

TITLE 3: HUMAN RESOURCES
DIVISION 2: HEALTH

§ 2201. Purpose and Findings.

(a) The protection of the health of the public is of paramount importance.

(b) The quality, availability and honesty of the practitioners of the health care professions substantially determines whether the public receives the health care protection required.

(c) The practice of a health profession is a privilege granted by the people acting through their elected representatives. It is not a natural right of individuals.

(d) In the interest of public health, safety and welfare, and to protect the public from the unprofessional, improper, incompetent, unlawful, fraudulent and/or deceptive practice of the health care professions, it is necessary to provide statutes and regulations to govern the granting and subsequent use of the privilege to practice the health care professions.

(e) The primary responsibility and obligation of the Health Care Professions Licensing Board is to protect the people of the Commonwealth.

(f) Every person who practices or attempts to practice any health care profession within the Commonwealth without complying with this chapter harms or can harm the health, safety, security, and welfare of the people of the Commonwealth.

(g) The Commonwealth's Health Professions Licensing Board, formerly Medical Profession Licensing Board, has a lengthy history protecting the people of the Commonwealth with respect to their health care. The Board should be strengthened in its efforts.

(h) National databases exist which permit member regulatory agencies to keep track of and monitor the competencies and conduct of health care professionals. In order for the Commonwealth to benefit from the databases the Board must also submit current data. The databases demand confidentiality on the part of the users.

(i) The Legislature has examined the existing Medical Practice Act and determined that it must be updated to address current and anticipated health care and to further protect the public health, safety and welfare of the people of the Commonwealth.

(j) Among other things, it is important for the Board to be able to act quickly and with adequate power to stop dangerous health care practice.

(k) The Commonwealth's traditional healing practices must be appropriately protected.

Source: PL 3-30, § 1; PL 15-105, § 3(2201).

Commission Comment: PL 3-30 took effect November 30, 1982; see also 1 CMC § 2641 et seq. PL 3-30, § 30 repealed 63 TTC §§ 152, 154 and 156; compare PL 3-29, § 28 (the Nurse Practice Act, repealing the same provisions).

Public Law 15-105, enacted on November 7, 2007, renamed the "Medical Practice Act" to "Health Care Professions Licensing Board" and contained the following in addition to severability and savings clauses:

TITLE 3: HUMAN RESOURCES
DIVISION 2: HEALTH

Section 1. Short Title. This Act may be cited as the "Health Care Professions Licensing Act of 2007."

Section 2. Purpose. The Legislature finds that, as stated in the Act's section on Purpose and Findings, this Act is required to protect the health, safety and welfare of the people of the Commonwealth.

Section 3. Repealer and Re-enactment. 1 CMC §§ 2641-42 and 3 CMC §§ 2201-72 (Public Law 3-30, as amended, the "Medical Practice Act of 1982") are hereby repealed. The following sections 3 CMC §§ 2201 et seq. are enacted as follows: . . .

TITLE 3: HUMAN RESOURCES
DIVISION 2: HEALTH

§ 2202. Definitions.

As used in this chapter:

(a) “Board” means the Health Care Professions Licensing Board established by this chapter.

(b) “Board fund” means the Health Care Professions Licensing Board Fund, established by this chapter.

(c) “Commonwealth” or “CNMI” means the Commonwealth of the Northern Mariana Islands.

(d) “Doctor,” including “Dr.,” “D.O.,” “DDS” or “DDM” or “MD”, and “OD,” means a certain health care professional, like a physician or a dentist, but does not otherwise mean a person granted the highest degree of a university, typically a Doctor of Philosophy, or “Ph.D.,” which is not intended to address the practice of a health care profession.

(e) “Electronic means” shall include telephone, video-conference, electronic telecommunications-mediated written, aural and/or video means, including mediated through the internet, a wireless service, and/or email; and shall further include the presentation, service, filing and storage of documents in their electronic form.

(f) “Health care profession” means any system, treatment, operation, diagnosis, prescription or practice for the ascertainment, cure, relief, palliation, adjustment or correction of any human disease, ailment, deformity, injury, or unhealthy or abnormal physical or mental condition for the practice of which long periods of specialized education and training and a degree of specialized knowledge of an intellectual as well as physical nature are required.

(g) “Health care professional” means a person who practices any one of the professions listed in 3 CMC § 2212 of this chapter.

(h) “License” means a certificate issued to a person licensed, certified or otherwise approved to practice a health care profession by the Board.

(i) “Licensee” means a person licensed, certified or otherwise approved to practice a health care profession by the Board.

(j) “Licensure” means the process or condition of being licensed to practice a health care profession by the Board.

(k) “Medical Profession Licensing Board” or “Medical Board” means the Board created pursuant to 1 CMC §§ 2641-42 by Public Law 3-30.

(l) “Person” means a person real or legal, including a human being, and an artificial person, including government entity, non-governmental organization, association, corporation, limited liability company, limited liability partnership, partnership, or sole proprietorship.

(m) “State” includes a United States of America state, territory, tribal land, commonwealth, the District of Columbia, and any other U.S. jurisdiction other than the U.S. Government itself.

(n) Rules of Construction:

TITLE 3: HUMAN RESOURCES
DIVISION 2: HEALTH

(1) “Include,” “includes” or “including” means “include/s/ing but not limited to.”

(2) The male, female and neuter/neutral shall each be read to mean the other, unless the context expressly excludes such interpretation.

(3) The singular shall be read to mean the plural, and vice versa, except where the context specifically indicates otherwise.

Source: PL 15-105, § 3(2202).

TITLE 3: HUMAN RESOURCES
DIVISION 2: HEALTH

§ 2203. Exceptions to Jurisdiction.

Nothing in this chapter shall:

(a) Prohibit the exercise of the traditional Micronesian art of healing or a person's practicing a recognized religion or local faith that includes in its tenets the ministering to the sick or suffering, provided that:

(1) No such person shall be exempt from the public health laws of the Commonwealth; and

(2) No such person shall employ the title "doctor" or "Dr.";

(b) Prohibit a person from administering a lawful domestic or family remedy to a member of his or her own family;

(c) Prohibit the rendering of medical assistance in cases of emergency where no fee or other consideration is contemplated, charged or received;

(d) Apply to any commissioned medical officer in the United States military or public health service while engaged in the discharge of official duty;

(e) Prohibit the brief rendering of emergency medical treatment or critical medical service at the specific lawful direction of a medical institution or federal agency that has been approved by the Board for such purpose;

(f) Apply to any practitioner of a health care profession from a state or foreign country when in limited consultation, including in-person, mail, telephonic, telemedicine, or other electronic consultation, with a Commonwealth-licensed health care professional, if the health care professional from the other jurisdiction is licensed to practice in another jurisdiction; or

(g) Apply to the practice of nursing as provided in the Nurse Practice Act, PL 14-62, as amended (codified at 3 CMC § 2301 et seq.).

Source: PL 15-105, § 3(2203).

TITLE 3: HUMAN RESOURCES
DIVISION 2: HEALTH

§ 2204. Health Care Professions Licensing Board.

(a) There is in the Commonwealth Government a Health Care Professions Licensing Board, formerly called the Medical Profession Licensing Board, an independent regulatory agency, given the complete jurisdiction, power, authority and duty to license and regulate all health care professions, except the practice of nursing.

(b) The Board is and shall be composed of five members appointed by the Governor with the advice and consent of the Senate. One member shall be a dentist, two members shall be physicians, and two members shall be health care professionals other than a physician or dentist. Each member shall be practicing in the Commonwealth. The provisions of 1 CMC § 2901(g) shall not apply to the composition of the Board. Each member shall have been a resident of the Commonwealth for at least two years. Each member shall have been engaged in the practice of the member's profession for at least five years preceding the date of the member's appointment to the Board.

