



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Benigno R. Fitial
Governor

Timothy P. Villagomez
Lieutenant Governor

The Honorable Oscar M. Babauta
Speaker, House of Representatives
Fifteenth Northern Marianas
Commonwealth Legislature
Saipan, MP 96950

NOV 07 2007

The Honorable Joseph M. Mendiola
Senate President, The Senate
Fifteenth Northern Marianas
Commonwealth Legislature
Saipan, MP 96950

Dear Mr. Speaker and Mr. President:

This is to inform you that I have approved House Bill No. 15-281, HD1 entitled, "An Act to amend the Medical Practice Act of 1982 by repealing and reenacting sections of Chapter 12 of Division 2 of Title 1, and Chapter 2 of Division 2 of Title 3 of the Commonwealth Code; and for other purposes," which was passed by the House of Representatives and the Senate of the Fifteenth Northern Marianas Commonwealth Legislature.

This bill become **Public Law No. 15-105**. Copies bearing my signature are forwarded for your reference.

Sincerely,

BENIGNO R. FITIAL

cc: Lt. Governor, Attorney General,
Attorney General, Office of the Attorney General
Secretary, Department of Finance
Special Assistant for Office of Budget and Management
Secretary, Department of Public Health
Secretary, Department of Commerce
Chair, Medical Profession Licensing Board

Public Auditor, Office of the Public Auditor
Presiding Judge, Commonwealth Superior Court
Special Assistant for Administration
Special Assistant for Programs and Legislative Review



HOUSE OF REPRESENTATIVES
FIFTEENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE
FOURTH REGULAR SESSION, 2007

PUBLIC LAW NO. 15-105

HOUSE BILL NO. 15-281, HD1

AN ACT

To amend the Medical Practice Act of 1982 by repealing and reenacting sections of Chapter 12 of Division 2 of Title 1, and Chapter 2 of Division 2 of Title 3 of the Commonwealth Code; and for other purposes.

In the HOUSE OF REPRESENTATIVES

Offered by Representatives: Justo S. Quitugua (By Request), Martin B. Ada, Edwin P. Aldan, Oscar M. Babauta, Francisco S. Dela Cruz, Florencio T. Deleon Guerrero, Joseph P. Deleon Guerrero, Jacinta M. Kaipat, Jesus SN. Lizama, Crispin M. Ogo, Arnold I. Palacios, Benjamin B. Seman, Candido B. Taman, Ramon A. Tebuteb, Manuel A. Tenorio, Stanley T. McGinnis Torres, Absalon V. Waki, Jr., Ray N. Yumul

Date: July 9, 2007


Referred to: Committee on Health, Education, and Welfare
Public Hearing: None
Standing Committee Report No. 15-77

Passed First and Final Reading on October 3, 2007

In the SENATE

Referred to: None
Public Hearing: None
Standing Committee Report: None

Passed Final Reading on October 4, 2007


Evelyn C. Fleming, House Clerk



HOUSE OF REPRESENTATIVES
FIFTEENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE
SEVENTH SPECIAL SESSION, 2007

PUBLIC LAW NO. 15-105

H. B. No. 15-281, HD1

AN ACT

To amend the Medical Practice Act of 1982 by repealing and reenacting sections of Chapter 12 of Division 2 of Title 1, and Chapter 2 of Division 2 of Title 3 of the Commonwealth Code; and for other purposes.

BE IT ENACTED BY THE FIFTEENTH NORTHERN MARIANAS COMMONWEALTH
LEGISLATURE:

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

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

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

9 **"Chapter 2. Health Care Professions Licensing Act.**

10 **§ 2201. Purpose and Findings.**

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

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

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

17 (d) In the interest of public health, safety and welfare, and to protect the public from
18 the unprofessional, improper, incompetent, unlawful, fraudulent and/or deceptive practice of

1 the health care professions, it is necessary to provide statutes and regulations to govern the
2 granting and subsequent use of the privilege to practice the health care professions.

