

MAINE STATE LEGISLATURE

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(EMERGENCY)

ONE HUNDRED AND FIFTH LEGISLATURE

Legislative Document

No. 722

H. P. 532

House of Representatives, February 9, 1971

Referred to Committee on Judiciary. Sent up for concurrence and ordered printed.

BERTHA W. JOHNSON, Clerk

Presented by Mrs. Payson of Falmouth.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-ONE

AN ACT Revising the Laws Relating to Physicians and Surgeons.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, it is necessary to update standards and disciplinary procedures within the medical profession; and

Whereas, there is a public need for investigation and legal action, if justified, as regards pending complaints and potential violations against practicing physicians and surgeons; and

Whereas, the restructuring of fee schedules is necessary; and

Whereas, there is need for emergency provisions in the medical field; and

Whereas, assistants to physicians are vitally necessary for better service to the people of Maine; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine, and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. R. S., T. 32, c. 48, additional. Title 32 of the Revised Statutes is amended by adding a new chapter 48 to read as follows:

CHAPTER 48
BOARD OF REGISTRATION OF PHYSICIANS AND SURGEONS
SUBCHAPTER I
BOARD OF REGISTRATION

§ 3263. Appointment; vacancies; compensation

The Board of Registration of Physicians and Surgeons, as heretofore established, and in this chapter called the "board" shall consist of 6 persons appointed by the Governor with the advice and consent of the Council. They shall be residents in the State, shall be graduates of a legally chartered medical college or university having authority to confer degrees in medicine and shall have been actively engaged in the practice of their profession in the State of Maine for a continuous period of 5 years preceding their appointment to the Board of Registration of Physicians and Surgeons. Two persons, qualified as aforesaid, shall be appointed members of said board on or before the first day of July of every uneven-numbered year, to hold office for 6 years from the first day of July following said appointment. Any vacancy in said board shall be filled by the appointment of a person, qualified as aforesaid, to hold office during the unexpired term of the member whose place he fills. Any member of said board may be removed from office for cause by the Governor, with the advice and consent of the Council.

Members of said board shall receive annual salaries of \$750 each, except the chairman, who shall receive \$1,000 a year, and the secretary, who shall receive \$5,000. In addition each member shall receive necessary traveling expenses in attending the meetings of the board and meetings authorized by the board. Extra compensation for each day actually spent in investigation or prosecution of complaints and cases under this chapter shall be allowed to each member of the board actually engaged therein. If the fees to be collected under any of the provisions of this chapter are insufficient to pay the salaries and expenses provided by this section, the members of said board shall be entitled to only a pro rata payment for salary in any years in which such fees are insufficient.

§ 3264. Oath

Each member of said board shall, before entering upon the duties of his office, take the constitutional oath of office, and shall, in addition, make oath that he is qualified under the terms of this chapter to hold such office.

§ 3265. Secretary-treasurer; bonding

The secretary-treasurer of the board shall, in addition to taking the oath of office before entering upon the duties thereof, enter into a corporate surety bond in the sum of \$5,000 for the use and benefit of the funds of said board, conditioned that he will faithfully perform the duties of his office and account for all moneys which may come into his hands by virtue thereof. The said bond shall be approved by and deposited with the Secretary of State.

§ 3266. Elections; meetings; seal; expenses

The members of said board shall meet on the 2nd Tuesday of July of the uneven-numbered year at such time and place as they may determine and

shall elect a chairman and a secretary who shall hold their respective offices for the term of 2 years. The secretary of said board shall be the treasurer thereof and shall receive all fees, charges and assessments payable to the board and account for and pay over the same according to law. The said board shall hold regular meetings, one in March, one in July and one in November of each year, and such additional meetings at such times and places as it may determine. Said board shall cause a seal to be engraved and shall keep a record of all their proceedings.

§ 3267. Quorum

A majority of the members of the board shall constitute a quorum for the transaction of business under this chapter, but a less number may adjourn from time to time until a quorum is present.

§ 3268. Members may administer oaths

Any member of said board shall have the authority to administer oaths in all matters pertaining to the affairs of the board. The board, acting through the secretary, shall have the authority to subpoena witnesses, books, records and documents in hearings before it.

