

No. 1985-6

AN ACT

SB 83

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 providing for revocation or suspension of the license to practice medicine; and authorizing temporary suspensions of licenses.

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

Section 1. Section 15 of the act of July 20, 1974 (P.L.551, No.190), known as the Medical Practice Act of 1974, amended June 23, 1978 (P.L.502, No.79), is amended to read:

Section 15. Reasons for Refusal; Revocation or Suspension of License.—(a) The board shall have authority to refuse, revoke or suspend the license of a physician for any or all of the following reasons:

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

(2) Making misleading, deceptive, untrue or fraudulent representations in the practice of medicine; practicing fraud or deceit, *either alone or as a conspirator*, in obtaining a license to practice medicine and surgery *or in obtaining admission to medical school*; or making a false or deceptive biennial registration with the board.

(3) Being convicted of a felony in the courts of 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 license to practice medicine and surgery revoked or suspended or having other disciplinary action taken, or his application for a license refused, revoked or suspended by the proper licensing authority of another state, territory or country.

(5) Being unable to practice medicine with reasonable skill and safety to 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.

In enforcing this clause (5), the board shall, upon probable cause, have authority to compel a physician to submit to a mental or physical examination by physicians designated by it. Failure of a physician to submit to such examination when directed shall constitute an admission of the allegations

against him unless 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 affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that he can resume a competent practice of medicine 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 medicine contrary to this act, or regulations of the board.

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

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

(b) When the board finds that the license of any person may be refused, revoked or suspended under the terms of subsection (a) above, the board may:

(1) Deny the application for a license.

(2) Administer a public or private reprimand.

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

(4) Require a licensee 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 a licensee on probation with the right to vacate the probationary order for noncompliance.

(6) Restore or reissue, in its discretion, a license to practice medicine and surgery, and may impose any disciplinary or corrective measure which it might originally have imposed.

(7) Temporarily suspend a license under circumstances as determined by the board to be an immediate and clear danger to the public health or safety. The board shall issue an order to that effect without a hearing, but upon due notice, to the licensee concerned at his last known address, which shall include a written statement of all allegations against the licensee. The provisions of subsection (c) shall not apply to temporary suspension. The board shall thereupon commence formal action to suspend, revoke and restrict the license of the person concerned as otherwise provided for in this act. All actions shall be taken promptly and without delay. Within thirty 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 whose license 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 one hundred eighty days.

(c) 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 of the act of June 4, 1945 (P.L.1388, No.442), known as the "Administrative Agency Law."

(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] clause 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 2. This act shall take effect immediately.

APPROVED—The 2nd day of May, A. D. 1985.

DICK THORNBURGH