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

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

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

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

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

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

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

23 **§ 2202. Definitions. As used in this Chapter:**

24 (a) "Board" means the Health Care Professions Licensing Board established by this
25 Chapter.

26 (b) "Board Fund" means the Health Care Professions Licensing Board Fund,
27 established by this Chapter.

28 (c) "Commonwealth" or "CNMI" means the Commonwealth of the Northern Mariana
29 Islands.

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

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

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

15 (g) "Health care professional" means a person who practices any one of the
16 professions listed § 2212 of this chapter.

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

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

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

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

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

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

4 (n) Rules of Construction

5 (1) "Include," "includes" or "including" means "include/s/ing but not limited
6 to."

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

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

11 **§ 2203. Exceptions to Jurisdiction.** Nothing in this Chapter shall:

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

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

17 (2) no such person shall employ the title "doctor" or "Dr."

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

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

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

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

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

1 health care professional from the other jurisdiction is licensed to practice in another
2 jurisdiction; or

3 (g) Apply to the practice of nursing as provided in the Nurse Practice Act, PL 14-62,
4 as amended.

5 **§ 2204. Health Care Professions Licensing Board.**

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

10 (b) The Board is and shall be composed of five (5) members appointed by the
11 Governor. One member shall be a dentist, two members shall be physicians, and two
12 members shall be health care professionals other than a physician or dentist. Each member
13 shall be practicing in the Commonwealth. The provisions of 1 CMC § 2901, as amended
14 (appointments), shall not apply to the composition of the Board. Each member shall have
15 been a resident of the Commonwealth for at least two (2) years. Each member shall have
16 been engaged in the practice of the member's profession for at least five (5) years preceding
17 the date of the member's appointment to the Board.

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

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

25 (e) Terms.

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

28 (2) No member may serve more than two (2) consecutive four-year terms.
29 Upon the expiration of said terms successors shall be appointed with like

1 qualifications and in like manner for terms of four (4) years each, and until their
2 successors are appointed and qualified.

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

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

9 (f) The officers of the Board shall be elected every two (2) years. The Board shall
10 elect, by the majority vote of a quorum of its members, a Chairperson, a Vice chairperson,
11 and a Secretary. In the event of a vacancy on the Board resulting in an unexpired term and
12 the Governor has failed to appoint a successor within three (3) months after the vacancy
13 occurs, the Board may appoint a provisional member to serve in the interim until the
14 Governor makes an appointment. Such provisional member shall have the complete power of
15 a member appointed by the Governor.

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

19 (h) Conflicts.

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

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

26 (3) Disqualification and/or removal. Proof of the existence of a conflict
27 prohibited by this section shall disqualify the Board member from deliberation and
28 decision-making on the conflicted matter. A knowing violation of this section shall
29 constitute grounds for the Governor's prehearing removal of the member from office.

1 Except that if the member did not know of the facts giving rise to the conflict, and if
2 the member immediately eliminates the conflict upon learning of it, and immediately
3 notifies the Governor, the matter shall be disclosed to the Board and said actions, if in
4 good faith, shall be a complete defense to disqualification and/or removal.

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

11 **§ 2205. Meetings; Meetings by Electronic Means.**

12 (a) In General:

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

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

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

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

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

22 **§ 2205. Meetings; Meetings by Electronic Means.**

23 (a) In General:

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

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

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

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

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

6 (c) Location.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 (5) To address other matters permitted by law.

12 (j) Discussions by electronic means.