§ 3269. Powers and duties of the board

The board shall have the following powers and duties in addition to all other powers and duties imposed by this chapter:

1. Set standards. The power to set standards of eligibility for examination for candidates desiring admission to medical practice in Maine;
2. Adopt criteria. The power to design or adopt an examination and other suitable criteria for establishing a candidate's knowledge in medicine and its related skills;
3. Licensing and standards. The power to license and register and to set standards of practice for physicians and surgeons practicing medicine in Maine;
4. Hearings and procedure. Power to hold hearings and take evidence in all matters relating to the exercise and performance of the powers and duties vested in the board, and, through any member thereof subpoena witnesses, administer oaths, compel the testimony of witnesses and compel the production of books, papers and records relevant to inquiry;
5. Legal representation. The power to engage legal counsel, to be approved by the Attorney General, and investigative assistants of its own choosing to advise the board generally and specifically, to represent the board in any hearings before it and in any appeals taken from a decision of the board;
6. Salary and duties. The power to employ, fix the salary of and prescribe the duties of other personnel as the board shall deem necessary;
7. Rules and regulations. The power to promulgate such rules and regulations as the board may deem necessary and proper to carry out this chapter;

8. Complaints. The duty to investigate complaints on its own motion and those lodged with the board or its representatives regarding the violation of any section of this chapter and the violation of any rules and regulations adopted by the board pursuant to its authority;

9. Open financial records. The duty to keep a record of the names and residences of all persons registered under this chapter and a record of all moneys received and disbursed by said board, and said records or duplicates thereof shall always be open to inspection in the office of the secretary during regular office hours. Said board shall annually, on or before the first day of July in each year, make a report to the Governor containing a full and complete account of all its official acts during the preceding year, and a statement of its receipts and disbursements and such comments or suggestions as it may deem essential.

SUBCHAPTER II REGISTRATION

§ 3270. Registration required

Unless duly registered and licensed by said board, no person shall practice medicine or surgery or any branch thereof, or hold himself out to practice medicine or surgery or any branch thereof within the State by diagnosing, relieving in any degree or curing, or professing or attempting to diagnose, relieve or cure any human disease, ailment, defect or complaint, whether physical or mental, or of physical or mental origin, by attendance or by advice, or by prescribing or furnishing any drug, medicine, appliance, manipulation, method or any therapeutic agent whatsoever or in any other manner unless otherwise provided by statutes of this State. Any person licensed under chapter 37 may prefix the title "Doctor" or the letters "Dr." to his name, as provided in section 2704, or any chiropractor duly licensed by this State may prefix the title "Doctor" or the letters "Dr." to his name when accompanied by the word "Chiropractor," or any dentist duly licensed by this State may prefix the title "Doctor" or the letters "Dr." to his name or any optometrist duly licensed under the laws of this State may prefix the title "Doctor" or the letters "Dr." to his name when accompanied by the word "Optometrist," or any podiatrist duly licensed under the laws of this State may prefix the title "Doctor" or the letters "Dr." to his name when accompanied by the word "Podiatrist" or "Chiropodist."

Whoever, not being duly registered by said board, practices medicine or surgery or any branch thereof, or holds himself out to practice medicine or surgery or any branch thereof in any of the ways aforesaid, or who uses the title "Doctor" or the letters "Dr." or the letters "M.D." in connection with his name, contrary to this section, shall be punished by a fine of not less than \$100 nor more than \$500 for each offense, or by imprisonment for 3 months, or by both. The prefixing of the title "Doctor" or the letters "Dr." or the appending of the letters "M.D." by any person to his name or the use of the title of doctor or physician in any way by any person not duly registered as described shall be prima facie evidence that said person is holding himself out to practice medicine or surgery contrary to this section, provided

that nothing contained in this section shall prevent any person who has received the doctor's degree from any reputable college or university, other than the degree of "Doctor of Medicine" from prefixing the letters "Dr." to his name, if he is not engaged, and does not engage, in the practice of medicine or surgery or the treatment of any disease or human ailment.

