(p) 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.

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

(r) Nothing in this act shall be construed to permit a physician assistant

to independently prescribe or dispense drugs. The Board of Medical Education and Licensure and the State Board of Pharmacy will jointly develop regulations to permit a physician assistant to prescribe and dispense drugs at the direction of a licensed physician.

Section 12. [Examination] Fees.—The board shall have the power to charge a reasonable fee for all examinations, as determined from time to time by the board. *A fee of ten dollars (\$10) shall be charged for each initial certification and biennial renewal of certificates for physician assistants. A fee of twenty-five dollars (\$25) shall be charged for each application by a physician or group of physicians to supervise a physician assistant.*

Section 5. Section 15 of the act is amended by adding subsections to read:

Section 15. Reasons for Refusal; Revocation or Suspension of License.—* * *

(d) The board shall have authority to refuse, revoke or suspend the certification of a physician assistant for any or all of the following reasons:

(1) Failing to demonstrate the qualification for certification contained in this act or regulations of the board.

(2) Making misleading, deceptive, untrue or fraudulent representations in his serving as a physician assistant; practicing fraud or deceit in obtaining a certification to serve as a physician assistant; or making a false or deceptive biennial registration with the board.

(3) Conviction of a felony in this Commonwealth or any other state, territory or country. Conviction as used in this paragraph shall include a finding or verdict of guilt, an admission of guilt or a plea of nolo contendere.

(4) Having his certification to serve as a physician assistant revoked or suspended or having other disciplinary action taken, or his application for certification refused, revoked or suspended by the proper certifying authority of another state, territory or country.

(5) Being unable to serve as a physician assistant with reasonable skill and safety to the physician's patients by reason of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or any other type of material, or as a result of any mental or physical condition.

(6) In enforcing clause (5), the board shall, upon probable cause, have authority to compel a physician assistant to submit to a mental or physical examination by physicians designated by it. Failure of a physician assistant to submit to such examination shall constitute an admission of the allegations against him unless the failure is due to circumstances beyond his control, consequent upon which a default and final order may be entered without the taking of testimony or presentation of evidence. A physician assistant affected under this clause shall at reasonable intervals be afforded an opportunity to demonstrate that he can resume the competent assistance of a physician in the physician's practice of medicine, with reasonable skill and safety to the physician's patients.

(7) 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.

(8) Knowingly rendering medical care and services except under the supervision and direction of the supervising physician.

(9) Being guilty of immoral or unprofessional conduct shall include any departure from, or the failure to conform to, the standards of acceptable and prevailing practice for physician assistants, in which proceeding actual injury to a patient need not be established.

(e) When the board finds that the certification of a physician assistant may be refused, revoked or suspended under the terms of subsection (a), it may:

(1) Deny the application for certification.

(2) Administer a public or private reprimand.

(3) Revoke, suspend, limit, or otherwise restrict a certification as determined by the board.

(4) Require a physician assistant to submit to the care, counseling, or treatment of a physician or physicians designated by the board.

(5) Suspend enforcement of its finding thereof and place him on probation with the right to vacate the probationary order for noncompliance.

(6) Restore or reissue, in its discretion, a certification to serve as a physician assistant, and impose any disciplinary or corrective measure which it might originally have imposed.

Section 6. Nothing herein shall make illegal any type of relationship directly supervised by a physician which was proper before the enactment of this act.

Section 7. This act shall take effect January 1, 1979.

APPROVED—The 23rd day of June, A. D. 1978.

MILTON J. SHAPP