

MAINE STATE LEGISLATURE

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(EMERGENCY)
FIRST SPECIAL SESSION

ONE HUNDRED AND SEVENTH LEGISLATURE

Legislative Document

No. 2107

H. P. 1919 House of Representatives, January 27, 1976
Referred to Committee on Health and Institutional Services. Sent up for
concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Wilfong of Stow.
Cosponsor: Mr. Stubbs of Hallowell.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SIX

AN ACT to Amend the Medical Practices Act.

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

Whereas, the present Medical Practices Act is in need of immediate revision in order to allow the enforcement of reasonable standards with respect to the practices of physicians' assistants; and

Whereas, it is vital that this be done at once for the benefit of the people of the State 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. 32 MRSA §§ 3270-B and 3270-C are enacted to read:

§ 3270-B. Certification of qualification and registration

No physician assistant shall be permitted to practice until he has applied for and obtained a certificate of qualification issued by the Board of Registration in Medicine and a certificate of registration which must be renewed bi-annually. All applications for certificate of qualification shall be accompanied

by an application by the proposed supervisory physician, which application shall contain a statement that that physician shall be responsible for all medical activities of the physician's assistant. The Board of Registration in Medicine is authorized to promulgate rules and regulations regarding the training and certification of physician assistants, the agency relationship between the physician assistant and the supervising physician. Those regulations may pertain, but not by way of limitation, to the following matters:

1. Application information. The information to be contained in the application for a certificate of qualification;
2. Application information required by proposed supervisory physician. The information that shall be required on the application filed by the proposed supervisory physician;
3. Supervising physician's requirements. The training and educational requirements, scope of permissible clinical medical procedures, the manner and methods by which the supervising physician shall supervise the physician assistant's medical services;
4. Methods and conditions. The methods and conditions under which the physician assistant may perform medical services;
5. Temporary eligibility. The issuance of temporary physician assistant certification and equivalency training eligibility for registration of physician assistant trainees;
6. Advisory committee appointment. Appointment of an advisory committee for continuing review of physician assistant program and rules and regulations;
7. Continuing educational requirements. Continuing educational requirements as a precondition to continued licensure or licensure renewal;
8. Fees for original application. Fees for the original physician assistant application, which in no event shall exceed the sum of \$50;
9. Initial application of supervising physician. Fee for the initial application of the supervising physician, which in no event shall exceed the sum of \$50;
10. Fee for transfer of registration. Fee for transfer of registration by a physician assistant from one supervising physician to another, which in no event shall exceed the sum of \$25; and
11. Fees for biannual registration. Fees for the biannual registration of physician assistants in an amount not to exceed \$25.

§ 3270-C. Termination of certificate

1. Termination of certificate provisions. The certificate may be terminated by the board when, after due notice and hearing, it shall find that the physician's assistant:

- A. Has held himself out or permitted himself to be represented as a licensed physician;

- B. Has performed otherwise than at the direction and under the supervision of a physician licensed by this board;
- C. Has been delegated and performed a task or tasks beyond his competence;
- D. Is a habitual user of intoxicants or drugs to such an extent that he is unable to perform competently and with safety for the patients in his capacity as an assistant to the physician;
- E. Has been convicted in any court, state or federal, of any felony or other criminal offense involving moral turpitude;
- F. Has been adjudged a mental incompetent or whose mental condition, as determined by an examination conducted by 2 impartial psychiatrists retained by the board, renders him unable to safely perform as a physician's assistant;
- G. Has failed to comply with any rule or regulation of the Board of Registration in Medicine pertaining to the practice of physician assistant.
- H. Is guilty of administering, dispensing or prescribing any controlled substance otherwise than as authorized by law; or
- I. Has made a false or fraudulent statement or submitted a forged or false document in applying for a certificate.

2. Consent to physical or mental examination; objections to admissibility of physicians' testimony waived. For the purposes of this section, every physician's assistant registered under these rules and regulations who shall accept the privilege of rendering medical services in this State by the filing of an application and of biannual registration:

- A. Shall be deemed to have given his consent to a mental or physical examination when directed in writing by the Board; and
- B. Shall be deemed to have waived all objections to the admissibility of the examining physicians' testimony or reports on the ground that the same constitute a privileged communication.

3. Jurisdiction. The jurisdiction conferred under this section shall be original and concurrent under the Administrative Code Title 5, Part 6. There shall be no right of removal by an accused physician assistant after notice of hearing before the board has been filed except that prior to hearing the accused shall have the right of removal at least 10 days before the hearing and that case thereafter shall be heard under the Administrative Code.

4. Enforcement. In addition to the termination procedure set forth in this section, if the Board of Registration in Medicine is of the opinion that the continued practice of any physician assistant is in violation of this section or any other provision of statute or rule and regulation, and constitutes a threat to the public health and welfare in such a manner that irreparable injury or danger to the public may occur prior to the commencement and commission of termination proceedings set forth this section, the board may apply for injunctive relief.

Sec. 2. 32 MRSA § 3275, as enacted by PL 1971, c. 591, § 1, is repealed and the following enacted in place thereof:

§ 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 Canadian Province providing the examination passed by the applicant is deemed by the board to have been equivalent in all essentials to its own examination, or who has been examined and certified by the National Board of Medical Examiners or has been examined and certified by the Medical Council of Canada and is a graduate of an American or Canadian medical school. Any such applicant shall pay a fee of \$100 and shall satisfy the board of any 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.

STATEMENT OF FACT

The purpose of §§ 3270-B and 3270-C is to set forth guide lines for regulating physician assistants and to provide for enforcement of standards.

The purpose of § 3275 is to facilitate licensure to physicians who have been examined and licensed by a board of another state or Canadian Province.