§ 3271. Qualifications; fee

Any graduate of a medical school in the United States or Canada designated as accredited by the American Medical Association and the Association of American Medical Colleges, or any Foreign Medical School Graduate who has been admitted to the United States for permanent residence as an immigrant and has been evaluated by the Educational Council for Foreign Medical Graduates and is a recipient of its permanent certificate, and who have served an internship for at least 12 months or its equivalent in an educational program approved by the American Medical Association or the Medical Council of Canada, upon the payment of a fee of \$125 shall be entitled to examination, and if found qualified by a majority of the members of the board, shall be registered as a physician or surgeon in the State of Maine.

Each of the applicants must be 20 years of age and of good moral character. The board at its discretion may permit an applicant who is otherwise qualified to be examined during his internship, the certificate of licensure to be withheld until the successful completion of his internship.

§ 3272. Examinations

The board shall examine all such applicants for registration as a licensed physician or surgeon. Each applicant shall, at least 60 days before the date of his examination, present to the secretary of the board an application under oath or affirmation containing satisfactory proof that said applicant is a graduate of an accredited medical school of the United States or Canada. Applicants shall be examined in whole or part in writing and shall be thorough in such subjects as the board may deem necessary.

§ 3273. Reexamination

Any applicant who fails the examination may be reexamined by the board upon payment of a fee of \$100.

§ 3274. Certificates

Each physician, registered under this chapter shall, following registration, receive a certificate thereof under the seal of the board and signed by the chairman and secretary, which shall state the facts and must be publicly displayed at the person's principal place of practice, as long as said person continues the practice of medicine.

§ 3275. Licensure by reciprocity

The board may, at its discretion, grant licensure without examination to a physician in good standing who has been examined and licensed by a board of another state or who has been examined and certified by the National

Board of Medical Examiners, provided the examination passed by the applicant is deemed by the board to have been equivalent in all essentials to its own examination and provided that such applicant has paid a fee of \$100 and has satisfied the educational and other qualifications provided in this chapter. The board may make such rules and regulations as may be necessary in connection with this section.

§ 3276. Temporary registrations; state hospitals

In the case of physicians assigned to junior positions in state hospitals, caring for tubercular and mental patients, the requirements of sections 3270 to 3275 may be waived by the board and temporary registration may be granted, limited to practice in state institutions under the Department of Mental Health and Corrections, for periods of one year, which may be renewed at the discretion of the board, upon recommendation of the superintendent of such institution.

§ 3277. Camp physicians

Any physician, a graduate of an accredited medical school or university or a foreign medical school graduate, who holds a permanent certificate from the Educational Council for Foreign Medical Graduates, and who is of good repute may, at the discretion of the board, make application for a temporary license to practice as camp physician so that he may care for the campers in that particular camp for which he was hired and obtained as a camp physician. He shall be entitled to practice only on patients in said camp. The certificate of licensure shall be obtained each year. Application for this temporary certificate shall be made in the same form and manner as for regular licensure. No examination shall be exacted from applicants for these temporary licenses. The fee shall be \$25 annually, which shall include registration and certificate.

§ 3278. Locum tenens

Any physician, a graduate of an accredited medical school or university or foreign medical school graduate who holds a permanent certificate from the Educational Council for Foreign Medical Graduates and who is of good repute may, at the discretion of the board, be given a temporary license to be effective for not more than 6 months after issuance for the purpose of permitting such physician to serve as "locum tenens" for some other physician who is then licensed to practice medicine in this State and whose own license is not temporary or limited under any of the provisions of this chapter, provided that such Maine physician is either unable because of illness to maintain his practice or because of his absence from the general locus of such practice for other reasons deemed sufficient by the board.

§ 3279. Interns; residents; visiting instructors

Any physician who is qualified under section 3271 but who has not taken the examinations in this or any other state may be licensed by the board as an intern for no longer than a period of 24 months.

Any physician who is qualified under section 3271 and who has completed an accredited internship may be licensed by the board as a hospital resident.