(c) *Oath.* A member shall take and subscribe to an oath or affirmation of office to support the Constitution and laws of the Commonwealth, the applicable portions of the Constitution and laws of the United States, and to faithfully and honestly discharge the duties of the office.

(d) *Seal.* The Board shall adopt an official seal, of which the courts and agencies of government shall take judicial notice. Proceedings, orders, decrees and other legal writings may be authenticated thereby.

(e) *Terms.*

(1) The term of office for members of the Board shall be four years, and members shall serve staggered terms to ensure continuity.

(2) No member may serve more than two consecutive four-year terms. Upon the expiration of said terms successors shall be appointed with like qualifications and in like manner for terms of four years each, and until their successors are appointed and qualified.

(3) Vacancies shall be filled in the same manner as is provided for appointment in the first instance. Any person selected to fill a vacancy shall be appointed only for the remainder of the unexpired term.

(4) Notwithstanding any other provision of this section, any member whose term has expired may serve without further confirmation until such member's successor has taken office.

(f) The officers of the Board shall be elected every two years. The Board shall elect, by the majority vote of a quorum of its members, a chairperson, a vice-chairperson, and a secretary. In the event of a vacancy on the Board resulting in an unexpired term and the Governor has failed to appoint a successor within three months after the vacancy occurs, the Board may appoint a provisional member to serve in the interim until the Governor makes an appointment. Such

TITLE 3: HUMAN RESOURCES
DIVISION 2: HEALTH

provisional member shall have the complete power of a member appointed by the Governor.

(g) Members of the Board shall serve without pay; provided, they shall be paid reasonable and necessary expenses at established Commonwealth government rates for travel and other expenses incurred in the discharge of their duties.

(h) *Conflicts.*

(1) No Board member or member of his/her family, and no management level employee of the Board or member of that person's family, shall be directly or indirectly pecuniarily interested in a person subject to a direct decision of the Board;

(2) During his/her term no Board member shall serve as an officer or committee member of any political party organization or hold any Commonwealth office.

(3) *Disqualification and/or removal.* Proof of the existence of a conflict prohibited by this section shall disqualify the Board member from deliberation and decision-making on the conflicted matter. A knowing violation of this section shall constitute grounds for the Governor's pre-hearing removal of the member from office. Except that if the member did not know of the facts giving rise to the conflict, and if the member immediately eliminates the conflict upon learning of it, and immediately notifies the Governor, the matter shall be disclosed to the Board and said actions, if in good faith, shall be a complete defense to disqualification and/or removal.

(i) *Removal.* The Governor shall remove a member of the Board, after notice and an opportunity for a hearing, for gross neglect or dereliction of duty, violation of the conflicts prohibitions of this section, breach of fiduciary duty, misfeasance, malfeasance or nonfeasance in office, conviction of a felony, mental or physical incapacity, or failure to attend at least 50% of all duly convened regular meetings of the Board in a calendar year. Voting on a matter shall not, per se, constitute a ground for removal.

Source: PL 15-105, § 3(2204); (b) amended by PL 16-25, § 2.

Commission Comment: The Commission deleted numbers that repeated words in this section pursuant to the authority granted in 1 CMC § 3806(e). Public Law 16-25 took effect on November 25, 2008. PL 16-25 contained severability and savings clause provisions and the following:

Section 1. Findings and Purpose. The Legislature finds that the Health Care Professions Licensing Board, formerly called the Medical Profession Licensing Board, regulates one of the most critical professions in the Commonwealth. The Legislature further finds the powers, duties, and functions of the Board carry great responsibility and importance to the health and welfare of the people of the CNMI. To ensure the integrity and dignity of the Health Care Professions Licensing Board, the Legislature finds that credentials of appointees to the Board should be thoroughly

TITLE 3: HUMAN RESOURCES
DIVISION 2: HEALTH

scrutinized. Therefore, it is the purpose of this Act to require the advice and consent of the Senate for new appointees to the Health Care Professions Licensing Board.

TITLE 3: HUMAN RESOURCES
DIVISION 2: HEALTH

§ 2205. Meetings; Meetings by Electronic Means.

(a) In general:

(1) The Board shall act at its meetings, or as otherwise provided by law.

(2) The Board shall make provision for the attendance of members by electronic means, if a member so requests.

(3) Meetings shall be noticed as required by law.

(4) A copy of meeting materials distributed to the members shall be available to any person for review at the meeting site, except for materials subject to confidentiality or privilege as permitted or required by law.

(b) *Time.* The time for the regular meetings of the Board shall be established by action of the Board for each year, except as otherwise permitted or provided by law.

(c) *Location.*

(1) Regular meetings shall be held at such place as the Board may establish by regulation, and the location shall be properly noticed to the public.

(2) The Board may meet by electronic means, and any member may attend a meeting by electronic means.

(3) When the Board meets by electronic means, access to the meeting shall be freely given through the noticed site so that any person attending shall have the same access to the meeting as each attending member at the site. This may include use of a speaker phone or video conferencing equipment for a conference call meeting.

(4) Votes of members may be received by electronic means and announced at a meeting.

(d) *Quorum.* A majority of the members then in office shall constitute a quorum for the transaction of business at any Board meeting, or for approval of those matters needing approval of the Board. One or more vacancies in the Board shall not impair the right of the remaining members to constitute a quorum and exercise all the powers of the Board.

(e) *Open Meetings.* Board meetings and hearings shall be open to the public, as provided in the Open Government Act, 1 CMC §§ 9901-18, as amended.

(f) *Conduct of Meetings.* Unless the Board adopts regulations that provide for other procedures, the latest edition of Robert's Rules of Order shall govern the proceedings of the Board.

(g) *Regular Meetings.* Regular meetings shall be held as determined by the Board's regulations and as additionally determined by the Board.

(h) *Special Meetings.* Special meetings may be held from time to time, and shall be duly noticed by the Board.

(i) *Executive Session.* Ordinarily the Board's meetings shall be open to the public. The Board may meet privately, in executive session, for the following purposes:

TITLE 3: HUMAN RESOURCES
DIVISION 2: HEALTH

(1) To discuss personnel matters, including the hiring, firing and discipline of staff and/or contractors;

(2) To discuss pending or potential litigation or investigations;

(3) To discuss aspects of the Board's business affairs that are confidential and/or proprietary by law;

(4) To discuss a matter that may give rise to a conflict of interest, or an appearance of a conflict, with the discussion taking place in the absence of the member(s) related thereto; and

(5) To address other matters permitted by law.

(j) *Discussions by electronic means.*

(1) The Board may discuss a matter over time by electronic means, as well as in real time, provided that access to the discussion shall be publicly given so that a person seeking to review the discussion as it happens shall have substantially the same access to the discussion as each participating member.

(2) Typically such a discussion shall be by electronic bulletin board open to the view of the public.

(3) Such discussion shall be noticed according to the Board's regulations and shall comply with Commonwealth law regarding open meetings.

(4) The Board shall arrange for a person, upon request, the reasonable use of a publicly-available electronic means at the Board's offices with internet access in order to allow review of the discussion.

(k) *Accessibility.* The Board shall comply with the accessibility requirements required by law and may, upon a person's request accommodate other special needs relating to sight, sound, language or location.

Source: PL 15-105, § 3(2205), modified.

Commission Comment: The Commission changed capitalization pursuant to 1 CMC § 3806(f).

TITLE 3: HUMAN RESOURCES
DIVISION 2: HEALTH

§ 2206. Health Care Professions Licensing Board: Powers, Duties, and Functions.

