

No. 190

AN ACT

HB 760

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.

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 1974¹.”

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:

(1) “Board.” The State Board of Medical Education and Licensure, established by section 412 of the act of April 9, 1929 (P.L. 177, No. 175), known as “The Administrative Code of 1929,” and its amendments.

(2) “Medical college.” An institution of higher learning which has been fully accredited by the Association of American Medical Colleges, its successors or assigns, or the American Medical Association, either directly or through their respective accrediting bodies, as an agency to provide courses in the arts and sciences of medicine and related subjects and empowered to grant Academic Degrees in Medicine.

(3) “Medicine and surgery.” The art and science having for its object the cure of the diseases of and the preservation of the health of man including all practice of the healing art with or without drugs, except healing by spiritual means or prayer.

(4) “Physician.” A person who has received formal and recognized training in the art and science of medicine and is qualified to seek or has acquired a license to practice medicine and surgery.

(5) “Healing art.” The science and skill of diagnosis and treatment in any manner whatsoever of disease or any ailment of the human body.

(6) “Intern” or “resident.” A physician who is receiving supervised graduate medical training at an approved hospital or its legal affiliate.

(7) “Clinical clerk.” An undergraduate student in a medical college, who is assigned under the auspices of the school in which he is currently enrolled to make notes upon patient histories and physical examinations and to perform certain procedures and laboratory tests

¹“1973” in original.

for the sole purpose of instruction and experience or who may make notes which become official only when edited and countersigned by a member of the hospital staff who is licensed pursuant to this act. Nothing contained in this act shall be construed to entitle a clinical clerk to practice medicine and surgery or to prescribe drugs.

(8) "Hospital." An institution fully accredited by the Joint Commission on Accreditation of Hospitals or regulated by the Commonwealth of Pennsylvania to render health care.

(9) "Approved hospital." A hospital which has been approved by the board for providing supervised graduate medical training.

(10) "Affiliate." A member of a group of two or more fully accredited health care institutions legally united by an agreement of affiliation, conceived to enhance the potential of all participants in the provision of health care and medical education. This affiliation shall have the approval of the board.

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. 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 4. The Board's Power to Grant License.—The board may grant the following licenses:

(1) License. License for the practice of medicine and surgery without restriction.

(2) Temporary License. A graduate of a medical college who qualifies under section 6 of this act, may, on receiving his medical degree, apply to the board for a temporary license upon presenting a completed application form issued by the board and paying a reasonable registration fee in an amount as determined from time to time by the board.

A temporary license shall be valid for twelve consecutive months and shall be recognized only as conferring upon the licensee the right to participate in approved graduate medical training within the complex of the hospital to which he is assigned. Temporary licenses will become null and void after twelve months, at which time they shall be surrendered to the board. The board may extend the validity of a temporary license when such action is warranted.

(3) Limited License. A limited license may be granted by the board to graduates of foreign medical schools who have attained through professional growth and teaching experience the true status of teacher, or its equivalent, for the purpose of teaching and/or practicing medicine and surgery in one of the medical colleges, its affiliates or community hospitals within the Commonwealth. Persons granted limited licenses who subsequently desire to obtain a license for the practice of medicine and surgery without restriction shall be required to meet all of the standard requirements for such license as set forth in this act.

(4) Midwifery, Physical Therapy and Drugless Therapy. Nothing in this act shall be construed to preclude the board from continuing to license, register and regulate persons engaged in the practice of midwifery and/or physical therapy or to register or regulate persons engaged in the practice of drugless therapy in accordance with existing rules and regulations lawfully promulgated by said board prior to the effective date of this act.

Section 5. Standards for Medical Training and Facilities.—(a) The educational qualifications for acceptance as a matriculant in a medical college incorporated within the Commonwealth and the curricula and training to be offered by such medical colleges shall meet the requirements set by the board with advice and consultation with the appropriate committees of the American Medical Association and the Association of American Medical Colleges, or any other accrediting body which from time to time may be recognized by the board.

(b) 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 hospitals 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 otherwise, to ascertain the facilities and qualifications of medical institutions, colleges, or hospitals, outside this Commonwealth, whose graduates or trainees desire to obtain medical licensure or graduate medical training in this Commonwealth.

(c) Any medical institutions empowered by the Commonwealth to confer academic degrees in medicine which in the judgment of the board fail to provide proper facilities, or to maintain the minimum requirements for accreditation shall be duly notified of such failure. Until such deficiencies are corrected, graduates of such institutions shall be ineligible for licensure and/or graduate medical training.

Section 6. Qualifications for License.—(a) A graduate of a United States or Canadian medical college who seeks licensure by the board shall furnish the board with evidence, prior to any examination, that he 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 he has completed the educational requirements prescribed by the board.

(b) Foreign medical school graduates, except graduates of Canadian medical colleges, who seek licensure by the board, shall in addition to the foregoing requirements present evidence of certification by the Educational Council for Foreign Medical Graduates, its successors or assigns.

(c) Each application to the board shall have attached thereto the affidavit or affirmation of the applicant as to its verity. Any applicant who knowingly or wilfully makes a false statement of fact in his application shall be subject to prosecution.