The board at its discretion may waive the requirement of the Education Council for Foreign Medical Graduates of section 3271 for no longer than one year in granting temporary educational certificates to interns or residents.

A temporary educational certificate in each of the above classifications may be obtained each year from the board and the certificate shall be issued in the name of the applicant. A certificate to a hospital resident may be renewed annually at the discretion of the board for not more than 5 years. The annual fee for an intern shall be \$1 and for a hospital resident shall be \$10. No examination shall be required for applicants for these temporary educational certificates. Physicians licensed under this section shall have all the rights granted to physicians who have been licensed to practice medicine and surgery, except that their practice shall be limited to the training programs connected with the hospital or hospitals.

A physician who has a full professional license to practice medicine or surgery issued in another state may practice in this State as if he were licensed in this State, where he is performing medical procedures as part of a course of instruction in graduate medical education in a hospital in this State.

A certificate, issued under this section or the right of any visiting medical instructor to practice without examination in this State, may be revoked for any one of the reasons stated in section 3282, and in addition thereto if any intern or hospital resident violates the limitations placed upon his temporary education certificate or in the case of the visiting medical instructor who performs medical procedures which are not a part of a course of instruction as provided in this section, the temporary educational certificate or the right of the visiting medical instructor may be revoked in accordance with the procedures set forth in this chapter.

§ 3280. Biennial reregistration; fees

On or before the first day of July, 1966, and on or before the first day of July of every even-numbered year thereafter, every physician licensed under this chapter shall register with the Board of Registration of Physicians and Surgeons on forms provided by said board. The registration fee shall be \$5 for residents of this State and \$10 for nonresidents. This section shall not apply to interns or residents registered under section 3279 nor shall it apply to those holding temporary certificates for practice in hospitals or camps as provided in sections 3276 and 3277. Said registration fees provided for under this section shall not be required of any physician who is 70 years of age on the first day of July of the year for which reregistration is made although the requirement of reregistration as provided for shall apply without regard to age.

At least 60 days before July 1st of every even-numbered year thereafter the board shall mail to each licensee at his last known office address a notice of requirement of reregistration with appropriate forms therefor. Whenever a licensee fails to reregister within the time required it shall be the duty of the board to notify such licensee at his last known office address that his reregistration is past due. Thirty days after such notice has been sent, if

reregistration has still not been made, the board shall notify said licensee by registered mail, return receipt requested, with instructions to deliver to addressee only, that his license has been suspended for 30 days, at the end of which period, if reregistration has still not been made, the board shall summarily revoke said license and shall not restore same except after hearing and upon the following conditions: The licensee shall show cause why he failed to reregister and pay to said board \$10 for each biennial period that he is in arrears.

§ 3281. Withdrawal of registration

The holder of a license or temporary license who notifies the board in writing of the withdrawal of his registration is not required to pay registration fees or penalties beyond those due at the time of his withdrawal, but after a holder gives such notice, his license to practice is not valid until reinstated by the board.

An applicant for reinstatement is entitled to be reinstated upon paying a reinstatement fee of \$10 and satisfying the board that he has paid all fees and penalties due at the time of his withdrawal, and no cause exists for revoking or suspending his license, and he has applied within 5 years after his withdrawal, or was in active practice outside this State within one year prior to the filing of application for reinstatement.

§ 3282. Complaints; allegations; grounds for investigation and hearing

The following complaints or allegations, after investigation, shall be grounds for convening of the board in order to hear the same and allow the accused to respond:

1. Convictions. Conviction in this State or another state or in a federal court of a felony or of a crime involving moral turpitude;
2. Fraud. Fraud in the procurement of a license or certificate under this chapter;
3. Unprofessional conduct. Unprofessional conduct, including, but not limited to the following:
 - A. Procuring, aiding or abetting a criminal operation or abortion;
 - B. Advertising in any manner considered by the board to be deceptive or unethical;
 - C. The obtaining of any fee or offering to accept any fee, present or other form of remuneration whatsoever, on the assurance or promise that a manifestly incurable disease can or will be cured;
 - D. Willfully betraying a professional secret to the detriment of the patient;
 - E. Habitual intemperance in the use of alcohol or the habitual use of narcotic or hypnotic drugs;
 - F. Dishonorable or immoral conduct that tends to discredit the medical profession;