The Board shall have the following powers, duties, and authority to:

- (a) Adopt and enforce the law consistent with this chapter;
- (b) Promulgate, amend, and/or repeal rules and/or regulations to advance this chapter and its purposes, including define and describe the health care professions and their practice which this chapter makes subject to regulation;
- (c) Issue or deny licenses, including temporary, provisional, conditional and limited licenses;
- (d) Approve, deny or approve with conditions, applications for license renewal;
- (e) Adopt and have an official seal;
- (f) Secure, review and investigate reports received from law enforcement agencies, health care organizations, government agencies, and other entities having information pertinent to the professional performance and conduct of persons over whom the Board has jurisdiction;
- (g) Provide data, reports, disciplinary and status documents, and other information to law enforcement agencies, health care organizations, government agencies, and other entities maintaining information pertinent to the professional performance and conduct of persons over whom the Board has jurisdiction;
- (h) Conduct investigations and hearings;
- (i) Issue subpoenas, compel the attendance and testimony of witnesses and the production of relevant records and documents, and things, and administer oaths;
- (j) Require a licensee or applicant to submit to a mental or physical examination, a chemical dependency evaluation, or a professional review or audit;
- (k) Discipline, including: refuse to issue or renew; fine; reprimand; suspend; summarily suspend; revoke; place on probation; require payment of fees, charges or expenses; levy fines; and place conditions on granting or renewal of a license;
- (l) Settle disciplinary and other contested matters, consistent with the policy of this chapter;
- (m) Delegate the power, authority and discretion to review, initiate, prosecute and negotiate settlement of cases to its chief operating officer;
- (n) Act summarily in the face of the likelihood of harm to:
 - (1) The public health, safety or welfare; or
 - (2) To the patients of a health care professional who is regulated by this chapter;
- (o) Affiliate with professional, governmental and other organizations for the purposes of reviewing applications, conducting investigations, and/or to secure other goods and services related to the Board's duties.
- (p) Contract for the purchase or other acquisition of testing, credentialing, and/or other licensing-related goods and services;
- (q) Join, and maintain memberships in, national organizations;

TITLE 3: HUMAN RESOURCES
DIVISION 2: HEALTH

(r) Create and maintain a system which requires continuing education credits, including requiring licensees to comply with continuing education criteria in order to maintain and/or renew a license, and to administer continuing education programs for health care professions;

(s) Contract for goods and services;

(t) Obtain and provide data relating to the conduct and disciplinary history of health care professionals;

(u) Determine, charge and collect fees;

(v) Receive fees and appropriated funds, grants, contract payments and other funds;

(w) Establish and employ accounts, including restricted fund accounts;

(x) Sue and be sued, including apply for relief by injunction in the Superior Court;

(y) Employ staff and consultants as required to assist it in performing its duties;

(z) Make recommendations to the government regarding plans relative to the assessment of community health care needs and recommendations in areas of health care resources; licensed health care professionals; and other related health care services; and

(aa) Do all other things necessary to carry out the provisions of this chapter and the regulations promulgated pursuant hereto.

Source: PL 15-105, § 3(2206), modified.

Commission Comment: The Commission replaced “act” with “chapter,” changed capitalization and replaced the final comma in subsection (x) with a semi-colon pursuant to 1 CMC § 3806(d), (f) and (g).

TITLE 3: HUMAN RESOURCES
DIVISION 2: HEALTH

§ 2207. Health Care Professions Licensing Board: Jurisdiction.

Notwithstanding any other provision of this chapter, the Board's power, jurisdiction and authority shall extend to persons engaging in the practice of any of the health care professions regulated by the Board, whether their practice is lawful or unlawful, licensed or unlicensed.

Source: PL 15-105, § 3(2207), modified.

Commission Comment: The Commission changed capitalization pursuant to 1 CMC § 3806(f).

TITLE 3: HUMAN RESOURCES
DIVISION 2: HEALTH

§ 2208. Health Care Professions Licensing Board: Liability, Immunity, Indemnification.

(a) With respect to the Board's affairs, the following definitions shall apply to PL 15-22, as amended, 7 CMC §§ 2201-10 ("CELRTCA"), and/or its successor,

(1) "Employee" in 7 CMC § 2201(4) includes current and former Board members, staff, consultants, witnesses and any other person serving or having served the Board within the scope of a Board investigation, hearing, disciplinary action, or other Board function; and

(2) "Employment" in 7 CMC § 2201(5) includes retention as a consultant and service as a witness.

(b) This section shall not be construed to eliminate or reduce a person's protection provided by the provisions of PL 15-22, as amended, 7 CMC §§ 2201-10 ("CELRTCA"), and/or its successor.

Source: PL 15-105, § 3(2208).

TITLE 3: HUMAN RESOURCES
DIVISION 2: HEALTH

§ 2209. Health Care Professions Licensing Board Restricted Fund.

(a) A Health Care Professions Licensing Board Restricted Fund shall be established for the use of such funds as may be placed therein pursuant to the provisions of this chapter.

(b) The Department of Finance shall maintain all funds generated under this chapter in a segregated, restricted special account within the general fund, identified as “The Health Care Professions Licensing Board Fund.”

(c) The Board’s budget shall be appropriated by the legislature. The budget may exceed the amount of the funds projected to be generated under this chapter.

(d) The funds generated under this chapter shall be allotted, disbursed, expended, spent, obligated or otherwise encumbered as provided in this chapter, and notwithstanding any other provision of law, they shall not be reprogrammed for any other purpose.

(e) After the close of each fiscal year, the Board shall provide the presiding officers of the legislature with an accounting of the use of these and other budgeted funds. The Public Auditor shall perform an annual audit of the use of these and other budgeted funds and report the findings to the presiding officers of the legislature. These reports and any audits conducted shall be public information.

(f) The expenditure authority of all funds appropriated to the Board shall be the chairperson of the Board, and/or his/her designee.

Source: PL 15-105, § 3(2209), modified.

Commission Comment: The Commission changed capitalization pursuant to 1 CMC § 3806(f).

TITLE 3: HUMAN RESOURCES
DIVISION 2: HEALTH

§ 2210. Health Care Professions Licensing Board Staff and Counsel.

(a) The Board may designate its administrative functions to an executive director or other chief operating officer, subject to the oversight of the Board's chair. Such person may employ a staff.

(b) The Board's staff shall be subject to the civil service and its executive director or other chief operating officer shall receive an annual salary as determined by the Board pursuant to 1 CMC § 8246.

(c) The Board shall employ qualified legal counsel. The Attorney General shall offer acceptable counsel to the Board, including for the purposes of solicitor and for all legal proceedings initiated and defended. Except that:

(1) In the event of a non-consentable conflict, the Attorney General shall secure for the Board such independent counsel as necessary; or

(2) When the Board certifies with specificity that special experience or skills are needed that cannot be provided by an Assistant Attorney General, the Attorney General shall not unreasonably deny the Board the selection of private counsel to provide the services.

(d) The Board may transfer to the account of the Attorney General those amounts reflecting the salaries, benefits, fees, and other expenses for legal counsel and for litigation.

(e) The Board shall establish and maintain a suitable office for its operations on the island of Saipan.

Source: PL 15-105, § 3(2210), modified.

Commission Comment: The Commission changed capitalization pursuant to 1 CMC § 3806(f).

TITLE 3: HUMAN RESOURCES
DIVISION 2: HEALTH

§ 2211. License to Practice Requirement.

Except as otherwise explicitly provided by law, no person whose profession is regulated by this chapter may do the following without having a valid license issued by the Board:

- (a) Practice or offer to practice a health care profession regulated by the Board, either gratuitously or for pay; or
- (b) Advertise or announce, either publicly or privately, that the person is prepared or qualified to practice, which implies that the person is a practitioner of a health care profession regulated by the Board.