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

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

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

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

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

27 **§ 2206. Health Care Professions Licensing Board: Powers, Duties, and**
28 **Functions.**

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

1 (a) Adopt and enforce the law consistent with this Chapter;

2 (b) Promulgate, amend, and/or repeal rules and/or regulations to advance this Chapter
3 and its purposes, including define and describe the health care professions and their practice
4 which this Act makes subject to regulation;

5 (c) Issue or deny licenses, including temporary, provisional, conditional and limited
6 licenses;

7 (d) Approve, deny or approve with conditions, applications for license renewal;

8 (e) Adopt and have an official seal;

9 (f) Secure, review and investigate reports received from law enforcement agencies,
10 health care organizations, government agencies, and other entities having information
11 pertinent to the professional performance and conduct of persons over whom the Board has
12 jurisdiction;

13 (g) Provide data, reports, disciplinary and status documents, and other information to
14 law enforcement agencies, health care organizations, government agencies, and other entities
15 maintaining information pertinent to the professional performance and conduct of persons
16 over whom the Board has jurisdiction;

17 (h) Conduct investigations and hearings;

18 (i) Issue subpoenas, compel the attendance and testimony of witnesses and the
19 production of relevant records and documents, and things, and administer oaths;

20 (j) Require a licensee or applicant to submit to a mental or physical examination, a
21 chemical dependency evaluation, or a professional review or audit;

22 (k) Discipline, including: refuse to issue or renew; fine; reprimand; suspend;
23 summarily suspend; revoke; place on probation; require payment of fees, charges or
24 expenses; levy fines; and place conditions on granting or renewal of a license;

25 (l) Settle disciplinary and other contested matters, consistent with the policy of this
26 Act;

27 (m) Delegate the power, authority and discretion to review, initiate, prosecute and
28 negotiate settlement of cases to its chief operating officer;

29 (n) Act summarily in the face of the likelihood of harm to:

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(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;

(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.

§ 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

1 professions regulated by the Board, whether their practice is lawful or unlawful, licensed or
2 unlicensed.

3 **§ 2208. Health Care Professions Licensing Board; Liability, Immunity,**
4 **Indemnification.**

5 (a) With respect to the Board's affairs, the following definitions shall apply to PL 15-
6 22, as amended, 7 CMC §2201-10 ("CELRTCA"), and/or its successor,

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

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

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

16 **§ 2209. Health Care Professions Licensing Board Restricted Fund.**

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

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

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

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

27 (e) After the close of each fiscal year, the Board shall provide the presiding officers
28 of the legislature with an accounting of the use of these and other budgeted funds. The Public
29 Auditor shall perform an annual audit of the use of these and other

1 budgeted funds and report the findings to the presiding officers of the legislature. These
2 reports and any audits conducted shall be public information.

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

5 **§ 2210. Health Care Professions Licensing Board Staff and Counsel.**

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

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

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

15 (1) in the event of a non-consentable conflict, the attorney general shall secure
16 for the Board such independent counsel as necessary; or

17 (2) when the Board certifies with specificity that special experience or skills
18 are needed that cannot be provided by an assistant attorney general, the attorney
19 general shall not unreasonably deny the Board the selection of private counsel to
20 provide the services.

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

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

25 **§ 2211. License to Practice Requirement.**

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

1 (a) practice or offer to practice a health care profession regulated by the Board, either
2 gratuitously or for pay; or

3 (b) advertise or announce, either publicly or privately, that the person is prepared or
4 qualified to practice, which implies that the person is a practitioner of a health care profession
5 regulated by the Board.

6 **§ 2212. Health Care Professionals Required to Be Licensed.**

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

- 9 (a) Acupuncturist;
- 10 (b) Audiologist;
- 11 (c) Chiropractor;
- 12 (d) Clinical Social Worker;
- 13 (e) Clinical laboratory;
- 14 (f) Dental Assistant;
- 15 (g) Dental Hygienist;
- 16 (h) Dentist;
- 17 (i) Embalmer;
- 18 (j) Emergency Medical Technician (EMT);
- 19 (k) Medical or Clinical Laboratory Technologist/Technician
- 20 (l) Midwife;
- 21 (m) Occupational Therapist;
- 22 (n) Optometrist;
- 23 (o) Paramedic;
- 24 (p) Pharmacist;
- 25 (q) Pharmacy;
- 26 (r) Pharmacy Intern;
- 27 (s) Pharmacy Tech;
- 28 (t) Physical Therapist;
- 29 (u) Physical Therapist Assistant;

