

No. 2004-56

## AN ACT

SB 752

Amending the act of October 5, 1978 (P.L.1109, No.261), entitled "An act requiring the licensing of practitioners of osteopathic medicine and surgery; regulating their practice; providing for certain funds and penalties for violations and repeals," further providing for definitions, for licensing of physician assistants and for temporary respiratory care permits; and providing for continuing education.

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

Section 1. The definitions of "certification" and "physician assistant" in section 2 of the act of October 5, 1978 (P.L.1109, No.261), known as the Osteopathic Medical Practice Act, are amended to read:

Section 2. Definitions.

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

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"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.

\* \* \*

"Physician assistant." A person [certified] licensed 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.

\* \* \*

Section 2. Sections 3 and 5(d) of the act are amended to read:

Section 3. Practice of osteopathic medicine and surgery without license prohibited.

It shall be unlawful for any person to engage in the practice of osteopathic medicine and surgery, or pretend to a knowledge of any branch or branches of osteopathic medicine and surgery, or to hold himself out as a practitioner in osteopathic medicine and surgery, or to assume the title of Doctor of Osteopathic Medicine and Surgery or doctor of any specific disease, or to diagnose diseases or to treat diseases by the use of osteopathic medicine and surgery or by any other means, or to sign any birth or death certificate unless otherwise authorized by law, or to hold himself out as able to do so, unless he has received a certificate of licensure or permission from the board which license shall be recorded in the office of the board. 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] licensed** 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.

Section 5. Standards for osteopathic medical training and facilities.

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(d) Requirements for the certification of training and educational programs for *licensure of* 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 3. Section 10(f), (j) and (m) of the act, amended December 20, 1985 (P.L.398, No.108), are amended to read:

Section 10. Licenses; exemptions; nonresident practitioners; graduate students; biennial registration and continuing medical education.

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(f) The board shall grant **[certification] licensure** to physician assistants which **[certification] licensure** shall be subject to biennial renewal by the board. The board shall grant **[certification] licensure** to applicants who have fulfilled the following criteria:

(1) Satisfactory performance on a proficiency examination approved by the board.

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

(3) *For candidates for initial licensure after January 1, 2005, obtainment of a baccalaureate or higher degree from a college or university and completion of not fewer than 60 clock hours of didactic instruction in pharmacology or other related courses as the board may approve by regulation.*

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.

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(j) Nothing in this act shall be construed to permit a **[certified] licensed** physician assistant to practice osteopathic 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.

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(m) The physician assistant being **[certified] licensed** in this act and functioning under the supervision of the physician defines his/her status as an

employee and subject to the normal employer/employee reimbursement procedures.

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Section 4. Section 10.2(b) of the act, added July 2, 1993 (P.L.418, No.59), is amended and the section is amended by adding a subsection to read:

Section 10.2. Respiratory care practitioner certificates and permits.

\* \* \*

(b) **[Twelve months after the effective date of this section, the]** *The* board shall issue temporary permits for the practice of respiratory care to individuals who have applied for certification 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) Designation as a "Certified Respiratory [Therapy Technician]" *Therapist*" or a "Registered Respiratory Therapist" by a nationally recognized credentialing agency approved by the board.

(4) Continuous provision of respiratory care services for a minimum of 12 months immediately preceding the effective date of this section.

(5) Holding certification, licensure or registration as a respiratory care practitioner issued by another state, the District of Columbia or a territory of the United States where the requirements for licensure, registration or certification are substantially similar to those required by the board.

\* \* \*

*(f) (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 certification as respiratory care practitioners under this act as a condition for certificate renewal. 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, certificate holders shall be required to attend and complete 20 hours of mandatory continuing education during each two-year certificate period.*

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

*(4) The board may waive all or a portion of the continuing education requirement for biennial renewal for a certificate holder who shows to the satisfaction of the board that the individual was unable to*

*complete the requirements due to serious illness, military service or other demonstrated hardship. The request shall be made in writing, with appropriate documentation, and shall include a description of circumstances sufficient to show why the certificate holder is unable to comply with the continuing education requirement. Waiver requests shall be evaluated by the board on a case-by-case basis. The board shall send the certificate holder written notification of its approval or denial of a waiver request.*

*(5) A certificate holder seeking to reinstate an inactive or lapsed certificate 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.*

*(7) The board shall initiate the promulgation of regulations to carry out the provisions of this section within one year of the effective date of this subsection.*

Section 5. Section 15(b) and (c) of the act, amended December 10, 2001 (P.L.863, No.93), are amended to read:

Section 15. Reasons for refusal, revocation or suspension of license.

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(b) The board shall have authority to refuse, revoke or suspend the **[certification] license** of a physician assistant, *or the certification of a respiratory care practitioner or certified athletic trainer* for any or all of the following reasons:

(1) Failing to demonstrate the qualification for *licensure or 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] license** 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, or receiving probation without verdict, disposition in lieu of trial, or an Accelerated Rehabilitative Disposition in the disposition of felony charges.

(4) Having his **[certification] license** to serve as a physician assistant revoked or suspended or having other disciplinary action taken, or his application for **[certification] licensure** 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 paragraph (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 paragraph 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.

(c) Whenever the board finds that the license or a certificate of a person may be refused, revoked or suspended under the terms of this act, the board may:

- (1) Deny the application for a license or certificate.
- (2) Administer a public or private reprimand.
- (3) Revoke, suspend, limit, or otherwise restrict a license or certificate.
- (4) Require a licensee [**or 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 a licensee [**or physician assistant**] on probation with the right to vacate the probationary order for noncompliance.
- (6) Restore or reissue a license to practice osteopathic medicine and surgery or [**certification**] *licensure* as a physician assistant, and impose any disciplinary or corrective measure which it might originally have imposed.

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Section 6. Section 16.4(d) of the act, amended May 6, 1987 (P.L.10, No.3), is amended to read:

Section 16.4. Radiologic procedures.

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(d) No auxiliary personnel who has or obtains a license, a 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 *or licensure* 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.

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Section 7. This act shall take effect in 60 days.

APPROVED—The 2nd day of July, A.D. 2004.

EDWARD G. RENDELL