Source: PL 3-30, § 2; repealed and reenacted by PL 15-105, § 3(2211), modified.

Commission Comment: The Commission changed capitalization pursuant to 1 CMC § 3806(f).

TITLE 1: HUMAN RESOURCES
DIVISION 2: HEALTH

§ 2212. Health Care Professionals Required to Be Licensed.

The following health care professionals, practicing the following professions, are required to be licensed, certified, registered, or otherwise regulated by the Board:

- (a) Acupuncturist;
- (b) Audiologist;
- (c) Chiropractor;
- (d) Clinical Social Worker;
- (e) Clinical laboratory;
- (f) Dental Assistant;
- (g) Dental Hygienist;
- (h) Dentist;
- (i) Embalmer;
- (j) Medical or Clinical Laboratory Technologist/Technician;
- (k) Midwife;
- (l) Occupational Therapist;
- (m) Optometrist;
- (n) Pharmacist;
- (o) Pharmacy;
- (p) Pharmacy Intern;
- (q) Pharmacy Tech;
- (r) Physical Therapist;
- (s) Physical Therapist Assistant;
- (t) Physician's Assistant;
- (u) Physician-Doctor of Osteopathy;
- (v) Physician-Medical Doctor;
- (w) Physician-Medical Officer;
- (x) Podiatrist;
- (y) Professional Counselor;
- (z) Psychologist;
- (aa) Radiologic Technologist;
- (bb) Respiratory Therapist;
- (cc) Speech and Language Pathologist;
- (dd) A person providing one of the above-listed services under a different name; and
- (ee) A student under the direct supervision of a licensee.

Source: [PL 3-30](#), § 3; amended by [PL 7-48](#), § 1, modified; repealed and reenacted by [PL 15-105](#), § 3(2212), modified; former subsections (j) and (o) stricken and remaining subsections redesignated by [PL 18-73](#) § 4(d) (Jan. 25, 2015).

Commission Comment: To enhance clarity, the Commission modified the amendatory language of [PL 7-48](#) in subsection (c) by inserting "to" before

TITLE 1: HUMAN RESOURCES
DIVISION 2: HEALTH

“operate” in two instances, and by modifying “who offers or undertakes” to “to offer or undertake.”

The Commission renumbered former subsection (hh) above to (gg) and added a semi-colon in former subsection (k) to correct a manifest error pursuant to [1 CMC § 3806\(g\)](#).

The Commission added a semi-colon in subsection (j) to correct a manifest error pursuant to [1 CMC § 3806\(g\)](#).

TITLE 3: HUMAN RESOURCES
DIVISION 2: HEALTH

§ 2213. Physician-Medical Officer.

No person shall practice as a Physician-Medical Officer who is not: in possession of a valid Commonwealth license on the effective date of this chapter.

Source: PL 3-30, §§ 7, 8; amended by PL 7-48, § 2; PL 10-43, § 2; repealed and reenacted by PL 15-105, § 3(2213), modified.

Commission Comment: PL 10-43 took effect January 17, 1997. According to PL 10-43, § 1:

Section 1. Findings. The Legislature finds that [PL 7-48] as enacted exempted dental hygienists from the Medical Practice Act; however, Conference Committee Report No. 7-8 on page two clearly indicated that the intent of the Legislature was not to exempt dental hygienists from the license requirements. Therefore, the Legislature finds that [PL 7-48] contained a clerical error which should be corrected through appropriate legislation.

Prior to passage of [PL 7-48], the Medical Profession Licensing Board licensed dental hygienists and the Legislature finds the need to continue such license requirements.

The Commission replaced “Act” with “chapter” pursuant to 1 CMC § 3806(d).

TITLE 3: HUMAN RESOURCES
DIVISION 2: HEALTH

§ 2214. Limited Practice for Physicians Licensed to Practice in a Foreign Country.

(a) Notwithstanding any other provision of this chapter, a physician licensed to practice in a foreign country other than Canada may be granted a license to practice subject to the requirements and conditions provided in regulations of the Board which have been approved as to form and substance by the Attorney General.

(b) The Board shall provide by regulation for the practice of a regulated physician in the Commonwealth by a professional licensed to practice in a foreign country with acceptable education, training, examination results and experience comparable to that of a person who is otherwise qualified for licensure under this chapter. Such regulations shall address with specificity:

- (1) Professional degree requirements;
 - (2) Postgraduate training and continuing medical education requirements;
 - (3) Required examinations and certifications;
 - (4) Requirements for active and valid licenses;
 - (5) Disciplinary history;
 - (6) Required professional relationship with a Commonwealth-licensed physician;
 - (7) Scope of limited practice in the Commonwealth;
 - (8) Limitations on the ability to prescribe controlled substances;
 - (9) Insurance and/or other financial requirements;
 - (10) Requirements for character and personal conduct;
 - (11) Language requirements specific to the practice and population served;
- and
- (12) Such other requirements the Board considers necessary, appropriate or useful for the effective implementation of this chapter and/or necessary for the protection of those who utilize the professional medical services of those granted a limited license pursuant to this section.

Source: PL 3-30, § 5; repealed and reenacted by PL 15-105, § 3(2214).

Commission Comment: For establishment and organization of the Medical Profession Licensing Board, see 1 CMC § 2641 et seq.

TITLE 3: HUMAN RESOURCES
DIVISION 2: HEALTH

§ 2215. Qualifications for Licensure.

(a) No artificial person shall practice a health care profession regulated by the Board independently of a licensed natural person.

(b) No natural person shall practice a health care profession regulated by the Board without a valid, duly issued license from the Board, unless otherwise specifically stated in this chapter.

(c) The Board shall provide by rules and/or regulations the qualifications and requirements for licensure of each type of health care professional regulated pursuant to this chapter.

(d) In order to be licensed by the Board a natural person must meet the following requirements:

(1) Be at least 21 years of age;

(2) Be a U.S. citizen, or a foreign national and lawfully entitled to remain and work in the Commonwealth;

(3) Has met all the education, continuing education, examination, certification, diploma, experience, character, financial responsibility and other requirements of the Board's regulations;

(4) Have a reputation for honesty, trustworthiness, fairness, and financial integrity and responsibility;

(5) Be of good moral character; and shall not have been convicted in any jurisdiction of a crime of moral turpitude or a crime related to the person's profession;

(6) Fully and honestly provide the information to the Board required for the Board's decision; and

(7) Except that when a provision of this section conflicts with the Commonwealth Constitution, Schedule on Transitional Matters, the terms of the Schedule shall control.

(e) In addition to the foregoing requirements, the Board may add the following requirements, in its discretion, and for good cause:

(1) Require additional proof that the person is competent to practice professionally;

(2) Require further examination;

(3) Require additional proof that the person is of an acceptable moral character; and/or

(4) Require that the person not be impaired by reason of substance abuse or debilitating physical or mental/emotional condition.

(f) The Board shall provide by regulation for the continuing education for each licensed profession, including required hours, qualifying subject matter, certification, record-keeping, verification, and reporting.

Source: PL 15-105, § 3(2215).

TITLE 3: HUMAN RESOURCES
DIVISION 2: HEALTH

§ 2216. Licensure by Endorsement.

(a) The Board may grant a license to a person to practice a health care profession without examination if:

(1) The person holds a valid, active license to practice that health care profession in another jurisdiction;

(2) The person substantially complies with the requirements for licensure in 3 CMC § 2215; and

(3) The requirements in the jurisdiction of licensure are at least as stringent as those under this chapter.

(b) The Board may deny a license by endorsement to a person to practice a health care profession if the person has been the subject of an adverse action in which his/her license was suspended, revoked, placed on probation, conditioned or renewal denied.

Source: PL 15-105, § 3(2216).