- 1 (v) Physician's Assistant;
2 (w) Physician-Doctor of Osteopathy;
3 (x) Physician-Medical Doctor;
4 (y) Physician-Medical Officer;
5 (z) Podiatrist;
6 (aa) Professional Counselor;
7 (bb) Psychologist;
8 (cc) Radiologic Technologist;
9 (dd) Respiratory Therapist;
10 (ee) Speech and Language Pathologist;
11 (ff) A person providing one of the above-listed services under a different name; and
12 (hh) A student under the direct supervision of a licensee.

13 **§ 2213. Physician-Medical Officer.**

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

16 **§ 2214. Limited Practice for Physicians Licensed to Practice in a Foreign**
17 **Country.**

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

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

- 27 (1) Professional degree requirements;
28 (2) Postgraduate training and continuing medical education requirements;
29 (3) Required examinations and certifications;

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

15 **§ 2215. Qualifications for Licensure.**

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

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

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

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

- 26 (1) be at least 21 years of age;
- 27 (2) be a U.S. citizen, or a foreign national and lawfully entitled to remain and
- 28 work in the Commonwealth;

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

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

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

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

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

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

15 (1) require additional proof that the person is competent to practice
16 professionally;

17 (2) require further examination;

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

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

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

25 **§ 2216. Licensure by Endorsement.**

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

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

1 (2) the person substantially complies with the requirements for licensure in
2 Section 2215; and

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

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

8 **§ 2217. Language.**

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

13 **§ 2218. Temporary or Limited Licenses.**

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

- 16 (1) emergencies, disasters or shortages of skilled professionals;
17 (2) the effective use of health care professionals in training;
18 (3) the use of visiting specialists;
19 (4) special needs of the local population;
20 (5) length and scope of the anticipated practice;
21 (6) term of the license and periods for renewal; and/or
22 (7) the extent to which a paperwork or administrative failure has impaired the
23 Board's ability to issue a license, in the ordinary course of its affairs.

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

- 26 (1) the person's qualifications;
27 (2) the person's regulatory and disciplinary history;
28 (3) adverse legal, regulatory and/or professional actions;
29 (4) the person's experience, training and certifications; and

1 (5) the nature and scope of the position to be filled.

2 **§ 2219. Application for Licensure.**

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

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

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

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

13 (e) Legal effect of the application:

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

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

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

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

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

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

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

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

- 12 (1) criminal background;
13 (2) the person's experience, training and certifications;
14 (3) relevant medical information;
15 (4) work, licensing and/or disciplinary history; and
16 (5) adverse legal, regulatory and/or professional actions.

17 **§ 2220. Term of License.**

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

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

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

25 **§ 2221. Renewal of License.**

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

27 (b) Each licensee shall be responsible for submitting a completed renewal application
28 at least eight (8) weeks, fifty-six (56) calendar days, before the expiration date of the current
29 license.

1 (c) The Board shall notify every licensee at least twelve (12) weeks, eighty-four (84)
2 days, before license expiration, stating the date of expiration and the fee and any additional
3 requirements for the renewal thereof. Notification shall be by methods calculated to most
4 reasonably reach the licensee in a timely, cost-effective 38 manner.

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

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

13 **§ 2222. Business License to Conform to Board License.**

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

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

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

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

1 **§ 2223. Reporting Requirements.**

2 (a) Every health care facility shall inform the Board fully in writing within five (5)
3 weeks, thirty-five (35) calendar days, of an adverse disciplinary action, including those
4 actions described in this Chapter, taken against any health care professional practicing in that
5 facility who is regulated pursuant to this Chapter, notwithstanding the pendency of an appeal.