Section 7. Certification of Licenses.—The fact of licensure to practice medicine and surgery in the Commonwealth shall be certified to by the board to other jurisdictions upon formal application and by payment by the licensee of a reasonable fee in an amount as determined from time to time by the board providing that the licensee at such time is in good standing.

Section 8. Meetings of the Board; Examinations.—(a) The board shall hold two stated meetings each year at a place within the Commonwealth as determined by the board for the transaction of its business, and may hold special meetings upon giving due notice thereof. The board shall hold at least two examinations for applicants for licensure under clause (1) of section 4 of this act each year.

(b) Such examinations conducted by the board shall be in the English language. Special examinations can be designated by the board. The examinations shall be held at such times and places as designated by the board.

(c) 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 the applicant must enter de novo and only after a year of graduate study approved by the board, and qualify under the conditions obtaining at the time of his application.

(d) Applicants for a license to practice medicine and surgery who have been successfully examined by any agency considered competent by the board and who can, in addition, present to the board satisfactory evidence of having in every way fulfilled all the scholastic and other requirements of this act and applicable regulations of the board, may, without further examination, receive from the board, in its discretion, a license conferring all the rights accorded by this act, provided the applicant has paid a reasonable fee in an amount as determined from time to time by the board, and further provided that such applicant has not previously failed a licensing examination given by the board.

(e) For the purpose of conducting all examinations the board shall have the privilege of calling to its aid medical consultants, who shall be compensated for their services at a reasonable rate in an amount as determined from time to time by the board in addition to all incurred expenses.

Section 9. Reciprocity or Endorsement.—Reciprocity or endorsement may be established at the discretion of the board.

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 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 other states or territories of the United States and the Dominion of Canada, and who apply for training and certification 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.

Section 11. Violation of Act.—Any person, or the responsible officer or employe of any corporation or partnership, institution or association, violating any of the provisions other than section 3 of this act shall upon summary conviction be sentenced to pay a fine of not less than one hundred dollars (\$100) and not more than five hundred dollars (\$500).

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.

Section 13. Fees and Fines for Board.—All fees and fines collected under the provisions of this act shall be paid into the State Treasury for the use of the Commonwealth.

Section 14. Automatic Suspension.—A license issued under this act shall automatically be suspended upon the legal commitment to an institution of a licensee because of mental incompetency from any cause upon filing with the board a certified copy of such commitment. Restoration of such license shall be made as hereinafter provided as in the case of revocation or suspension of such license.

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 representations¹ in the practice of medicine; practicing fraud or deceit in obtaining a license to practice medicine and surgery; 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

¹"representations" in original.

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.

(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.

(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."

Section 16. Regulatory Powers of the Board.—The board in the exercise of its duties under this act shall have the power to adopt and revise such regulations as are reasonably necessary to carry out the purposes of this act in conformity with the provisions of the act of July 31, 1968 (P.L.769, No.240), known as the “Commonwealth Documents Law.”

Section 17. Applicability of Act.—(a) The provisions of this act shall not apply either directly or indirectly, by intent or purpose, to affect the practice of:

(1) Pharmacy as authorized by the acts approved 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.”

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

(3) Optometry, as authorized by the act approved March 30, 1917 (P.L.21, No.10), entitled, “An act defining optometry; and relating to the right to practice optometry in the Commonwealth of Pennsylvania, and making certain exceptions; and providing a Board of Optometrical Education, Examination, and Licensure, and means and methods whereby the right to practice optometry may be obtained; and providing for the means to carry out the provisions of this act; and providing for revocation or suspension of licenses given by said board, and providing penalties for violations thereof; and repealing all acts or parts of acts inconsistent therewith.”

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

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

(6) Osteopathy, as authorized by the act of March 19, 1909 (P.L.46, No.29), entitled, as amended, “An act to regulate the practice of osteopathy and surgery in the State of Pennsylvania; to provide for the establishment of a State Board of Osteopathic Examiners; to define the powers and duties of said Board of Osteopathic Examiners; to provide for the examining and licensing of osteopathic physicians and surgeons in this State; and to provide penalties for the violation of this act.”

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

(8) Psychologists, as authorized by the act of March 23, 1972 (P.L.136, No.52), entitled “An act relating to the practice of psychology, providing for licensing of psychologists, making certain acts illegal and providing penalties.”

(b) This act shall not be construed so as to give the Board of Medical Education and Licensure any jurisdiction over any of the schools or colleges of the methods exempted in this section.

(c) The provisions of this act shall not apply either directly or indirectly by intent or purpose to the practice of hypnosis.

Section 18. Specific Repeals.—(a) The act of June 3, 1911 (P.L.639, No.246), known as the “Medical Practice Act,” is repealed absolutely.

(b) All other acts and parts of acts inconsistent herewith are repealed to the extent of such inconsistency.

APPROVED—The 20th day of July, A. D. 1974.

MILTON J. SHAPP

The foregoing is a true and correct copy of Act of the General Assembly No. 190.

A handwritten signature in black ink, reading "C. McLaughlin Tucker". The signature is written in a cursive style with a large initial "C" and a prominent "T" at the end.

Secretary of the Commonwealth.