Commission Comment: The Commission replaced a public law section reference with the codified section pursuant to 1 CMC § 3806(c).

TITLE 3: HUMAN RESOURCES
DIVISION 2: HEALTH

§ 2217. Language.

The Board shall provide by rule and/or regulation for appropriate English language proficiency of a licensee, giving due regard to the required training, education and experience, to the applicable language of commerce and regulation, to the licensee's continuing education, and to the language of the likely patient population.

Source: PL 15-105, § 3(2217).

TITLE 3: HUMAN RESOURCES
DIVISION 2: HEALTH

§ 2218. Temporary or Limited Licenses.

(a) The Board shall provide by rule and/or regulation for a temporary or limited license, as appropriate, to address one or more of the following conditions:

- (1) Emergencies, disasters or shortages of skilled professionals;
- (2) The effective use of health care professionals in training;
- (3) The use of visiting specialists;
- (4) Special needs of the local population;
- (5) Length and scope of the anticipated practice;
- (6) Term of the license and periods for renewal; and/or
- (7) The extent to which a paperwork or, administrative failure has impaired the Board's ability to issue a license, in the ordinary course of its affairs.

(b) The Board shall require by rule and/or regulation that, in order to address a request for a temporary or limited license the following criteria shall be considered:

- (1) The person's qualifications;
- (2) The person's regulatory and disciplinary history;
- (3) Adverse legal, regulatory and/or professional actions;
- (4) The person's experience, training and certifications; and
- (5) The nature and scope of the position to be filled.

Source: PL 15-105, § 3(2218).

TITLE 3: HUMAN RESOURCES
DIVISION 2: HEALTH

§ 2219. Application for Licensure.

(a) Application for licensure or renewal shall be made upon an application form to be furnished by the Board and shall be signed and sworn to under penalty of perjury by the applicant.

(b) There shall be paid to the Board a non-refundable application fee, in an amount which the Board shall fix by regulation, and thereafter annually by resolution or regulation.

(c) The applicant shall provide to the Board and attest to, the information which the Board requires in its regulations.

(d) The burden of proof shall be upon the applicant to provide and verify to the Board's satisfaction the required information. The applicant shall be responsible for the cost of obtaining such information from recognized information services and data services.

(e) *Legal effect of the application:*

(1) The submission of an application for licensure to the Board shall constitute, and operate as, a waiver of the right to privacy, and an authorization and consent by the applicant to the Board to disclose and release:

(i) Information or documentation required by, set forth in, or submitted with, the applicant's application; and/or

(ii) Information or documentation obtained by the Board from other persons, including businesses, associations, educational institutions, and/or governmental entities.

(2) By submission of an application for licensure, or renewal, an applicant shall be deemed to have given his or her consent to submit to mental or physical examination and/or chemical dependency evaluation, including the taking of tissue or fluid samples, as the Board may direct, and to waive all objections as to the admissibility or disclosure of such information and related findings, reports, or recommendations in an administrative or judicial proceeding.

(3) The application form shall include statements substantially similar to those of the preceding subparagraph, section 2219(e)(2), and the applicant must sign in agreement therewith.

(4) Except that nothing in this subsection shall eliminate the Board's obligations under the Open Government Act of 1992, 1 CMC §§ 9917-18, with respect to putatively confidential information submitted to the Board in order to obtain a benefit.

(f) The expense of any such mental, physical, laboratory or other application-related examination or evaluation shall be borne by the applicant.

(g) The Board shall require the submission of information and/or documentation necessary to the licensure determination, including:

- (1) Criminal background;
- (2) The person's experience, training and certifications;
- (3) Relevant medical information;
- (4) Work, licensing and/or disciplinary history; and
- (5) Adverse legal, regulatory and/or professional actions.

Source: PL 15-105, § 3(2219).

TITLE 3: HUMAN RESOURCES
DIVISION 2: HEALTH

§ 2220. Term of License.

(a) A license issued by the Board shall be valid for two years, except as otherwise specifically provided in this chapter.

(b) The validity of a license shall expire on the: document's termination date, except as otherwise specifically provided in this chapter.

(c) The license shall state on its face the beginning and end date of its term, the fact that it is temporary, limited or subject to conditions, and any other information that the Board, by regulation or order, deems appropriate.

Source: PL 15-105, § 3(2220).

TITLE 3: HUMAN RESOURCES
DIVISION 2: HEALTH

§ 2221. Renewal of License.

(a) The burden shall be upon the licensee to timely submit an application for renewal.

(b) Each licensee shall be responsible for submitting a completed renewal application at least eight weeks, fifty-six calendar days, before the expiration date of the current license.

(c) The Board shall notify every licensee at least twelve weeks, eighty-four days, before license expiration, stating the date of expiration and the fee and any additional requirements for the renewal thereof. Notification shall be by methods calculated to most reasonably reach the licensee in a timely, cost-effective 38 manner.

(d) The Board shall make all reasonable effort to process a timely renewal application in order to issue a renewed license at least a month before the expiration date of the current license.

(e) The Board shall provide by regulation a significant additional fee for the untimely application to renew an expired license. An expired license may be reinstated within one year of the expiration date upon payment of the renewal and any other penalty fees for each calendar month. A license which is more than one year expired shall not be renewed, and the licensee must file a new application and be treated as a new applicant.

Source: PL 3-30, § 6; repealed and reenacted by PL 15-105, § 3(2221), modified.

Commission Comment: The Commission deleted figures that repeated written words pursuant to 1 CMC § 3806(e). The reference in subsection (c) above to “cost-effective 38 manner” is as stated in the original text of PL 15-105, § 3(2221(c)).

TITLE 3: HUMAN RESOURCES
DIVISION 2: HEALTH

§ 2222. Business License to Conform to Board License.

(a) As a general rule, no Commonwealth agency may issue a business license for a person using the terms describing a health care professional which are used in this chapter and in the regulations promulgated pursuant to the chapter, or variations thereof, unless the principal person associated with the entity seeking the business license has presented the agency with a valid license from the Board.

(b) As a limited exception to the general rule, in recognition of the substantial time that may be required to secure the information required under this chapter, in order to avoid a "Catch 22" or circular licensing stalemate, and in order to facilitate the licensing processes, a Commonwealth agency shall, upon request, issue a temporary business license to a health care professional for a limited period of time for the purpose of that person's obtaining licensure from the Board.

(c) A business license shall not be held to be:

- (1) A substitute for a license from the Board; or
- (2) An authorization to practice a regulated health care profession.

Source: PL 3-30, §§ 7, 29; repealed and reenacted by PL 15-105, § 3(2222), modified.

Commission Comment: The Commission replaced "act" with "chapter" pursuant to 1 CMC § 3806.

TITLE 3: HUMAN RESOURCES
DIVISION 2: HEALTH

§ 2223. Reporting Requirements.

(a) Every health care facility shall inform the Board fully in writing within five weeks, thirty-five calendar days, of an adverse disciplinary action, including those actions described in this chapter, taken against any health care professional practicing in that facility who is regulated pursuant to this chapter, notwithstanding the pendency of an appeal.

(b) Every regulated health care professional shall inform the Board fully in writing within five weeks, thirty-five calendar days, of an adverse professional disciplinary action by any jurisdiction, including those actions described in this chapter, notwithstanding the pendency of an appeal.

Source: PL 3-30, § 7; repealed and reenacted by PL 15-105, § 3(2223), modified

Commission Comment: For provisions concerning licensing of registered nurses, practical nurses and midwives, see 3 CMC § 2321 et seq.

The Commission deleted figures in the above section that repeated written words pursuant to 1 CMC § 3806(e).

TITLE 3: HUMAN RESOURCES
DIVISION 2: HEALTH

§ 2224. Discipline, Reasons for.