6 (b) Every regulated health care professional shall inform the Board fully in writing
7 within five (5) weeks, thirty-five (35) calendar days, of an adverse professional disciplinary
8 action by any jurisdiction, including those actions described in this Chapter, notwithstanding
9 the pendency of an appeal.

10 **§ 2224. Discipline, Reasons for.**

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

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

17 (1) Crimes:

18 (i) Conviction in any jurisdiction of:

19 (A) a crime involving moral turpitude;

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

21 (C) a felony; and/or

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

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

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

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

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

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

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

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

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

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

20 (ii) advertising;

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

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

26 (12) Giving fraudulent, deceptive, misleading or intentionally false testimony
27 while serving as an expert witness;

28 (13) Practicing a health care profession as an individual under a false or
29 assumed name, except for the use of an additional, duly registered business name;

1 (14) Commission of an act of sexual misconduct, which exploits the
2 professional-patient relationship;

3 (15) Persistent, deliberate over-charging or over-treating of patients;

4 (16) Obtaining a fee by fraud, deceit or misrepresentation;

5 (17) Violating the confidentiality between the health care professional and
6 patient, except as allowed, or required by, law;

7 (18) Violating an order of a court of a US jurisdiction;

8 (19) Misusing a license, including:

9 (i) Using or attempting to use an expired, suspended or revoked
10 license;

11 (ii) Misrepresenting to the public a conditional, limited or temporary
12 license;

13 (iii) Practicing, or offering to practice, a health care profession without
14 a valid license issued by the Board;

15 (iv) Allowing another person or firm to use the licensee's license to
16 practice a health care profession, except for:

17 (A) the employment of a person;

18 (B) under the licensee's direct supervision and control;

19 (C) in the ordinary course of the conduct of the profession; and

20 (D) consistent with the Board's regulations.

21 (20) Aiding or abetting an unregulated person to practice a health care
22 profession in violation of this Chapter;

23 (21) Without having a valid license from the Board, using any of the health
24 care profession titles listed in this Chapter, or modifications, derivatives, or acronyms
25 thereof, in the individual or firm name, or in any title, sign, card, ad, electronic
26 communication, or other device to indicate that the person is practicing such
27 profession;

28 (22) With respect to other jurisdictions:

1 (i) Being subject to a health profession disciplinary action from
2 another jurisdiction based upon acts or conduct by the licensee similar to acts
3 or conduct that would support disciplinary action under this Chapter;

4 (ii) Failing to report to the Board an adverse action taken against the
5 person by another jurisdiction's health care profession regulatory agency or
6 court, by a professional peer body, by a health care institution, by a health care
7 professional society or association, by a governmental agency, including a law
8 enforcement agency or by a court for acts or conduct similar to acts or conduct
9 that would support disciplinary action under this Chapter;

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

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

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

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

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

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

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

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

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

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

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

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

13 **§ 2225. Criminal and Other Penalties and Remedies.**

14 (a) Misdemeanor.

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

18 (2) Upon conviction, such person shall be punished by a fine of not more than
19 \$1,000 for each offense, or by imprisonment for not more than one year for each
20 offense, or by both.

21 (b) Felony.

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

26 (2) Upon conviction, such person shall be punished by a fine of not more than
27 \$10,000 for each offense, or by imprisonment for not more than ten (10) years for
28 each offense, or by both.

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

3 **§ 2226. Civil penalties and Other Discipline.**

4 (a) Summary suspension. Notwithstanding any other provision of law, upon a finding
5 that immediate action is needed to reduce or eliminate the likelihood of harm to the public
6 health, safety or welfare or to a patient of a health care professional, the Board and/or a court
7 shall have the complete jurisdiction, power and authority to summarily suspend a licensee
8 and order the cessation of a person's practice of a health care profession regulated by this
9 Chapter. Such an action shall be followed immediately by notice and an opportunity to be
10 heard. No court shall lift, vacate or otherwise interfere with the Board's suspension under this
11 Chapter (1) while the Board proceeds in a timely and deliberate manner and (2) unless the
12 court shall have taken and considered evidence which is material and relevant to the
13 suspension.

