

MAINE STATE LEGISLATURE

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ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 1478

H. P. 1211

House of Representatives, April 5, 1977

On Motion of Mr. Goodwin of South Berwick referred to the Committee on Health and Institutional Services. Sent up for concurrence and 1,800 ordered printed.

EDWIN H. PERT, Clerk

Presented by Mrs. Kany of Waterville.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SEVEN

AN ACT Concerning the Board of Registration in Medicine.

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

Sec. 1. 32 MRSA § 3263, 2nd ¶, 1st sentence, as enacted by PL 1971, c. 591, § 1, is amended to read:

Members of said board shall receive annual salaries of ~~\$750~~ \$1,250, except the chairman, who shall receive ~~\$1,000~~ \$1,500 a year, and the secretary, who shall receive ~~\$5,000~~ \$7,500.

Sec. 2. 32 MRSA § 3269, sub-§ 11 is enacted to read:

11. **Other services.** The power to provide such other services and perform such other functions as are necessary to fulfill the board's responsibilities.

Sec. 3. 32 MRSA § 3271, 1st ¶, as last amended by PL 1975, c. 404, § 3, is repealed and the following enacted in its place:

Any graduate of a medical school in the United States or Canada designated as accredited by the Liaison Committee on Medical Education, or any foreign medical school graduate who has been evaluated by the Educational Commission for Foreign Medical Graduates and is a recipient of its permanent certificate, or has successfully completed an academic year of supervised clinical training under the direction of a medical school accredited by the Liaison Committee on Medical Education and who has spent at least 12 months in a graduate educational program approved by the Liaison Committee on Graduate Medical Education, the Canadian Medical Association, the Royal College of Physicians and Surgeons of Canada or the Board of Regis-

tration in Medicine, upon payment of a fee of \$125, shall be entitled to examination, and if found qualified by a majority of the members of the board and a majority of the members of the board finds that there exists no cause as set forth in section 3282 which would be considered grounds for suspension or revocation of a license, shall be registered as a physician or surgeon in the State of Maine. The board, at its discretion, may waive the requirement of evaluation by the Educational Commission for Foreign Medical Graduates.

Sec. 4. 32 MRSA § 3275, sub-§ 1, as repealed and replaced by PL 1975, c. 680, § 2, is repealed and the following enacted in its place:

1. Licensure without examination. The board may, at its discretion, grant licensure without examination to a physician in good standing who has been:

- A. Examined and certified by the National Board of Medical Examiners;
- B. Examined and licensed by a board of another state, provided that the examination passed by the applicant is deemed by the board to have been equivalent to its own examination; or
- C. Graduated from a nationally accredited medical school located in the United States, Canada or the British Isles, and

(1) Has been examined and certified by the Medical Council of Canada, or

(2) Has been examined and certified by the Board of a Canadian province or any country in the British Isles, provided that the examination passed by the applicant is deemed by the board to have been equivalent in all essentials to its own examination;

and a majority of the members of the board finds that there exists no cause, as set forth in section 3282, which may be considered grounds for suspension or revocation of a license.

Sec. 5. 32 MRSA § 3277, 1st sentence, as amended by PL 1975, c. 404, § 5, is repealed and the following enacted in its place:

Any physician who is qualified under section 3271 or section 3275 may, at the discretion of the board, be temporarily licensed 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.

Sec. 6. 32 MRSA § 3278, as amended by PL 1975, c. 404, § 6, is repealed and the following enacted in its place:

§ 3278. *Locum tenens*

Any physician who is qualified under section 3271 or section 3275 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 the 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 prac-

tice or because of his absence from the general locus of such practice or for other reasons deemed sufficient by the board. The fee for this temporary license shall be \$50, payable at the time of application.

Sec. 7. 32 MRSA § 3280, 2nd ¶, last sentence, as last amended by PL 1975, c. 404, § 9, is repealed and the following enacted in its place:

Thirty days after such notice has been sent, if reregistration has still not been made, the board shall notify the licensee by certified 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 license will lapse automatically and the board shall not restore same except upon the following conditions:

1. Cause. There exists no cause, as set forth in section 3282, which may be considered grounds for suspension or revocation of a license; and

2. Reinstatement fee. The licensee shall show cause why he failed to reregister and pay the board for registration fee arrearage and an additional reinstatement fee of \$25.

Sec. 8. 32 MRSA § 3281, 2nd ¶, as enacted by PL 1971, c. 591, § 1, is amended to read:

An applicant for reinstatement is entitled to be reinstated upon paying a reinstatement fee of ~~\$10~~ \$50 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~~ and was in active practice outside this State within one year prior to the filing of application for reinstatement.

Sec. 9. 32 MRSA § 3282, as enacted by PL 1971, c. 591, § 1, is repealed and the following enacted in its place:

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

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

1. Convictions. Conviction in this State or another state or in a federal court of any crime punishable by imprisonment for a period of one year or more or any crime involving moral turpitude;

2. Fraud. Fraud in the procurement of a license or certificate under this chapter;

3. Illness. Physical or mental illness interfering with the competent practice of medicine;

4. Incompetence. Incompetence in the practice of medicine;

5. Unprofessional conduct. Unprofessional conduct including, but not limited to, the following:

- A. Procuring, aiding or abetting a criminal operation;
- 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 or 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 or other drugs listed as controlled substances by the Drug Enforcement Administration;
- F. Willful abandonment of patients;
- G. Dishonorable or immoral conduct that tends to discredit the medical profession;
- H. Conduct unbecoming a person licensed to practice medicine or detrimental to the best interest of the public health or safety;
- I. Gross or repeated malpractice;
- J. 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 therapeutic purposes;
- K. 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;
- L. Prescribing narcotic or hypnotic or other drugs listed as controlled substances by the Drug Enforcement Administration for other than accepted therapeutic purposes;
- M. Conviction of violation of any federal or state law regulating the possession, distribution or use of cannabis or of any drug listed as a controlled substance by the Drug Enforcement Administration. The judgment of conviction, unless pending appeal, shall be conclusive evidence of such unprofessional conduct;
- N. Failure to report to the secretary of the board treatment of a physician licensed under this chapter for addiction to alcohol or drugs or for mental illness in accordance with section 3286;
- O. Repeated charging of unreasonable and excessive fees for services rendered; or
- P. Misconduct as defined by the board in its rules and regulations.

Sec. 10. 32 MRSA § 3283, 2nd ¶, 4th and 5th sentences, as enacted by PL 1971, c. 591, § 1, are amended to read:

The accused ~~may~~ shall 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~~

STATEMENT OF FACT

The purpose of this bill is to make necessary revisions in licensure requirements, to expand the board's powers to properly implement the intent of the Medical Practice Act, to adjust board members' salaries to reflect the amount of time required to properly perform the duties and functions of the board and to facilitate the forthcoming recommendations of the Malpractice Commission.