(a) *Scope*. The Board's complete power, authority, and jurisdiction shall extend to any person engaging in, or purporting to engage in, the practice of a health care profession regulated pursuant to this chapter, including persons offering their own services or the services of their employees or agents.

(b) *Reasons for discipline*. The Board may discipline a person for reasons which include the following:

(1) Crimes:

(i) Conviction in any jurisdiction of:

(A) A crime involving moral turpitude;

(B) A crime related to a health care profession;

(C) A felony; and/or

(ii) A plea of nolo contendere or its equivalent accepted by an agency or court shall be considered a conviction for the purposes of this section.

(2) Committing a fraud, misrepresentation, or deception in applying for, renewing or otherwise securing a health care professional license, or in taking an examination required for such a license;

(3) Engaging in dishonorable, unethical or unprofessional conduct of a character likely to mislead, deceive, defraud or harm the public with respect to a health care profession;

(4) Negligence, incompetence or misconduct in the practice of a health care profession;

(5) Intentionally violating a Commonwealth or federal statute or regulation governing a controlled substance;

(6) Habitually or excessively using or abusing drugs or alcohol to such extent as to render the person incapable of exercising the required degree of skill and judgment for the treatment of patients in the Commonwealth;

(7) Being physically or mentally incompetent to practice the person's health care profession to such an extent as to endanger the person or the public;

(8) Representing to a patient that a manifestly incurable condition or sickness, disease, or injury can be permanently cured, or representing that any disease, ailment or infirmity can be cured by a secret method, procedure, treatment, medicine or device, if such is not the fact.

(9) Making a false, fraudulent, deceptive or misleading statement in:

(i) A document connected with the practice of a health care profession; and/or

(ii) Advertising;

(10) Advertising procedures and practices which are unlawful in the Commonwealth;

(11) Advertising, or otherwise offering to engage, or in fact engaging, in the practice of a health care profession without first complying with the requirements of this chapter.

TITLE 3: HUMAN RESOURCES
DIVISION 2: HEALTH

- (12) Giving fraudulent, deceptive, misleading or intentionally false testimony while serving as an expert witness;
- (13) Practicing a health care profession as an individual under a false or assumed name, except for the use of an additional, duly registered business name;
- (14) Commission of an act of sexual misconduct, which exploits the professional-patient relationship;
- (15) Persistent, deliberate over-charging or over-treating of patients;
- (16) Obtaining a fee by fraud, deceit or misrepresentation;
- (17) Violating the confidentiality between the health care professional and patient, except as allowed, or required by law;
- (18) Violating an order of a court of a U.S. jurisdiction;
- (19) Misusing a license, including:
 - (i) Using or attempting to use: an expired, suspended or revoked license;
 - (ii) Misrepresenting to the public a conditional, limited or temporary license;
 - (iii) Practicing, or offering to practice, a health care profession without a valid license issued by the Board;
 - (iv) Allowing another person or firm to use the licensee's license to practice a health care profession, except for:
 - (A) The employment of a person;
 - (B) Under the licensee's direct supervision and control;
 - (C) In the ordinary course of the conduct of the profession; and
 - (D) Consistent with the Board's regulations.
- (20) Aiding or abetting an unregulated person to practice a health care profession in violation of this Chapter;
- (21) Without having a valid license from the Board, using any of the health care profession titles listed in this chapter, or modifications, derivatives, or acronyms thereof, in the individual or firm name, or in any title, sign, card, ad, electronic communication, or other device to indicate that the person is practicing such profession;
- (22) With respect to other jurisdictions:
 - (i) Being subject to a health profession disciplinary action from another jurisdiction based upon acts or conduct by the licensee similar to acts or conduct that would support disciplinary action under this chapter;
 - (ii) Failing to report to the Board an adverse action taken against the person by another jurisdiction's health care profession regulatory agency or court, by a professional peer body, by a health care institution, by a health care professional society or association, by a governmental agency, including a law enforcement agency or by a court for acts or conduct similar to acts or conduct that would support disciplinary action under this chapter;

TITLE 3: HUMAN RESOURCES
DIVISION 2: HEALTH

(iii) Failing to report to the Board the surrender of a license to practice a health care profession in another jurisdiction, or the surrender of membership in any health care profession association or society while under the disciplinary investigation by an authority, organization, agency, court or other body;

(23) Failing to report to the Board an adverse judgment, settlement or award arising from a claim concerning the person's practice of a health care profession;

(24) Violating a provision of this chapter, or a regulation promulgated pursuant to it;

(25) Violating a provision of an order entered pursuant to this chapter, or a regulation promulgated pursuant thereto, by the Board or a court, including an adverse order, a consent order, a stipulation or an agreement;

(26) Aiding or assisting another person in violating a provision of this chapter, a rule or regulation promulgated pursuant thereto, or an order, stipulation or agreement of the Board or a court;

(27) Failing to timely furnish the Board, or its investigators, representatives, or other agents, with lawfully requested information;

(28) Failing to cooperate with a lawful investigation conducted by the Board, including lying to a Board investigator or withholding information; or

(29) Destroying, or attempting to destroy information apparently related to an investigation conducted by the Board.

(c) *Evidence*. In a proceeding brought in whole or in part under this chapter the following shall be treated as admissible evidence to establish the truth of the matters stated therein:

(1) A certified copy of the record of an action taken by the professional licensing Board or court of another jurisdiction; and

(2) An order, a plea, plea agreement or acceptance thereof, or judgment entered by the professional licensing Board or court of another jurisdiction.

(d) *Separate offenses*. Each act violating a provision of this chapter and/or regulations promulgated thereunder shall constitute a separate offense, subject to discipline, including a civil or criminal fine or penalty.

Source: PL 3-30, § 9; repealed and reenacted by PL 15-105, § 3(2224).

TITLE 3: HUMAN RESOURCES
DIVISION 2: HEALTH

§ 2225. Criminal and Other Penalties and Remedies.

(a) *Misdemeanor.*

(1) Every person who intentionally practices or attempts to practice any health care profession within the Commonwealth in violation of this chapter and the regulations promulgated pursuant thereto shall be guilty of a misdemeanor.

(2) Upon conviction, such person shall be punished by a fine of not more than \$1,000 for each offense, or by imprisonment for not more than one year for each offense, or by both.

(b) *Felony.*

(1) Every person who intentionally, and recklessly or maliciously, practices, or after prior conviction of an act prohibited hereunder, attempts to practice, any health care profession within the Commonwealth in violation of this chapter and the regulations promulgated pursuant thereto, shall be guilty of a felony.

(2) Upon conviction, such person shall be punished by a fine of not more than \$10,000 for each offense, or by imprisonment for not more than ten years for each offense, or by both.

(c) Injunctive relief shall not constitute the exclusive remedy to a violation, nor shall issuance of an injunctive order relieve those enjoined from criminal prosecution.

Source: PL 3-30, § 10; amended by PL 7-48, § 3 (§ 2225); repealed and reenacted by PL 15-105, § 3(2225), modified.

Commission Comment: The Commission deleted figures in subsection (b)(2) that repeated written words pursuant to 1 CMC § 3806(e).

TITLE 3: HUMAN RESOURCES
DIVISION 2: HEALTH

§ 2226. Civil Penalties and Other Discipline.

(a) *Summary suspension.* Notwithstanding any other provision of law, upon a finding that immediate action is needed to reduce or eliminate the likelihood of harm to the public health, safety or welfare or to a patient of a health care professional, the Board and/or a court shall have the complete jurisdiction, power and authority to summarily suspend a licensee and order the cessation of a person's practice of a health care profession regulated by this chapter. Such an action shall be followed immediately by notice and an opportunity to be heard. No court shall lift, vacate or otherwise interfere with the Board's suspension under this chapter

(1) While the Board proceeds in a timely and deliberate manner and

(2) Unless the court shall have taken and considered evidence which is material and relevant to the suspension.

(b) *In general.* Upon finding a violation of this chapter, and after appropriate notice and opportunity to be heard, the Board may provide such relief as it determines appropriate.

(c) *Injunctive relief.* The Board may enjoin. The Board may also seek injunctive relief directly from the Superior Court. The Board may punish a violation of an injunctive order. No proof of actual damage to any person shall be required for issuance of an injunctive order by the Board or a court.

(d) *Types of discipline.* The Board may discipline a person, including in any of the following ways:

(1) The Board may discipline a licensee or applicant for licensure, including in one or more of the following ways:

(i) Refuse: to issue a license; to renew; or to restore;

(ii) Suspend or revoke;

(iii) Place on probation;

(iv) Condition a license;

(v) Limit a license by restricting the fields or sub-fields of practice, or the procedures, in which the licensee may engage;

(vi) Require further education or training or testing for competency;

(vii) Enjoin;

(viii) Receive a voluntary surrender, in which a licensee voluntarily surrenders a license in exchange for a decision by the Board to forego conducting, or cease, an investigation, a discipline, or similar proceeding, or in lieu of a disciplinary action;

(ix) Levy fees, charges, costs, expenses, fines or civil penalties; and/or

(x) Require an application for licensure.

(2) The Board may discipline a person other than a licensee or applicant for licensure in one or more of the following ways:

(i) Enjoin;

(ii) Levy fees, charges, costs, expenses, fines or civil penalties; and/or

TITLE 3: HUMAN RESOURCES
DIVISION 2: HEALTH

- (iii) Require an application for licensure.
- (3) The Board may also, with respect to any person:
 - (i) Make a criminal complaint;
 - (ii) Deny relief;
 - (iii) Require the payment of costs, fees and/or expenses of litigation;
 - (iv) Dismiss one or more allegations or counts of a complaint;
 - (v) Order such other discipline as appropriate and permitted by law;
 - (vi) Seize all tools and other implements, medicines, and drugs used in the practice of a health care profession by a person found by a court to have practiced a health care profession in violation of this chapter; and/or
 - (vii) Apply other remedies authorized by law.
- (4) In a proceeding before the Board for injunctive relief it shall not be necessary to allege or prove:
 - (i) That an adequate remedy at law does not exist; or
 - (ii) That substantial, immediate, or irreparable damage would result from the continued violation thereof.
- (e) *Suit*.
 - (1) The Board may sue to enforce its orders, including its subpoenas, and partial, final and temporary orders. The Board may sue to secure an order from a court.
 - (2) In a court proceeding for injunctive relief under this chapter, or the regulations promulgated pursuant thereto, it shall not be necessary to allege or prove:
 - (i) That an adequate remedy at law does not exist; or
 - (ii) That substantial, immediate, or irreparable damage would result from the continued conduct sought to be enjoined or violation thereof.
- (f) *Forfeiture*. A court may declare forfeit to the Commonwealth, and order the seizure of, all tools and other implements, medicines, and drugs used in the practice of a health care profession by a person found to have practiced a health care profession in violation of this chapter.
- (g) The remedies and penalties prescribed in this chapter shall be concurrent and cumulative, and the exercise of one shall not preclude the exercise of the others, and these remedies and penalties are in addition to any other remedy or penalty afforded by any other law or regulation.

Source: PL 3-30, § 11; amended by PL 7-48, § 3 (§ 2226); repealed and reenacted by PL 15-105, § 3(2226).

TITLE 3: HUMAN RESOURCES
DIVISION 2: HEALTH

§ 2227. Complaints to the Board and Procedures.

(a) The Board shall develop procedures for the prompt and efficient receipt, investigation and resolution of complaints and hearings, including rules of practice and procedure. Such procedures shall include notification of a licensee of an outstanding complaint, with due regard given to maintaining the confidentiality of the complainant during the investigation. Such procedures shall give due regard to the confidentiality of the target of the complaint, particularly when the complaint is anonymous.

(b) Any person, including a Board member or the Board's staff, may complain to the Board in writing against any person. The complaint may seek relief, but need not specify the relief sought. The complaint shall be as specific as possible as to the time, place, and nature of the violation. The Board's determination of a complaint shall be accorded notice and an opportunity to be heard, except as provided otherwise specifically in this chapter.

(c) The Board or its designee shall promptly and fully investigate all non-trivial allegations filed with the Board for the purposes of determining whether to proceed with or dismiss the complaint. Ordinarily, such investigation shall conclude within five weeks, thirty-five calendar days, of receipt of the complaint.

(d) The Board may dismiss without hearing a complaint as unfounded, or trivial, or failing to state a ground for which relief may be granted, with a written order explaining its decision. Notwithstanding any other provision of law the dismissal of a complaint shall be subject only to a retrospective notice and opportunity to be heard. The Board may dismiss an anonymous complaint without investigation.

(e) The Board shall hear and determine complaints and other contested matters pursuant to the Commonwealth Administrative Procedure Act, 1 CMC §§ 9108.

(f) The Board may refer a criminal prosecution to the Attorney General. The Attorney

General shall review such a referral on an expedited basis to determine whether criminal activity presents an immediate danger to the health, welfare or security of the Commonwealth or persons likely to receive care.

(g) The Board or its hearing officer may issue subpoenas as in the Superior Court. The Board shall provide by regulation for subpoena procedures, including how a person shall request a subpoena, who shall serve the subpoena, how service may be made, what the witness shall bring, the penalties to be exacted upon failure or refusal to obey a subpoena, and payment of required fees, if any, for travel and appearance. The Board may apply to the Superior Court for an order causing the arrest of a nonappearing witness and directing that the witness be brought before the Court and the Board. A disobedient witness shall be liable in damages for nonattendance to the hearing or other proceeding. The Board shall be provided those services available to the Attorney General for service of subpoenas.

TITLE 3: HUMAN RESOURCES
DIVISION 2: HEALTH

Source: PL 3-30, § 12; repealed and reenacted by PL 15-105, § 3(2227), modified.

Commission Comment: The Commission deleted figures in subsection (c) that repeated written words pursuant to 1 CMC § 3806(e).

TITLE 3: HUMAN RESOURCES
DIVISION 2: HEALTH

§ 2228. Confidentiality.

(a) The Open Government Act of 1992, 1 CMC §§ 9917-18, shall determine the extent to which the Board's records, files and other information shall be privileged and confidential and may be protected from disclosure. Such protection shall apply to the work product of an attorney retained by or for the Board, whether or not an assistant attorney general.

(b) Notwithstanding any other provision of law, information secured pursuant to an investigation by the Board, or with respect to a referral by the Board for prosecution, including the name of a complainant or witness, shall be confidential and exempt from disclosure, until such investigation or referral has been completed and the matter dismissed or a pleading filed.

(c) Further protection from disclosure may be provided by the Board, an administrative hearing officer or judge, pursuant to notice and an opportunity to be heard.

Source: PL 3-30, § 14; repealed and reenacted by PL 15-105, § 3(2228).

TITLE 3: HUMAN RESOURCES
DIVISION 2: HEALTH

§ 2229. Appeals of Board Decisions.

(a) Appeals of the Board's action or inaction shall be conducted pursuant to the Commonwealth Administrative Procedure Act, 1 CMC §§ 9108- 15.

(b) An appeal of the Board's action or inaction shall be treated for discovery purposes as an appeal, and not as an original action, and matters therein shall not be subject to discovery, except for those limited matters which the reviewing court has by written order set for a trial de novo.

(c) Application to the Board for rehearing or reconsideration shall not constitute a condition of judicial review.

(d) An appeal shall not per se stay the effective date of the order, decree, regulation or other final decision appealed.

Source: PL 3-30, § 13; amended by PL 7-48, § 3 (§ 2229); repealed and reenacted by PL 15-105, § 3(2229).

TITLE 3: HUMAN RESOURCES
DIVISION 2: HEALTH

§ 2230. Bond Not Required.

Bond or other security shall not be required of the Board, including:

- (a) To enforce the provisions of this chapter and its regulations;
- (b) To restrain any violation thereof; or
- (c) On appeal.

Source: PL 3-30, § 15; amended by PL 7-48, § 3 (§ 2230); repealed and reenacted by PL 15-105, § 3(2230).

TITLE 3: HUMAN RESOURCES
DIVISION 2: HEALTH

§ 2231. Suing the Board.

(a) Unless otherwise stated by regulation, service personally or by mail upon the Board's chief operating officer or the administrative official serving as secretary shall constitute service upon the Board.

(b) Except that service upon the Board shall not be perfected until a copy has been served upon the Attorney General.

Source: PL 3-30, § 16 ; repealed and reenacted by PL 15-105, § 3(2231).

TITLE 3: HUMAN RESOURCES
DIVISION 2: HEALTH

§ 2232. Construction of Board Action; Liberal Construction.

(a) The Board's substantial compliance with the requirements of the laws which the Board administers is sufficient to give effect to all of the Board's orders, acts, rules and regulations, and the Board's orders, acts, rules and regulations shall not be declared inoperative, illegal or void for any omission of a technical nature in respect thereto.

(b) The provisions of the laws which the Board administers shall be liberally construed in order to promote and protect the public interest.

Source: PL 15-105, § 3(2232).

TITLE 3: HUMAN RESOURCES
DIVISION 2: HEALTH

§ 2233. Electronic Means for Filing and Doing Business.

The Board may provide for the filing, payment, recording of its actions, data storage, submission and storage of materials, and conducting of the Board's business, by electronic means. Electronic means shall be favored.

Source: PL 15-105, § 3(2233).

TITLE 3: HUMAN RESOURCES
DIVISION 2: HEALTH

§ 2234. National and Interstate Data Banks.

(a) Reporting to the Board.

(1) Each licensee and each person in the Commonwealth employing a licensee, including the Commonwealth Health Center and its successors and assigns, shall report to the Board:

(i) Information which it receives relating to the professional competence and conduct of a health care professional regulated pursuant to this chapter. In particular it shall report negative information;

(ii) A professional review action that adversely affects the clinical privileges of a health care professional for a period of more than 30 days; and

(iii) Acceptance of the surrender of clinical privileges, or any restriction of such privileges, of a health care professional.

(2) The Board shall provide a form for such reports.

(3) The report shall be made within thirty-five days of receipt of the information by the person or by a management-level individual.

(b) Reporting to national and interstate data banks.

(1) The Board shall report adverse health care professional information to the National Practitioner Data Bank ("NPDB"), the Federation of State Medical Boards ("FSMB"), to the appropriate government health agency having jurisdiction over a foreign-licensed or otherwise regulated health care professional, and such other interstate or national health professional data bank as it shall by regulation determine, within thirty-five days following its receipt of the information. The Board shall maintain its membership in such organizations in order to retain the benefits of access to the data.

(2) The information to be reported shall include:

(i) Discipline of a regulated health care professional described by, or undertaken pursuant to, this chapter, and without regard to whether the action of the disciplining entity has been stayed by a reviewing court;

(ii) A professional review action that adversely affects the clinical privileges of a health care professional for a period of more than 30 days; and

(iii) Acceptance of the surrender of clinical privileges or any restriction of such privileges of a health care professional.

(c) Securing information.

(1) The Board shall secure for each person subject to regulation reportable information at the following times:

(i) When a health care professional applies for a license;

(ii) Every two years, typically in advance of license renewal; and

(iii) Whenever the Board determines such information would be reasonably required.

(2) The Board shall provide by regulation for each professional's payment of the costs and fees for such reports.

TITLE 3: HUMAN RESOURCES
DIVISION 2: HEALTH

(3) The Board may provide such information to a requesting person on such terms as it shall set by regulation. Such regulation must comply with the terms and conditions for confidentiality of the NPDB, FSMB or other such entity.

(4) The Board shall otherwise conduct itself with due regard for confidentiality.

Source: PL 15-105, § 3(2234), modified.

Commission Comment: The Commission deleted figures in the above section that repeated written words pursuant to 1 CMC § 3806(e).

TITLE 3: HUMAN RESOURCES
DIVISION 2: HEALTH

§ 2235. Transition.

(a) The Board is and shall be the successor to the Commonwealth Medical Profession Licensing Board in respect to all of the duties, powers and authority previously vested in the Medical Board and now vested in or imposed upon the Board.

(b) All actions and publications, including orders, decisions, rules, regulations, certificates, licenses, or other permissions, contracts, guidelines, practices and procedures of the Medical Board shall continue in full force and effect. The Board shall make such administrative changes as are necessary to conform these to the Board's practices and procedures.

(c) Any unexpended balance of moneys of, and any fees or other moneys now owing to, the Medical Board shall be, and the same are hereby, transferred and assigned over to the Board hereby created, to be used and disposed of, as provided by law.

(d) The Medical Board members holding office at the time this chapter becomes law shall be members of the Board. They shall continue in office under this chapter for the remainder of the term for which they were appointed. The Board shall immediately meet and designate the chair and the other officers.

(e) Except as otherwise provided herein, the regulations, guidelines, standards, and procedures related to the regulation of the functions and operation of a regulated health care professional and/or profession that are in force when this chapter becomes effective, shall continue to apply until amended or repealed by the Board.

Source: PL 15-105, § 3(2235), modified.

Commission Comment: The Commission replaced “act” with chapter” pursuant to 1 CMC § 3806.

TITLE 3: HUMAN RESOURCES
DIVISION 2: HEALTH

§ 2236. Retired Senior Volunteer Program for Health Professionals.

(a) The Board may issue a license to a person meeting the requirements for participation in the Retired Senior Volunteer Program for Health Professionals.

(b) The Board is authorized to create a Retired Senior Volunteer Program for Health Professionals for the purpose of permitting physicians and other health care professionals who are fully retired from the active practice to obtain a limited license without cost which would permit the provision of outpatient health care services at established free clinics and programs operated in the Commonwealth.

(c) Health care professionals regulated pursuant to this section should perform no fewer than 100 hours of voluntary service annually and must limit their practice to the program.

(d) Any person regulated pursuant to this section shall be subject to complete regulation under this chapter, except as specifically provided in this section.

(e) The program and the Board's regulations shall provide that:

(1) The applicant currently has or has had a full and unrestricted license to practice in a state or other jurisdiction which the Board approves, which license is or was at the time of expiration unrestricted and in good standing with no pending disciplinary actions or investigations at the time of expiration.

(2) The applicant shall be fully retired from active practice.

(3) The applicant shall be in good health and not currently undergoing treatment for a physical or mental condition which would impair the individual's ability to practice with reasonable skill and safety for patients.

(4) The applicant certifies, on a form prescribed by the Board, that she intends to limit his or her practice to the program.

(5) The licensee shall be subject to such continuing education requirements as the Board shall provide.

(6) The applicant has been requested to provide services that qualify for the program.

(7) A license, and renewals thereof, shall be issued at no cost.

(f) The Board shall promulgate regulations for this program and licensure thereunder. Such regulations may provide for the certification of clinics programs and facilities for which the program's licensure may be granted.

Source: PL 15-105, § 3(2236).