- G.** Conduct unbecoming a person licensed to practice medicine or detrimental to the best interest of the public health or safety;
- H.** Gross or repeated malpractice;
- I.** Knowingly making any false or fraudulent statement, written or oral, in connection with the practice of medicine, except as the same may be necessary for accepted therapeutic purposes;
- J.** Refusing to divulge to the board upon demand the means, method, device or instrumentality used in the treatment of a disease, injury, ailment or infirmity;
- K.** Prescribing narcotic or hypnotic drugs or both for other than accepted therapeutic purposes;
- L.** Conviction of violation of any federal or state law regulating the possession, distribution or use of any narcotic drug or cannabis; the judgment of conviction, unless, pending upon appeal, shall be conclusive evidence of such unprofessional conduct.

§ 3283. Investigation; hearings; appeal

The board, on its own motion or upon complaint made to it or its secretary, shall order investigation of all complaints and all allegations of noncompliance with or violations of this chapter relating to the registration and activities of physicians and surgeons. Upon completion of investigation by the secretary, its legal counsel or their agents, all information gathered shall be presented to a judiciary committee consisting of at least 3 board members. The judiciary committee may, by a majority vote, recommend that a hearing before the full board be held. In the absence of this recommendation, all information gathered and presented to the judiciary committee will be filed.

Upon the recommendation of the judiciary committee, the board shall meet at the next mutually convenient time and place and accord the accused practitioner a full hearing on the complaint or allegations against him. Notice of time and place of hearing, accompanied by a written notice of the complaint or allegations, shall be served upon the accused practitioner either personally by the secretary or his agent or by registered mail, return receipt requested, sent to the last known business address of the accused, which he registered with the board, at least 20 days before the date of hearing. Affidavit by the secretary or his agent of personal service, a signed return receipt or refusal to accept the registered notice shall constitute due return of service. The accused may submit a written answer to the complaint or allegations summarized in the notice at least 10 days before the hearing at the office of the secretary. Failure to submit such written answer shall have the effect of a denial of the complaint or allegations and shall work no disability on the accused practitioner at the hearing. Failure of accused practitioner to appear at the hearing, either in person or represented by legal counsel, shall be grounds for a finding of admission by the accused of any and all complaints or allegations against him and shall empower the board to take any disciplinary action as it may deem necessary and proper.

Failure of quorum at the hearing shall not work in any way as a cause for dismissal of the complaint or allegations. If for any reason a quorum is not present, the hearing may be rescheduled by a majority of those board members present. Failure of quorum at the rescheduled hearing shall be grounds for automatic dismissal of the complaints or allegations. A quorum for a disciplinary hearing shall be $\frac{2}{3}$ of the members of the board.

The accused shall have the right to present evidence, subpoena and present witnesses, books, records and documents, challenge and cross-examine same and be represented by legal counsel. All subpoenas shall issue through the secretary upon notice to same by the accused practitioner filed at least 10 days before the hearing stating name, location and, in the case of subjects other than persons, the custody of subjects of the subpoenas.

The board has the right to prosecute its case through its private legal counsel, to present evidence, subpoena and present witnesses, books, records and documents and challenge and cross-examine same. The board has full discretion regarding the admissibility of evidence and testimony and is in no manner bound by the rules of evidence prevailing in civil or criminal courts of this State, except that all testimony shall be taken under oath with the board having the power to disregard any testimony given in violation of the oath, that origin and custody of all books, records and documents must be proven except as such proof is waived by operation of law in civil and criminal courts of this State, and that materiality and relevancy to a fact in issue may be required to be shown of all evidence and testimony.

The board shall furthermore have the duty to provide for the recordation and transcription of all testimony taken and the preservation of all evidence presented at the hearing. A certified copy of the transcript will be provided to the accused practitioner for purposes of information or appeal only if the accused practitioner deposits a sum equal to \$1 per page with the secretary before receiving the said certified copy.

The accused shall have the right to appeal from a final determination by the board to the Superior Court.