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

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

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

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

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

25 (ii) suspend or revoke;

26 (iii) place on probation;

27 (iv) condition a license;

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

- 1 (vi) require further education or training or testing for competency;
- 2 (vii) enjoin;
- 3 (viii) receive a voluntary surrender, in which a licensee voluntarily
- 4 surrenders a license in exchange for a decision by the Board to forego
- 5 conducting, or cease, an investigation, a discipline, or similar proceeding, or in
- 6 lieu of a disciplinary action;
- 7 (ix) levy fees, charges, costs, expenses, fines or civil penalties; and/or
- 8 (x) require an application for licensure.

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

- 11 (i) enjoin;
- 12 (ii) levy fees, charges, costs, expenses, fines or civil penalties; and/or
- 13 (iii) require an application for licensure.

14 (3) The Board may also, with respect to any person:

- 15 (i) make a criminal complaint;
- 16 (ii) deny relief;
- 17 (iii) require the payment of costs, fees and/or expenses of litigation;
- 18 (iv) dismiss one or more allegations or counts of a complaint;
- 19 (v) order such other discipline as appropriate and permitted by law;
- 20 (vi) seize all tools and other implements, medicines, and drugs used in
- 21 the practice of a health care profession by a person found by a court to have
- 22 practiced a health care profession in violation of this Chapter; and/or
- 23 (vii) apply other remedies authorized by law.

24 (4) In a proceeding before the Board for injunctive relief it shall not be
25 necessary to allege or prove;

- 26 (i) that an adequate remedy at law does not exist; or
- 27 (ii) that substantial, immediate, or irreparable damage would result
- 28 from the continued violation thereof.

29 (e) Suit.

1 (1) The Board may sue to enforce its orders, including its subpoenas, and
2 partial, final and temporary orders. The Board may sue to secure an order from a
3 court.

4 (2) In a court proceeding for injunctive relief under this Chapter, or the
5 regulations promulgated pursuant thereto, it shall not be necessary to allege or prove;

6 (i) that an adequate remedy at law does not exist; or

7 (ii) that substantial, immediate, or irreparable damage would result
8 from the continued conduct sought to be enjoined or violation thereof.

9 (f) Forfeiture. A court may declare forfeit to the Commonwealth, and order the
10 seizure of, all tools and other implements, medicines, and drugs used in the practice of a
11 health care profession by a person found to have practiced a health care profession in
12 violation of this Chapter.

13 (g) The remedies and penalties prescribed in this Chapter shall be concurrent and
14 cumulative, and the exercise of one shall not preclude the exercise of the others, and these
15 remedies and penalties are in addition to any other remedy or penalty afforded by any other
16 law or regulation.

17 **§ 2227. Complaints to the Board and Procedures.**

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

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

1 (c) The Board or its designee shall promptly and fully investigate all non-trivial
2 allegations filed with the Board for the purposes of determining whether to proceed with or
3 dismiss the complaint. Ordinarily, such investigation shall conclude within five weeks, thirty-
4 five (35) calendar days, of receipt of the complaint..

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

10 (e) The Board shall hear and determine complaints and other contested matters 40
11 pursuant to the Commonwealth Administrative Procedure Act, 1 CMC §§ 9108

12 (f) The Board may refer a criminal prosecution to the Attorney General. The Attorney
13 General shall review such a referral on an expedited basis to determine whether criminal
14 activity presents an immediate danger to the health, welfare or security of the Commonwealth
15 or persons likely to receive care.

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

25 **§ 2228. Confidentiality.**

26 (a) The Open Government Act of 1992, 1 CMC §§ 9917-18, shall determine the
27 extent to which the Board's records, files and other information shall be privileged and
28 confidential and may be protected from disclosure. Such protection shall apply to the work

1 product of an attorney retained by or for the Board, whether or not an assistant attorney
2 general.