§ 3284. Disciplinary action; notice; appeal

The board after a full hearing is empowered to take the following disciplinary action against an accused practitioner by a vote of $\frac{2}{3}$ of the members of the board:

1. Revocation. Revocation of license to the board;
2. Suspension. Suspension of license to practice for a certain period of time;
3. Probation. Probation for a certain period of time during which the accused practitioner must file periodic affidavits of his practice in conformity with the standards set by the board;
4. Censure. Censure to issue in the form of a letter of censure.

A notice of any action taken by the board adverse to the accused practitioner, including notice of revocation or suspension, a notice of probation or a letter of censure shall be filed in the office of the secretary and shall be open to public inspection. Upon revocation or suspension of license by the board, the disciplined practitioner shall deliver up his certificate to the secretary on the next regular working day after the board's decision. Appeal from a revocation or suspension of license shall not work to hold in abeyance the revocation or suspension. Such revocation or suspension shall be in force pending a final determination by the court of appellant's claim.

§ 3285. Emergency action

Notwithstanding any other provision of this chapter, if any person licensed under this chapter treats another person licensed under this chapter for addiction to alcohol or drugs in any form or for mental illness or mental breakdown in any form, said practitioner shall report the treatment and the name of the treated licensed patient to the secretary on the next regular working day. Disclosure of this information shall be deemed not to be a violation of any common or statutory law of physician and patient privilege and shall give rise not to cause of action, either civilly or criminally, unless done maliciously.

Failure to report shall be grounds for an automatic suspension of license to practice for up to 6 months.

Upon its own motion or upon complaint, the board shall, in the interests of public health, safety and welfare, treat as an emergency any complaint or allegation that a person licensed under this chapter is or may be unable to practice medicine with reasonable skill and safety to patients by reason of illness, alcohol intemperance, excessive use of drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. In enforcing this paragraph the board shall 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 the failure was due to circumstances beyond his control, consequent upon which a final order of disciplinary action 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 the competent practice of medicine with reasonable skill and safety to patients.

For the purpose of this section, every physician licensed under this chapter who shall accept the privilege to practice medicine in this State shall, by so practicing or by the making and filing of biennial registration to practice medicine in this State, be deemed to have given his consent to submit to a mental or physical examination when directed in writing by the board and further to have waived all objections to the admissibility of the examining physicians' testimony or examination reports on the ground that the same constitute a privileged communication.

§ 3286. Injunctions

Injunctions shall issue forthwith to enjoin the practice of medicine by any person licensed to practice under this chapter when such person's continued practice will or well might cause irreparable damage to the public health or safety prior to the time proceedings under this chapter could be instituted and completed. In a petition for injunction pursuant to this section, there shall be set forth with particularity the facts which make it appear that irreparable damage to the public health or safety will or well might occur prior to the time proceedings under this chapter could be instituted and completed. Such petition shall be filed in the name of the board on behalf of the State of Maine.

§ 3287. Reinstatement on board's own motion

At any time after a license or certificate has been revoked, or the holder of same has been placed on probation as provided, the board, upon its own motion and of its own authority and right, may consider such revocation, suspension or probation for any reason deemed by it to be sufficient and may in its discretion reinstate the license of such person or remove such person from probationary status, provided that the application of this section may be applied in the best interest of the public health and safety.

§ 3288. Reinstatement on application of person whose license is suspended or revoked

At any time after the expiration of 12 months from the date the license of any person to practice medicine or surgery has been revoked, or at any time after the expiration of 6 months from the date the license of any person to practice medicine or surgery has been suspended for a definite period of time not to exceed 5 years, such person whose license has been revoked or suspended may file his application with the secretary of such board together with an application fee of \$25 to reinstate his license. The application shall be assigned for hearing at the next regular meeting of the board following the filing thereof and the board shall have the authority and right to reconsider such revocation or suspension, in its discretion, and for such causes and reasons deemed by it sufficient and for the best interests of the medical profession and the citizens of this State, may reinstate the license of the applicant and issue the order therefor.

§ 3289. Record of reinstatement

Upon the reinstatement of any such license by the board, either upon its own motion or upon application, the secretary of the board shall forthwith enter the order of reinstatement in the minutes and records of the board.

SUBCHAPTER III GENERAL PROVISIONS

§ 3290. Records of proceedings and orders of proceedings

In any proceeding under this chapter, neither the record of proceedings nor the orders entered by the board shall be used against a physician in any other proceeding.

§ 3291. Immunity of licensee rendering emergency care

No person licensed under this chapter who in the exercise of due care renders emergency care at the scene of an accident shall be liable for any civil damages as a result of acts or omissions by such a person in rendering emergency care.

§ 3292. Communications between physicians and patients

Except at the request of, or with the consent of, the patient, no duly licensed physician shall be required to testify in any civil or criminal action, suit or proceeding at law or in equity respecting any information which he may have acquired in attending, examining or treating the patient in a professional capacity if such information was necessary to enable him to furnish professional care to the patient. However, when the physical or mental condition of the patient is at issue in such action, suit or proceeding or when a court in the exercise of sound discretion deems such disclosure necessary to the proper administration of justice, no information communicated to, or otherwise learned by, such physician in connection with such attendance, examination or treatment shall be privileged and disclosure may be required.

Nothing in this section shall prohibit disclosure by a physician of information concerning a patient when such disclosure is required by law.

§ 3293. Treatment of minors

Any person licensed under this chapter who, in the exercise of due care, renders medical care to a minor for treatment of venereal disease is under no obligation to obtain the consent of a parent or guardian, as applicable, or to inform such parent or guardian of such treatment.

§ 3294. Physicians' assistants

Nothing contained in this chapter shall be construed to prohibit physicians' assistants from rendering medical services, if such services are rendered under the supervision and control of a physician and surgeon, provided that such physicians' assistants have satisfactorily completed a training program approved by the State Board of Medical Examiners. Supervision and control shall not be construed as requiring the personal presence of the supervising and controlling physician at the place where such services are rendered. Nothing contained in this chapter shall be construed to prohibit a student enrolled in such an approved program for training physicians' assistants from rendering such service if such services are rendered in the course of such program.

§ 3295. Review committees

Any person licensed under this chapter while serving on a Utilization Review Committee or Peer Review Committee shall not be liable for civil damages as a result of his acts, omissions or decisions in connection with his duties on such committee.

Sec. 2. R. S., T. 32, c. 47, repealed. Chapter 47 of Title 32 of the Revised Statutes, as amended, is repealed.

Sec. 3. R. S., T. 5, § 151, amended. The first sentence of section 151 of Title 5 of the Revised Statutes, as last repealed and replaced by section 7 of chapter 544 of the public laws of 1967, is amended to read as follows:

All money received by the Treasurer of State from the Board of Registration in ~~Medicine of Physicians and Surgeons~~, the Board of Examiners in Physical Therapy, the Board of Examiners of Psychologists, the State Board of Nursing, the Board of Examiners of Applicants for Admission to the Bar, the Board of Accountancy, the Board of Veterinary Examiners, the Board of Osteopathic Examination and Registration, the State Board of Funeral Service, the State Board of Registration and Examination in Optometry, the Board of Dental Examiners, the State Board of Registration for Professional Engineers, the State Board of Architects, the Electricians' Examining Board, the Oil Burnermen's Licensing Board, the State Board of Barbers, State Board of Hairdressers, State Board of Registration for Land Surveyors, the Examiners of Podiatrists, the Board of Chiropractic Examination and Registration and the Board of Commissioners of the Profession of Pharmacy shall constitute a fund, which shall be a continuous carrying account for the payment of the compensation and expenses of the members, the expenses of the board and for executing the law relating to each board respectively, and so much thereof as may be required is appropriated for said purposes.

Sec. 4. R. S., T. 5, § 2301, sub-§ 1, amended. The 12th paragraph of subsection 1 of section 2301 of Title 5 of the Revised Statutes is repealed as follows:

~~Board of Registration in Medicine.~~

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

STATEMENT OF FACT

The purpose of this legislation is reflected in the emergency preamble.