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

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

10 **§ 2229. Appeals of Board Decisions.**

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

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

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

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

21 **§ 2230. Bond Not Required.** Bond or other security shall not be required of the
22 Board, including:

23 (a) to enforce the provisions of this Chapter and its regulations;

24 (b) to restrain any violation thereof; or

25 (c) on appeal.

26 **§ 2231. Suing the Board.**

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

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

3 **§ 2232. Construction of Board Action; Liberal Construction.**

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

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

10 **§ 2233. Electronic Means for Filing and Doing Business.**

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

14 **§ 2234. National and Interstate Data Banks.**

15 (a) Reporting to the Board.

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

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

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

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

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

27 (3) The report shall be made within thirty-five (35) days of receipt of the
28 information by the person or by a management-level individual.

29 (b) Reporting to national and interstate data banks.

1 (1) The Board shall report adverse health care professional information to the
2 National Practitioner Data Bank (“NPDB”), the Federation of State Medical Boards
3 (“FSMB”), to the appropriate government health agency having jurisdiction over a
4 foreign-licensed or otherwise regulated health care professional, and such other
5 interstate or national health professional data bank as it shall by regulation determine,
6 within thirty-five (35) days following its receipt of the information. The Board shall
7 maintain its membership in such organizations in order to retain the benefits of access
8 to the data.

9 (2) The information to be reported shall include:

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

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

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

17 (c) Securing information.

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

20 (i) when a health care professional applies for a license;

21 (ii) every two (2) years, typically in advance of license renewal; and

22 (iii) whenever the Board determines such information would be
23 reasonably required.

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

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

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

3 **§ 2235. Transition.**

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

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

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

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

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

23 **§ 2236. Retired Senior Volunteer Program for Health Professionals.**

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

26 (b) The Board is authorized to create a Retired Senior Volunteer Program for Health
27 Professionals for the purpose of permitting physicians and other health care professionals
28 who are fully retired from the active practice to obtain a limited license without cost which

1 would permit the provision of outpatient health care services at established free clinics and
2 programs operated in the Commonwealth.

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

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

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

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

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

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

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

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

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

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

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

27 **Section 4. Severability.** If any provision of this Act or the application of any such
28 provision to any person or circumstance should be held invalid by a court of competent

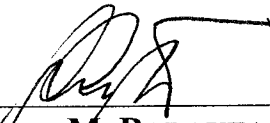
1 jurisdiction, the remainder of this Act or the application of its provisions to persons or
2 circumstances other than those to which it is held invalid shall not be affected thereby.

3 **Section 5. Savings Clause.** This Act and any repealer contained herein shall not be
4 construed as affecting any existing right acquired under contract or acquired under statutes
5 repealed or under any rule, regulation or order adopted under the statutes. Repealers
6 contained in this Act shall not affect any proceeding instituted under or pursuant to prior law.
7 The enactment of the Act shall not have the effect of terminating, or in any way modifying,
8 any liability, civil or criminal, which shall already be in existence on the date this Act
9 becomes effective.

10 **Section 6. Effective Date.** This Act shall take effect upon its approval by the
11 Governor or becoming law without such approval.

CERTIFIED BY:

ATTESTED TO BY:

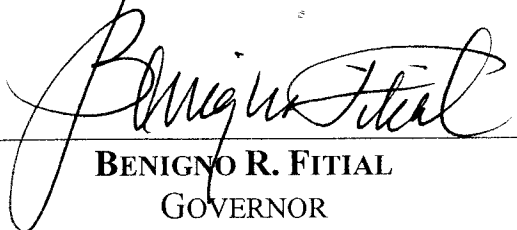


OSCAR M. BABAUTA
SPEAKER OF THE HOUSE



EVELYN C. FLEMING
HOUSE CLERK

APPROVED on this 7th day of November, 2007



BENIGNO R. FITIAL
GOVERNOR
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS