

CHAPTER 36**OSTEOPATHIC PHYSICIANS****SUBCHAPTER 1****BOARD OF OSTEOPATHIC LICENSURE****§2561. Membership; qualifications; tenure; vacancies**

The Board of Osteopathic Licensure, as established by Title 5, section 12004-A, subsection 29, and in this chapter called the "board," consists of 11 members appointed by the Governor. Members must be residents of this State. Six members must be graduates of a school or college of osteopathic medicine approved by the American Osteopathic Association and must have been, at the time of appointment, actively engaged in the practice of the profession of osteopathic medicine in the State for a continuous period of at least 5 years preceding their appointment to the board. Two members must be physician assistants licensed under this chapter who have been actively engaged in the profession of physician assistant in this State for at least 5 years preceding appointment to the board. Three members must be public members. Consumer groups may submit nominations to the Governor for the members to be appointed to represent the interest of consumers. A full term of appointment is for 5 years. Appointment of members must comply with Title 10, section 8009. A member of the board may be removed from office for cause by the Governor. [PL 2023, c. 405, Pt. A, §115 (AMD).]

SECTION HISTORY

PL 1973, c. 374, §1 (NEW). PL 1973, c. 788, §158 (AMD). PL 1975, c. 575, §32 (AMD). PL 1975, c. 771, §§355,356 (AMD). PL 1983, c. 812, §222 (AMD). PL 1989, c. 462, §4 (AMD). PL 1989, c. 503, §B137 (AMD). PL 1989, c. 878, §A94 (RPR). PL 1991, c. 150, §1 (AMD). PL 1993, c. 600, §A169 (AMD). PL 1997, c. 50, §1 (AMD). PL 2013, c. 101, §1 (AMD). PL 2019, c. 627, Pt. B, §10 (AMD). PL 2023, c. 405, Pt. A, §115 (AMD).

§2562. Meetings; organizations; duties; powers

The board shall meet in June of each year at a time and place the chair may designate. The board shall elect one of its members as chair annually and one of its members as secretary-treasurer, to hold office at the pleasure of the board. The secretary-treasurer shall ensure proper management of the board's finances. Special meetings may be called at the pleasure of the chair and in case of the death or inability of the chair, the secretary-treasurer may call special meetings. The board shall cause a seal of suitable inscription to be procured and affixed to papers that may require the seal, shall keep a correct record of its proceedings and has power to make rules, not inconsistent with this chapter, it considers necessary for the successful enforcement of its authority and the performance of its duties. As part of the biennial relicensure process, the board shall prepare and distribute to each licensed osteopathic physician practicing in the State a copy of its code of ethics and current rules relative to continuing medical education. The chair and the secretary-treasurer may administer oaths in matters connected with the duties of the board. The records of the board must include a report of all money received and disbursed by the board and a list of all applicants for licenses, including the name and location of the school or college of osteopathic medicine approved by the American Osteopathic Association that granted the degree to each applicant and whether the applicant was granted or denied a license. These records, or duplicates, must always be open to inspection in the office of the Secretary of State during regular office hours. Four members of the board constitute a quorum for the transaction of business. A license to practice osteopathic medicine may not be granted, except on an affirmative vote of a majority of the board. [PL 1997, c. 50, §2 (AMD).]

Each member of the board is entitled to compensation according to the provisions of Title 5, chapter 379. All requisitions for payment of money must be signed by the chair and the secretary-treasurer of the board. If the fees to be collected under the provisions of this chapter are insufficient to pay the salaries and expenses provided by this section, the members of the board are entitled to only a pro rata payment for salary in years in which the fees are insufficient. [PL 1993, c. 600, Pt. A, §170 (AMD).]

The board has the duty and the power to annually determine the salary of the secretary-treasurer, not to exceed \$6,000. The board has the power to employ, fix the salary of and prescribe the duties of other personnel as the board considers necessary. The board shall utilize the consumer assistant position as provided in section 3269, subsection 15. The functions and expense of the consumer assistant position must be shared on a pro rata basis with the Board of Licensure in Medicine. [PL 1997, c. 680, Pt. B, §1 (AMD).]

The board may set reasonable fees for services, such as providing license certifications and verifications, providing copies of laws and rules and providing copies of documents. [PL 1993, c. 600, Pt. A, §170 (AMD).]

SECTION HISTORY

PL 1973, c. 374, §1 (NEW). PL 1975, c. 575, §33 (AMD). PL 1983, c. 812, §223 (AMD). PL 1991, c. 425, §1 (AMD). PL 1993, c. 600, §A170 (AMD). PL 1997, c. 50, §2 (AMD). PL 1997, c. 680, §B1 (AMD).

§2562-A. Adequacy of budget

The budget submitted by the board to the Commissioner of Professional and Financial Regulation must be sufficient to enable the board to comply with this subchapter. The fiscal resources available to the board must enable it to strengthen its staffing capabilities and those of the Department of the Attorney General's legal and investigative staff so that complaints, including the professional liability related complaints detailed in Title 24, section 2607, are resolved in a timely fashion. [PL 1993, c. 600, Pt. A, §171 (AMD).]

SECTION HISTORY

PL 1985, c. 748, §42 (AMD). PL 1985, c. 804, §§17,22 (NEW). PL 1993, c. 600, §A171 (AMD).

§2563. Report; liaison; limitations

On or before August 1st of each year, the board shall submit to the Commissioner of Professional and Financial Regulation, for the preceding fiscal year ending June 30th, its annual report of its operations and financial position, together with such comments and recommendations as the board deems essential. [PL 1985, c. 748, §42 (AMD).]

The commissioner shall act as a liaison between the board and the Governor. [PL 1977, c. 604, §24 (RPR).]

The commissioner may not exercise or interfere with the exercise of discretionary, regulatory or licensing authority granted by statute to the board. The commissioner may require the board to be accessible to the public for complaints and questions during regular business hours and to provide any information the commissioner requires in order to ensure that the board is operating administratively within the requirements of this chapter. [PL 1993, c. 659, Pt. B, §12 (AMD).]

SECTION HISTORY

PL 1973, c. 374, §1 (NEW). PL 1977, c. 604, §24 (RPR). PL 1985, c. 748, §42 (AMD). PL 1993, c. 659, §B12 (AMD).

§2563-A. Budget

The board shall submit to the Commissioner of Professional and Financial Regulation its budgetary requirements in the same manner as is provided in Title 5, section 1665, and the commissioner shall in turn transmit these requirements to the Bureau of the Budget without any revision, alteration or change, unless alterations are mutually agreed upon by the department and the board or the board's designee. [PL 1993, c. 659, Pt. B, §13 (AMD).]

SECTION HISTORY

PL 1977, c. 604, §25 (NEW). PL 1985, c. 748, §42 (AMD). PL 1993, c. 659, §B13 (AMD).

SUBCHAPTER 2

LICENSURE

§2571. Licensure; qualifications; fees

An individual, before engaging in the practice of osteopathic medicine in this State, shall make application for a license to the board, on a form prescribed by the board. The application must be filed with the board at least 60 days before the date of examination together with a fee of not more than \$525. The applicant shall present a diploma granted by a school or college of osteopathic medicine approved by the American Osteopathic Association. That applicant shall present evidence of having completed an internship of at least 12 months in a hospital conforming to the minimal standards for accreditation by the American Osteopathic Association, or the equivalency, as determined by the board. All applicants shall provide reasonable and proper facts as the board in its application may require. The board at its discretion may permit an applicant, who is otherwise qualified to be examined during internship, a license to be withheld until successful completion of internship. [PL 2001, c. 492, §1 (AMD).]

All fees set in this chapter are nonrefundable application fees or administrative processing fees payable to the board at the time of application or at the time board action is requested. Unless otherwise specified, the board shall set the fees. [PL 1991, c. 425, §2 (NEW).]

An applicant may not be licensed unless the board finds that the applicant is qualified and that no cause exists, as set forth in section 2591-A, that would be considered grounds for disciplinary action against a licensed physician. [PL 1993, c. 600, Pt. A, §173 (NEW).]

SECTION HISTORY

PL 1973, c. 374, §1 (NEW). PL 1983, c. 378, §35 (AMD). PL 1989, c. 462, §5 (AMD). PL 1991, c. 425, §2 (AMD). PL 1993, c. 600, §A173 (AMD). PL 1997, c. 50, §3 (AMD). PL 2001, c. 492, §1 (AMD).

§2571-A. Background check for expedited licensure through the Interstate Medical Licensure Compact

1. Background check. The board shall request a background check for an individual licensed under this chapter who applies for an expedited license under section 18506. The background check must include criminal history record information obtained from the Maine Criminal Justice Information System and the Federal Bureau of Investigation.

A. The criminal history record information obtained from the Maine Criminal Justice Information System must include a record of public criminal history record information as defined in Title 16, section 703, subsection 8. [PL 2017, c. 253, §5 (NEW).]

B. The criminal history record information obtained from the Federal Bureau of Investigation must include other state and national criminal history record information. [PL 2017, c. 253, §5 (NEW).]

C. An applicant shall submit to having fingerprints taken. The State Police, upon payment by the applicant, shall take or cause to be taken the applicant's fingerprints and shall forward the fingerprints to the State Bureau of Identification so that the bureau can conduct state and national criminal history record checks. Except for the portion of the payment, if any, that constitutes the processing fee charged by the Federal Bureau of Investigation, all money received by the State Police for purposes of this paragraph must be paid over to the Treasurer of State. The money must be applied to the expenses of administration incurred by the Department of Public Safety. [PL 2017, c. 253, §5 (NEW).]

D. The subject of a Federal Bureau of Investigation criminal history record check may obtain a copy of the criminal history record check by following the procedures outlined in 28 Code of Federal Regulations, Sections 16.32 and 16.33. The subject of a state criminal history record check may inspect and review the criminal history record information pursuant to Title 16, section 709. [PL 2017, c. 253, §5 (NEW).]

E. State and federal criminal history record information of an applicant may be used by the board for the purpose of screening that applicant. [PL 2017, c. 253, §5 (NEW).]

F. Information obtained pursuant to this subsection is confidential. The results of background checks received by the board are for official use only and may not be disseminated to the Interstate Medical Licensure Compact Commission, established in section 18512, or to any other person or entity. [PL 2017, c. 253, §5 (NEW).]

G. An individual whose expedited licensure through the Interstate Medical Licensure Compact under chapter 145 has expired and who has not applied for renewal may request in writing that the State Bureau of Identification remove the individual's fingerprints from the bureau's fingerprint file. In response to a written request, the bureau shall remove the individual's fingerprints from the fingerprint file and provide written confirmation of that removal. [PL 2017, c. 253, §5 (NEW).]
[PL 2017, c. 253, §5 (NEW).]

2. Rules. The board, following consultation with the State Bureau of Identification, shall adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.
[PL 2017, c. 253, §5 (NEW).]

SECTION HISTORY

PL 2017, c. 253, §5 (NEW).

SUBCHAPTER 3

EXAMINATION

§2572. Examination, reexamination; endorsement; temporary licensure

Applicants must be examined in whole or in part in writing and must be thorough in subjects the board determines necessary, including osteopathic theories and methods, to determine the competency of the candidate to practice osteopathic medicine in the State. If the examination is passed in a manner satisfactory to the board, the board shall issue to the applicant a license granting the applicant the right to practice osteopathic medicine in this State. If the applicant fails to pass the examination, the applicant is entitled to one reexamination within one year after failure upon payment of a fee set by the board. Osteopathic physicians who have been certified by the National Board of Osteopathic Examiners or have been strictly examined and licensed to practice osteopathic medicine in another state, which has equivalent licensing requirements to this State, may be licensed to practice osteopathic medicine in this State upon the payment of not more than \$300 and the substantiation to the board that the applicant is

a graduate of a school or college of osteopathic medicine approved by the American Osteopathic Association and that the license was obtained in the other state. The board may at its discretion require an examination of any such applicant. [PL 1997, c. 50, §4 (AMD).]

SECTION HISTORY

PL 1973, c. 374, §1 (NEW). PL 1983, c. 378, §36 (AMD). PL 1991, c. 425, §3 (AMD). PL 1993, c. 600, §A174 (AMD). PL 1997, c. 50, §4 (AMD).

§2573. Temporary licensure

An osteopathic physician in good repute who is a graduate of a school or college of osteopathic medicine approved by the American Osteopathic Association, serving as a fellow, intern or resident physician in a hospital in this State, shall register with the board and must be issued a temporary license by the board evidencing the right to practice only under hospital control. Such a license may not be issued for a period in excess of one year but may be renewed from time to time, not to exceed an aggregate of 5 years. The license must be in a form prescribed by the board and may be revoked or suspended by the board with the suspension or revocation effective immediately when written notification from the board is received by the hospital. An examination may not be required for applicants for this temporary license. The fee for such a license may not be more than \$450. [PL 2001, c. 492, §2 (AMD).]

SECTION HISTORY

PL 1973, c. 374, §1 (NEW). PL 1991, c. 425, §4 (AMD). PL 1993, c. 600, §A175 (AMD). PL 1997, c. 50, §5 (AMD). PL 2001, c. 492, §2 (AMD).

§2574. Locum tenens

An osteopathic physician who is a graduate of a school or college of osteopathic medicine approved by the American Osteopathic Association 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 the physician to serve as "locum tenens" for another osteopathic physician who is unable, because of illness or some other substantiated reason, to maintain the practice, thus fulfilling a need in that area for providing health services. The fee for such a license may be not more than \$600. [PL 2001, c. 492, §3 (AMD).]

SECTION HISTORY

PL 1973, c. 374, §1 (NEW). PL 1991, c. 425, §5 (AMD). PL 1993, c. 600, §A176 (AMD). PL 1997, c. 50, §6 (AMD). PL 2001, c. 492, §3 (AMD).

§2575. Youth camp physicians

An osteopathic physician who is a graduate of a school or college of osteopathic medicine approved by the American Osteopathic Association and who is of good repute may, at the discretion of the board, make application for a temporary license to practice as a youth camp physician at a specified youth camp licensed under Title 22, section 2495. Such an osteopathic physician is entitled to practice only on the patients at the youth camp. The license must be obtained each year. Applications for such a temporary license must be made in the same manner as for regular licenses. An examination may not be exacted from applicants for temporary licenses. The fee may not be more than \$600. [PL 2009, c. 211, Pt. B, §27 (AMD).]

SECTION HISTORY

PL 1973, c. 374, §1 (NEW). PL 1991, c. 425, §6 (AMD). PL 1993, c. 600, §A177 (AMD). PL 1997, c. 50, §7 (AMD). PL 2001, c. 492, §4 (AMD). PL 2009, c. 211, Pt. B, §27 (AMD).

§2576. Visiting instructors

A temporary visiting instructor's license may be granted an osteopathic physician who holds a current and valid license to practice osteopathic medicine in another state. This license entitles the osteopathic physician to practice in this State when that physician is performing osteopathic medical procedures as a part of a course or courses of instruction in continuing medical education in a hospital in this State. The annual fee for such a temporary license may not be more than \$150. The license issued pursuant to this section is for a duration set by the board. Such a temporary license may be revoked for any one of the reasons in section 2591-A. [PL 2001, c. 492, §5 (AMD).]

SECTION HISTORY

PL 1973, c. 374, §1 (NEW). PL 1991, c. 425, §7 (AMD). PL 1993, c. 600, §A178 (AMD). PL 2001, c. 492, §5 (AMD).

§2577. Joint program interns

An applicant who is enrolled in a program of medical and graduate medical training conducted jointly by a college or university having the power to grant a D.O. degree and accredited by the American Osteopathic Association and a graduate medical education program approved by the American Osteopathic Association may receive a temporary educational certificate from the board to act as a hospital intern as part of that graduate medical education program as long as the applicant is concurrently enrolled in the final year of medical training and initial year of graduate medical education. The board may not issue a certificate pursuant to this section for a period longer than that required to obtain the D.O. degree. The period during which the certificate is in force may not be considered as satisfaction of the requirement for postgraduate medical education under section 2571. [PL 1995, c. 337, §1 (NEW).]

SECTION HISTORY

PL 1995, c. 337, §1 (NEW).

SUBCHAPTER 4

LICENSES

§2581. Licenses; biennial relicensure; fees; reinstatement

Upon satisfactorily qualifying for licensure, the applicant may be issued a license by the board, which is dated and signed by its members and upon which the official seal of the board is affixed. The license must designate the holder as a physician licensed to practice osteopathic medicine in the State of Maine. The license must be publicly displayed at the individual's principal place of practice. [PL 1993, c. 600, Pt. A, §180 (AMD).]

Every osteopathic physician legally licensed to practice in this State, shall, on or before the expiration date of the osteopathic physician's license, pay to the board a fee set by the board not to exceed \$600 for the renewal of the osteopathic physician's license to practice. An osteopathic physician's license is issued for a period of 2 years and must be renewed in accordance with a schedule adopted by the board by rule. Rules adopted pursuant to this section are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A. In addition to the payment of the renewal fee, each licensee applying for the renewal of the osteopathic physician's license shall furnish to the board satisfactory evidence that the osteopathic physician has attended in the 2 preceding years at least 100 hours of educational programs devoted to continuing medical education approved by the board. The required education must be obtained from formalized programs of continuing medical education sponsored by recognized associations, colleges or universities, hospitals, institutes or groups approved by the board. A copy of the current approved list must be available in the office of the secretary-treasurer of the board. At least 40% of these credit hours must be osteopathic medical education approved in the rules

established by the board. The board may adjudicate continuing medical education performance in situations of illness, hardship or military service upon written petition by the applicant. The secretary-treasurer of the board shall send a written notice of the foregoing requirements to each osteopathic physician, at least 60 days prior to each osteopathic physician's license expiration date, directed to the last known address of the licensee and enclosing with the notice proper blank forms for application for renewal. If a licensee fails to furnish the board evidence of attendance at continuing medical educational programs, as approved by the board, fails to pay the renewal fee or fails to submit a completed application for renewal, the osteopathic physician automatically forfeits the right to practice osteopathic medicine in this State. After the expiration of a license, the board shall send notice by first class mail to each licensee who has failed to meet the requirements for renewal. If the failure is not corrected within 30 days, then the osteopathic physician's license may be considered lapsed by the board. The secretary-treasurer of the board may reinstate the osteopathic physician upon the presentation of satisfactory evidence of continuing medical education as outlined and approved by the board and upon payment of the renewal fee. [PL 2001, c. 492, §6 (AMD).]

The board may not require an applicant for initial licensure or license renewal as an osteopathic physician under this chapter to obtain certification from a specialty medical board or to obtain osteopathic continuous certification as a condition of licensure. For the purposes of this section, "osteopathic continuous certification" means a program that requires an osteopathic physician to engage in periodic examination, self-assessment, peer evaluation or other activities to maintain certification from a specialty medical board. [PL 2017, c. 189, §1 (NEW).]

Relicensure fees provided for under this section are not required of an osteopathic physician who is 70 years of age or older on the first day of January of the year in which the relicensure is made, although the requirements for continuing medical education apply without regard to age. [PL 1993, c. 600, Pt. A, §180 (AMD).]

The license entitles an individual to whom it is granted the privilege to practice osteopathic medicine in any county in this State, in all its branches as taught in a school or college of osteopathic medicine approved by the American Osteopathic Association with the right to use drugs that are necessary in the practice of osteopathic medicine. [PL 1997, c. 50, §8 (AMD).]

An individual to whom a license is granted under this section shall designate that individual's status as an osteopathic physician either by the letters D.O. following the licensee's name or by the words "osteopathic physician" following or accompanying the licensee's name when the prefix Doctor or Dr. is used. [PL 1993, c. 600, Pt. A, §180 (AMD).]

An applicant not complying with relicensure requirements is entitled to be reinstated upon paying the relicensure fee for the given year and satisfying the board that the applicant has paid all relicensure fees due at the time of the applicant's withdrawal, and that a cause does not exist for revoking or suspending the applicant's license. The board shall determine the skill and competence of an osteopathic physician applying for a reinstatement who has not been engaged in the active practice of osteopathic medicine in this or some other state for a period in excess of one year from the date of the physician's most recent relicensure in Maine. [PL 1993, c. 600, Pt. A, §180 (AMD).]

SECTION HISTORY

PL 1973, c. 374, §1 (NEW). PL 1985, c. 804, §§18,22 (AMD). PL 1989, c. 462, §6 (AMD). PL 1991, c. 425, §8 (AMD). PL 1993, c. 600, §180 (AMD). PL 1997, c. 50, §8 (AMD). PL 2001, c. 492, §6 (AMD). PL 2017, c. 189, §1 (AMD).

§2582. Exemption for licensed person accompanying visiting athletic team

1. Licensed person accompanying visiting athletic team. This chapter does not apply to a person who holds a current unrestricted license to practice osteopathic medicine and surgery in another state when the person, pursuant to a written agreement with an athletic team located in the state in which the

person holds the license, provides medical services to any of the following while the team is traveling to or from or participating in a sporting event in this State:

- A. A member of the athletic team; [PL 2017, c. 119, §1 (NEW).]
 - B. A member of the athletic team's coaching, communications, equipment or sports medicine staff; [PL 2017, c. 119, §1 (NEW).]
 - C. A member of a band or cheerleading squad accompanying the team; or [PL 2017, c. 119, §1 (NEW).]
 - D. The team's mascot. [PL 2017, c. 119, §1 (NEW).]
- [PL 2017, c. 119, §1 (NEW).]

2. Restrictions. A person authorized to provide medical services in this State pursuant to subsection 1 may not provide medical services at a health care facility, including a hospital, ambulatory surgical facility or any other facility where medical care, diagnosis or treatment is provided on an inpatient or outpatient basis.
[PL 2017, c. 119, §1 (NEW).]

SECTION HISTORY

PL 2017, c. 119, §1 (NEW).

SUBCHAPTER 5

SUSPENSION AND REVOCATION

§2591. Complaints; investigations; hearings; censure; probation; suspension; revocation (REPEALED)

SECTION HISTORY

PL 1973, c. 374, §1 (NEW). PL 1977, c. 694, §§599,600 (AMD). PL 1983, c. 378, §37 (RP).

§2591-A. Disciplinary actions

1. Disciplinary proceedings and sanctions. The board shall investigate a complaint, on its own motion or upon receipt of a written complaint filed with the board, regarding noncompliance with or violation of this chapter or of rules adopted by the board.

The board shall notify the licensee of the content of a complaint filed against the licensee as soon as possible, but, absent unusual circumstances justifying delay, not later than 60 days from receipt of this information. The licensee shall respond within 30 days. The board shall share the licensee's response with the complainant, unless the board determines that it would be detrimental to the health of the complainant to obtain the response. If the licensee's response to the complaint satisfies the board that the complaint does not merit further investigation or action, the matter may be dismissed, with notice of the dismissal to the complainant, if any.

If, in the opinion of the board, the factual basis of the complaint is or may be true, and the complaint is of sufficient gravity to warrant further action, the board may request an informal conference with the licensee. The board shall provide the licensee with adequate notice of the conference and of the issues to be discussed. The complainant may attend and may be accompanied by up to 2 individuals, including legal counsel. The conference must be conducted in executive session of the board, pursuant to Title 1, section 405, unless otherwise requested by the licensee. Before the board decides what action to take at the conference or as a result of the conference, the board shall give the complainant a reasonable opportunity to speak. Statements made at the conference may not be introduced at a subsequent formal hearing unless all parties consent.

When a complaint has been filed against a licensee and the licensee moves or has moved to another state, the board may report to the appropriate licensing board in that state the complaint that has been filed, other complaints in the licensee's record on which action was taken and disciplinary actions of the board with respect to that licensee.

When an individual applies for a license under this chapter, the board may investigate the professional record of that individual, including professional records that the individual may have as a licensee in other states. The board may deny a license or authorize a restricted license based on the record of the applicant in other states.

If the board finds that the factual basis of the complaint is true and is of sufficient gravity to warrant further action, it may take any of the following actions it considers appropriate:

A. With the consent of the licensee, enter into a consent agreement that fixes the period and terms of probation best adapted to protect the public health and safety and to rehabilitate or educate the licensee. A consent agreement may be used to terminate a complaint investigation, if entered into by the board, the licensee and the Attorney General's office; [PL 1993, c. 600, Pt. A, §181 (AMD).]

B. In consideration for acceptance of a voluntary surrender of the license, negotiate stipulations, including terms and conditions for reinstatement, that ensure protection of the public health and safety and that serve to rehabilitate or educate the licensee. These stipulations may be set forth only in a consent agreement signed by the board, the licensee and the Attorney General's office; [PL 1993, c. 600, Pt. A, §181 (AMD).]

C. If the board concludes that modification or nonrenewal of the license is in order, the board shall hold an adjudicatory hearing in accordance with the provisions of Title 5, chapter 375, subchapter IV; or [PL 1997, c. 680, Pt. B, §2 (AMD).]

D. If the board concludes that suspension or revocation of the license is in order, the board shall file a complaint in the District Court in accordance with Title 4, chapter 5. [PL 1999, c. 547, Pt. B, §64 (AMD); PL 1999, c. 547, Pt. B, §80 (AFF).]

[PL 1999, c. 547, Pt. B, §64 (AMD); PL 1999, c. 547, Pt. B, §80 (AFF).]

2. Grounds for discipline. The board may suspend or revoke a license pursuant to Title 5, section 10004. The following are grounds for an action to refuse to issue, modify, restrict, suspend, revoke or refuse to renew the license of an individual licensed under this chapter:

A. The practice of fraud or deceit in obtaining a license under this chapter or in connection with service rendered within the scope of the license issued; [PL 1983, c. 378, §38 (NEW).]

B. Misuse of alcohol, drugs or other substances that has resulted or may result in the licensee performing services in a manner that endangers the health or safety of the licensee's patients; [PL 2013, c. 105, §6 (AMD).]

C. A professional diagnosis of a mental or physical condition that has resulted or may result in the licensee performing the licensee's duties in a manner that endangers the health or safety of the licensee's patients; [PL 1993, c. 600, Pt. A, §181 (AMD).]

D. Aiding or abetting the practice of osteopathic medicine by an individual not duly licensed under this chapter and who claims to be legally licensed; [PL 1993, c. 600, Pt. A, §181 (AMD).]

E. Incompetence in the practice for which the licensee is licensed. A licensee is considered incompetent in the practice if the licensee has:

(1) Engaged in conduct that evidences a lack of ability or fitness to discharge the duty owed by the licensee to a client or patient or the general public; or

(2) Engaged in conduct that evidences a lack of knowledge, or inability to apply principles or skills to carry out the practice for which the licensee is licensed; [PL 1993, c. 600, Pt. A, §181 (AMD).]

F. Unprofessional conduct. A licensee is considered to have engaged in unprofessional conduct if the licensee violates a standard of professional behavior that has been established in the practice for which the licensee is licensed; [PL 1993, c. 600, Pt. A, §181 (AMD).]

G. Subject to the limitations of Title 5, chapter 341, conviction of a crime that involves dishonesty or false statement or that relates directly to the practice for which the licensee is licensed, or conviction of a crime for which incarceration for one year or more may be imposed; [PL 1993, c. 600, Pt. A, §181 (AMD).]

H. A violation of this chapter or a rule adopted by the board; [PL 1993, c. 600, Pt. A, §181 (AMD).]

I. Engaging in false, misleading or deceptive advertising; [PL 1983, c. 378, §38 (NEW).]

J. Advertising, practicing or attempting to practice under a name other than one's own; [PL 1983, c. 378, §38 (NEW).]

K. [PL 1997, c. 680, Pt. B, §4 (RP).]

L. Division of professional fees not based on actual services rendered; [PL 1997, c. 680, Pt. B, §5 (AMD).]

M. Failure to comply with the requirements of Title 24, section 2905-A; [PL 2015, c. 488, §14 (AMD).]

N. Revocation, suspension or restriction of a license to practice medicine or other disciplinary action; denial of an application for a license; or surrender of a license to practice medicine following the institution of disciplinary action by another state or a territory of the United States or a foreign country if the conduct resulting in the disciplinary or other action involving the license would, if committed in this State, constitute grounds for discipline under the laws or rules of this State; [PL 2019, c. 165, §9 (AMD).]

O. Failure to comply with the requirements of Title 22, section 7253; or [PL 2019, c. 165, §10 (AMD).]

P. A violation of section 2600-D. [PL 2019, c. 165, §11 (NEW).]
[PL 2019, c. 165, §9-11 (AMD).]

3. Report. By March 1st of each year, the board shall submit to the Legislature a report consisting of statistics on the following for the preceding year:

A. The number of complaints against licensees received from the public or filed on the board's own motion; [PL 1989, c. 462, §7 (NEW).]

B. The number of complaints dismissed for lack of merit or insufficient evidence of grounds for discipline; [PL 1989, c. 462, §7 (NEW).]

C. The number of cases in process of investigation or hearing carried over at year end; and [PL 1989, c. 462, §7 (NEW).]

D. The number of disciplinary actions finalized during the report year as tabulated and categorized by the annual statistical summary of the Physician Data Base of the Federation of State Medical Boards of the United States, Inc. [PL 1989, c. 462, §7 (NEW).]
[PL 1989, c. 462, §7 (NEW).]

SECTION HISTORY

PL 1983, c. 378, §38 (NEW). PL 1989, c. 291, §§2,3 (AMD). PL 1989, c. 462, §7 (AMD). PL 1993, c. 600, §A181 (AMD). PL 1997, c. 680, §§B2-7 (AMD). PL 1999, c. 547, §B64 (AMD). PL 1999, c. 547, §B80 (AFF). PL 2013, c. 105, §6 (AMD). PL 2015, c. 488, §§14-16 (AMD). PL 2019, c. 165, §§9-11 (AMD).

SUBCHAPTER 6

HEARINGS; APPEALS

§2592. Disciplinary action

(REPEALED)

SECTION HISTORY

PL 1973, c. 374, §1 (NEW). PL 1975, c. 770, §184 (AMD). PL 1977, c. 694, §601 (RPR). PL 1983, c. 378, §39 (RP).

§2592-A. Reporting and investigation of complaints

When an action is taken against a licensee and the licensee moves or has moved to another state, the board may report to the appropriate licensing board in that state the complaint that has been filed, any other complaints in the physician's record on which action was taken and disciplinary actions of the board with respect to that physician. [PL 1993, c. 600, Pt. A, §182 (AMD).]

When an individual applies for a license under this chapter, the board may investigate the professional record of that individual, including professional records that the individual may have as a licensee in other states. The board may deny a license or authorize a restricted license based on the record of the applicant in other states. [PL 1993, c. 600, Pt. A, §182 (AMD).]

SECTION HISTORY

PL 1991, c. 534, §6 (NEW). PL 1993, c. 600, §A182 (AMD).

SUBCHAPTER 7

GENERAL PROVISIONS

§2593. Mental or physical examination of licensee licensed to practice in Maine

For the purpose of this chapter, an osteopathic physician is, by so practicing, deemed to have given consent to a mental or physical examination when directed in writing by the board and to have waived all objections to the admissibility of the examining physician's testimony or examination on the grounds that it constitutes privileged communication. These examinations must be conducted by a qualified individual from a list of 5 provided by the board. [PL 1993, c. 600, Pt. A, §183 (AMD).]

SECTION HISTORY

PL 1973, c. 374, §1 (NEW). PL 1993, c. 600, §A183 (AMD).

§2594. Immunity of licensee rendering emergency care

An osteopathic physician licensed under this chapter, who, in the exercise of due care, renders emergency care at the scene of an accident, is not liable for any civil damages as the result of acts or omissions by such an individual in rendering emergency care. [PL 1993, c. 600, Pt. A, §183 (AMD).]

SECTION HISTORY

PL 1973, c. 374, §1 (NEW). PL 1993, c. 600, §A183 (AMD).

§2594-A. Assistants; delegating authority

This chapter may not be construed as prohibiting a physician from delegating to the physician's employees or support staff certain activities relating to medical care and treatment carried out by custom and usage when these activities are under the control of the physician; the activities being delegated do not, unless otherwise provided by law, require a license, registration or certification to perform; the physician ensures that the employees or support staff have the appropriate training, education and experience to perform these delegated activities; and the physician ensures that the employees or support staff perform these delegated activities competently and safely. The physician delegating these activities to employees or support staff, to program graduates or to participants in an approved training program is legally liable for the activities of those individuals, and any individual in this relationship is considered the physician's agent. Nothing contained in this section may be construed to apply to registered nurses acting pursuant to chapter 31 and licensed physician assistants acting pursuant to this chapter or chapter 48. [PL 2023, c. 132, §2 (AMD).]

When the delegated activities are part of the practice of optometry as defined in chapter 151, then the individual to whom these activities are delegated must possess a valid license to practice optometry in Maine or otherwise may perform only as a technician within the established office of a physician and may act solely on the order of and under the responsibility of a physician skilled in the treatment of eyes as designated by the proper professional board and without assuming evaluation or interpretation of examination findings by prescribing corrective procedures to preserve, restore or improve vision. [PL 2023, c. 580, §5 (AMD).]

SECTION HISTORY

PL 1973, c. 788, §159 (NEW). PL 1993, c. 600, §A184 (AMD). PL 2013, c. 33, §1 (AMD). PL 2019, c. 627, Pt. B, §11 (AMD). PL 2023, c. 132, §2 (AMD). PL 2023, c. 580, §5 (AMD).

§2594-B. Licenses of qualification; physician's statement**(REPEALED)****SECTION HISTORY**

PL 1977, c. 391 (NEW). PL 1993, c. 600, §A185 (AMD). PL 1997, c. 271, §5 (AMD). PL 2013, c. 101, §§2, 3 (AMD). PL 2015, c. 242, §1 (RP).

§2594-C. Rules**(REPEALED)****SECTION HISTORY**

PL 1977, c. 391 (NEW). PL 1991, c. 425, §§9,10 (AMD). PL 1993, c. 600, §A186 (AMD). PL 2001, c. 492, §§7,8 (AMD). PL 2013, c. 101, §4 (AMD). PL 2015, c. 242, §2 (RP).

§2594-D. Termination of license

1. Grounds for discipline. A physician assistant is subject to the sanction of section 2591-A, if the assistant:

A. Claims to be, or permits another to represent that physician assistant as a licensed physician; [PL 1993, c. 600, Pt. A, §187 (AMD).]

B. Has performed otherwise than at the direction of and under the supervision of a physician licensed by the board; [PL 1983, c. 378, §40 (RPR).]

C. Has been delegated and has performed a task beyond that physician assistant's competence; [PL 1993, c. 600, Pt. A, §187 (AMD).]

[PL 1993, c. 600, Pt. A, §187 (AMD).]

2. Consent to physical or mental examination; objections to admissibility of physician's testimony waived. For the purposes of this section, every physician assistant licensed under these rules who accepts the responsibility of rendering medical services in this State by the filing of an application and of annual licensure:

- A. Is deemed to have given consent to a mental or physical examination when directed in writing by the board; and [PL 1993, c. 600, Pt. A, §187 (AMD).]
- B. Is deemed to have waived all objections to the admissibility of the examining physician's testimony or reports on the ground that these constitute a privileged communication. [PL 1993, c. 600, Pt. A, §187 (AMD).]

Pursuant to Title 4, section 184, subsection 6, the District Court shall immediately suspend the license of a physician assistant who can be shown, through the results of the medical or physical examination conducted under this section or through other competent evidence, to be unable to render medical services with reasonable skill and safety to patients by reason of mental illness, alcohol intemperance, excessive use of drugs or narcotics or as a result of a mental or physical condition interfering with the competent rendering of medical services.

[PL 1999, c. 547, Pt. B, §65 (AMD); PL 1999, c. 547, Pt. B, §80 (AFF).]

3. Jurisdiction.

[PL 1977, c. 694, §604 (RP).]

4. Enforcement.

[PL 1977, c. 694, §604 (RP).]

SECTION HISTORY

PL 1977, c. 391 (NEW). PL 1977, c. 694, §§602-604 (AMD). PL 1983, c. 378, §40 (AMD). PL 1993, c. 600, §A187 (AMD). PL 1999, c. 547, §B65 (AMD). PL 1999, c. 547, §B80 (AFF).

§2594-E. Licensure of physician assistants

1. License required. A physician assistant may not render medical services until the physician assistant has applied for and obtained from either the Board of Osteopathic Licensure or the Board of Licensure in Medicine:

- A. A license, which must be renewed biennially with the board that issued the initial license. [PL 2019, c. 627, Pt. B, §12 (AMD).]
- B. [PL 2019, c. 627, Pt. B, §12 (RP).]

An application for licensure as a physician assistant must be submitted to either the Board of Osteopathic Licensure or the Board of Licensure in Medicine. A license granted by either the Board of Osteopathic Licensure or the Board of Licensure in Medicine authorizes the physician assistant to render medical services.

[PL 2019, c. 627, Pt. B, §12 (AMD).]

2. Qualification for licensure. The board may issue to an individual a license to practice as a physician assistant under the following conditions:

- A. A license may be issued to an individual who:
 - (1) Graduated from a physician assistant program approved by the board;
 - (2) Passed a physician assistant national certifying examination administered by the National Commission on Certification of Physician Assistants or its successor organization;
 - (3) Demonstrates current clinical competency;
 - (4) Does not have a license or certificate of registration that is the subject of disciplinary action such as probation, restriction, suspension, revocation or surrender;

- (5) Completes an application approved by the board;
- (6) Pays an application fee of up to \$300; and
- (7) Passes an examination approved by the board; and [PL 2019, c. 627, Pt. B, §12 (AMD).]

B. No grounds exist as set forth in section 2591-A to deny the application. [PL 2015, c. 242, §3 (NEW).]
[PL 2019, c. 627, Pt. B, §12 (AMD).]

3. Certificate of registration.

[PL 2019, c. 627, Pt. B, §12 (RP).]

4. Delegation by physician assistant. A physician assistant may delegate to the physician assistant's employees or support staff or members of a health care team, including medical assistants, certain activities relating to medical care and treatment carried out by custom and usage when the activities are under the control of the physician assistant; the activities being delegated do not, unless otherwise provided by law, require a license, registration or certification to perform; the physician assistant ensures that the employees or support staff or members of a health care team have the appropriate training, education and experience to perform these delegated activities; and the physician assistant ensures that the employees or support staff perform these delegated activities competently and safely. The physician assistant who delegates an activity permitted under this subsection is legally liable for the activity performed by an employee, a medical assistant, support staff or a member of a health care team.

[PL 2023, c. 132, §3 (AMD).]

5. Rules. The Board of Osteopathic Licensure is authorized to adopt rules regarding the licensure and practice of physician assistants. These rules, which must be adopted jointly with the Board of Licensure in Medicine, may pertain to, but are not limited to, the following matters:

- A. Information to be contained in the application for a license; [PL 2019, c. 627, Pt. B, §12 (AMD).]
- B. [PL 2019, c. 627, Pt. B, §12 (RP).]
- C. Education requirements for the physician assistant; [PL 2019, c. 627, Pt. B, §12 (AMD).]
- D. [PL 2019, c. 627, Pt. B, §12 (RP).]
- E. Requirements for collaborative agreements and practice agreements under section 2594-F, including uniform standards and forms; [PL 2019, c. 627, Pt. B, §12 (AMD).]
- F. Requirements for a physician assistant to notify the board regarding certain circumstances, including but not limited to any change in address, the permanent departure of the physician assistant from the State, any criminal convictions of the physician assistant and any discipline by other jurisdictions of the physician assistant; [PL 2019, c. 627, Pt. B, §12 (AMD).]
- G. Issuance of temporary physician assistant licenses; [PL 2019, c. 627, Pt. B, §12 (AMD).]
- H. Appointment of an advisory committee for continuing review of the physician assistant rules. The physician assistant members of the board pursuant to section 2561 must be members of the advisory committee; [PL 2019, c. 627, Pt. B, §12 (AMD).]
- I. Continuing education requirements as a precondition to continued licensure or licensure renewal; [PL 2015, c. 242, §3 (NEW).]
- J. Fees for the application for an initial physician assistant license, which may not exceed \$300; and [PL 2019, c. 627, Pt. B, §12 (AMD).]
- K. [PL 2019, c. 627, Pt. B, §12 (RP).]

L. [PL 2019, c. 627, Pt. B, §12 (RP).]

M. Fees for the biennial renewal of a physician assistant license in an amount not to exceed \$250. [PL 2015, c. 242, §3 (NEW).]

[PL 2019, c. 627, Pt. B, §12 (AMD).]

SECTION HISTORY

PL 2015, c. 242, §3 (NEW). PL 2017, c. 288, Pt. A, §33 (AMD). PL 2019, c. 627, Pt. B, §12 (AMD). PL 2023, c. 132, §3 (AMD).

§2594-F. Physician assistants; scope of practice and agreement requirements

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Collaborative agreement" means a document agreed to by a physician assistant and a physician that describes the scope of practice for the physician assistant as determined by practice setting and describes the decision-making process for a health care team, including communication and consultation among health care team members. [PL 2019, c. 627, Pt. B, §13 (NEW).]

B. "Consultation" means engagement in a process in which members of a health care team use their complementary training, skill, knowledge and experience to provide the best care for a patient. [PL 2019, c. 627, Pt. B, §13 (NEW).]

C. "Health care team" means 2 or more health care professionals working in a coordinated, complementary and agreed-upon manner to provide quality, cost-effective, evidence-based care to a patient and may include a physician, physician assistant, advanced practice nurse, nurse, physical therapist, occupational therapist, speech therapist, social worker, nutritionist, psychotherapist, counselor or other licensed professional. [PL 2019, c. 627, Pt. B, §13 (NEW).]

D. "Physician" means a person licensed as a physician under this chapter or chapter 48. [PL 2019, c. 627, Pt. B, §13 (NEW).]

E. "Physician assistant" means a person licensed under section 2594-E or 3270-E. [PL 2019, c. 627, Pt. B, §13 (NEW).]

F. "Practice agreement" means a document agreed to by a physician assistant who is the principal clinical provider in a practice and a physician that states the physician will be available to the physician assistant for collaboration or consultation. [PL 2019, c. 627, Pt. B, §13 (NEW).]

G. "Prescription or legend drug" has the same meaning as "prescription drug" in section 13702-A, subsection 30 and includes schedule II to schedule V drugs or other substances under the federal Controlled Substances Act, 21 United States Code, Section 812. [PL 2019, c. 627, Pt. B, §13 (NEW).]

[PL 2019, c. 627, Pt. B, §13 (NEW).]

2. Scope of practice. A physician assistant may provide any medical service for which the physician assistant has been prepared by education, training and experience and is competent to perform. The scope of practice of a physician assistant is determined by practice setting, including, but not limited to, a physician employer setting, physician group practice setting or independent private practice setting, or, in a health care facility setting, by a system of credentialing and granting of privileges.

[PL 2019, c. 627, Pt. B, §13 (NEW).]

3. Dispensing drugs. Except for distributing a professional sample of a prescription or legend drug, a physician assistant who dispenses a prescription or legend drug:

A. Shall comply with all relevant federal and state laws and federal regulations and state rules; and [PL 2019, c. 627, Pt. B, §13 (NEW).]

B. May dispense the prescription or legend drug only when:

- (1) A pharmacy service is not reasonably available;
- (2) Dispensing the drug is in the best interests of the patient; or
- (3) An emergency exists. [PL 2019, c. 627, Pt. B, §13 (NEW).]

[PL 2019, c. 627, Pt. B, §13 (NEW).]

4. Consultation. A physician assistant shall, as indicated by a patient's condition, the education, competencies and experience of the physician assistant and the standards of care, consult with, collaborate with or refer the patient to an appropriate physician or other health care professional. The level of consultation required under this subsection is determined by the practice setting, including a physician employer, physician group practice or private practice, or by the system of credentialing and granting of privileges of a health care facility. A physician must be accessible to the physician assistant at all times for consultation. Consultation may occur electronically or through telecommunication and includes communication, task sharing and education among all members of a health care team.

[PL 2019, c. 627, Pt. B, §13 (NEW).]

5. Collaborative agreement requirements. A physician assistant with less than 4,000 hours of clinical practice documented to the board shall work in accordance with a collaborative agreement with an active physician that describes the physician assistant's scope of practice, except that a physician assistant working in a physician group practice setting or a health care facility setting under a system of credentialing and granting of privileges and scope of practice agreement may use that system of credentialing and granting of privileges and scope of practice agreement in lieu of a collaborative agreement. A physician assistant is legally responsible and assumes legal liability for any medical service provided by the physician assistant in accordance with the physician assistant's scope of practice under subsection 2 and a collaborative agreement under this subsection. Under a collaborative agreement, collaboration may occur through electronic means and does not require the physical presence of the physician at the time or place that the medical services are provided. A physician assistant shall submit the collaborative agreement, or, if appropriate, the scope of practice agreement, to the board for approval and the agreement must be kept on file at the main location of the place of practice and be made available to the board or the board's representative upon request. Upon submission to the board of documentation of 4,000 hours of clinical practice, a physician assistant is no longer subject to the requirements of this subsection.

[PL 2019, c. 627, Pt. B, §13 (NEW).]

6. Practice agreement requirements. A physician assistant who has more than 4,000 hours of clinical practice may be the principal clinical provider in a practice that does not include a physician partner as long as the physician assistant has a practice agreement with an active physician, and other health care professionals as necessary, that describes the physician assistant's scope of practice. A physician assistant is legally responsible and assumes legal liability for any medical service provided by the physician assistant in accordance with the physician assistant's scope of practice under subsection 2 and a practice agreement under this subsection. A physician assistant shall submit the practice agreement to the board for approval and the agreement must be kept on file at the main location of the physician assistant's practice and be made available to the board or the board's representative upon request. Upon any change in the parties to the practice agreement or other substantive change in the practice agreement, the physician assistant shall submit the revised practice agreement to the board for approval. Under a practice agreement, consultation may occur through electronic means and does not require the physical presence of the physician or other health care providers who are parties to the agreement at the time or place that the medical services are provided.

[PL 2019, c. 627, Pt. B, §13 (NEW).]

7. Construction. To address the need for affordable, high-quality health care services throughout the State and to expand, in a safe and responsible manner, access to health care providers such as

physician assistants, this section must be liberally construed to authorize physician assistants to provide health care services to the full extent of their education, training and experience in accordance with their scopes of practice as determined by their practice settings.

[PL 2019, c. 627, Pt. B, §13 (NEW).]

SECTION HISTORY

PL 2019, c. 627, Pt. B, §13 (NEW).

§2595. Treatment of minors

An individual licensed under this chapter who renders medical care to a minor for the prevention or treatment of a sexually transmitted infection or treatment of substance use or for the collection of sexual assault evidence through a sexual assault forensic examination is under no obligation to obtain the consent of the minor's parent or guardian or to inform the parent or guardian of the prevention or treatment or collection. Nothing in this section may be construed so as to prohibit the licensed individual rendering the prevention services or treatment or collection from informing the parent or guardian. For purposes of this section, "substance use" means the use of drugs or alcohol solely to induce a stimulant, depressant or hallucinogenic effect upon the higher functions of the central nervous system and not as a therapeutic agent recommended by a practitioner in the course of medical treatment.

[PL 2019, c. 236, §10 (AMD).]

SECTION HISTORY

PL 1973, c. 374, §1 (NEW). PL 1979, c. 96, §2 (AMD). PL 1993, c. 600, §A188 (AMD). PL 1999, c. 90, §3 (AMD). PL 2019, c. 236, §10 (AMD).

§2596. Review committee member immunity

A physician licensed under this chapter who is a member of a utilization review committee or a peer review committee that is a requirement of accreditation by the American Osteopathic Association or is established and operated under the auspices of the physician's respective state or county professional society or the Board of Osteopathic Licensure is immune from civil liability for undertaking or failing to undertake an act within the scope of the function of the committee. [PL 1993, c. 600, Pt. A, §189 (AMD).]

SECTION HISTORY

PL 1973, c. 374, §1 (NEW). PL 1975, c. 83, §1 (RPR). PL 1987, c. 646, §9 (RPR). PL 1993, c. 600, §A189 (AMD).

§2596-A. Establishment of protocols for operation of a professional review committee

The board shall establish a protocol to govern the operation of a professional review committee as defined in Title 24, section 2502, subsection 4-A. The protocol must require the professional review committee to submit to the board information specified by the board regarding reports received by the professional review committee, as well as an annotated list of contacts or investigations made by the professional review committee and the disposition of each report, except that the committee may not be compelled to disclose information that may serve to identify the subject of a report. The protocol may not prohibit an impaired physician from seeking alternative forms of treatment. [PL 1993, c. 600, Pt. A, §190 (NEW).]

SECTION HISTORY

PL 1993, c. 600, §A190 (NEW).

§2597. Saving clause

This chapter shall have no application to the licensing or practice of allopathic physicians, dentists, chiropractors, optometrists, veterinarians, podiatrists or nurses. [PL 1973, c. 374, §1 (NEW).]

SECTION HISTORY

PL 1973, c. 374, §1 (NEW).

§2598. Penalty

An individual who attempts to practice osteopathic medicine without proper license or who induces the belief that that individual is legally engaged in the practice of osteopathic medicine without having fully complied with all requirements of law commits a Class E crime; except that nothing in this chapter may be construed to prohibit a lawfully qualified osteopathic physician in another state meeting a licensed osteopathic physician in this State for consultation. [PL 1993, c. 600, Pt. A, §191 (AMD).]

SECTION HISTORY

PL 1973, c. 374, §1 (NEW). PL 1991, c. 797, §16 (AMD). PL 1993, c. 600, §A191 (AMD).

§2599. Records of proceedings of hospital medical staff review committees confidential

All proceedings and records of proceedings concerning medical staff reviews and hospital reviews conducted by committees of physicians and other health care personnel on behalf of hospitals located within the State, when these reviews are required by state or federal law or regulations or as a condition of accreditation by the Joint Commission on Accreditation of Hospitals or the American Osteopathic Association Committee on Hospital Accreditation are confidential and are exempt from discovery without a showing of good cause. [PL 1993, c. 600, Pt. A, §192 (AMD).]

Provision of information protected by this section to the board pursuant to Title 24, section 2506 does not waive or otherwise affect the confidentiality of the records or the exemption from discovery provided by this section for any other purpose. [PL 1997, c. 271, §6 (NEW).]

SECTION HISTORY

PL 1975, c. 137, §1 (NEW). PL 1993, c. 600, §A192 (AMD). PL 1997, c. 271, §6 (AMD).

§2599-A. Promulgation of complaint procedures

(REPEALED)

SECTION HISTORY

PL 1989, c. 462, §8 (NEW). PL 1993, c. 600, §A193 (RP).

§2599-B. Consumer information

(REPEALED)

SECTION HISTORY

PL 1993, c. 600, §A194 (NEW). PL 1995, c. 370, §3 (RP).

§2600. Release of contact lens prescription

After contact lenses have been adequately fitted and the patient released from immediate follow-up care by the physician, the patient may request a copy of the contact lens specifications from the physician. The physician shall provide a copy of the prescription, at no cost, which must contain the information necessary to properly duplicate the current prescription. The contact lens prescription must contain an expiration date not to exceed 24 months from the date of issue. The prescription may contain fitting guidelines and may also contain specific instructions for use by the patient. [PL 1997, c. 117, §5 (AMD).]

The prescribing physician is not liable for an injury or condition to a patient that results from negligence in packaging, manufacturing or dispensing lenses by anyone other than the prescribing physician. [PL 1993, c. 600, Pt. A, §195 (AMD).]

The dispensing party may dispense contact lenses only upon receipt of a written prescription, except that a physician may fill a prescription of an optometrist or another physician without a copy of the prescription. Mail order contact lens suppliers must be licensed by and register with the Board of Commissioners of the Profession of Pharmacy pursuant to section 13751, subsection 3-A and are subject to discipline by that board for violations of that board's rules and the laws governing the board. An individual who fills a contact lens prescription shall maintain a file of that prescription for a period of 5 years. An individual, corporation or other entity, other than a mail order contact lens supplier, that improperly fills a contact lens prescription or fills an expired prescription commits a civil violation for which a forfeiture of not less than \$250 nor more than \$1,000 may be adjudged. [PL 1997, c. 117, §6 (AMD).]

An individual may file a complaint with the board seeking disciplinary action concerning violations of this section. The board shall investigate or cause to be investigated and shall resolve a complaint on its own motion or upon receipt of a written complaint. The board shall conduct its actions in accordance with the Maine Administrative Procedure Act. [PL 1993, c. 600, Pt. A, §195 (AMD).]

SECTION HISTORY

PL 1991, c. 675, §4 (NEW). PL 1993, c. 600, §A195 (AMD). PL 1997, c. 117, §§5,6 (AMD).

§2600-A. Confidentiality of personal information of applicant or licensee

An applicant or licensee shall provide the board with a current professional address and telephone number, which will be their public contact address, and a personal residence address and telephone number. An applicant's or licensee's personal residence address and telephone number is confidential information and may not be disclosed except as permitted by this section or as required by law, unless the personal residence address and telephone number have been provided as the public contact address. Personal health information submitted as part of any application is confidential information and may not be disclosed except as permitted by this section or as required by law. The personal health information and personal residence address and telephone number may be provided to other governmental licensing or disciplinary authorities or to any health care providers located within or outside this State that are concerned with granting, limiting or denying a physician's employment or privileges. [PL 2001, c. 214, §1 (NEW).]

SECTION HISTORY

PL 2001, c. 214, §1 (NEW).

§2600-B. Expedited partner therapy

An individual licensed under this chapter may not be disciplined for providing expedited partner therapy in accordance with the provisions of Title 22, chapter 251, subchapter 3, article 5. [PL 2009, c. 533, §3 (NEW).]

SECTION HISTORY

PL 2009, c. 533, §3 (NEW).

§2600-C. Requirements regarding prescription of opioid medication

1. Limits on opioid medication prescribing. Except as provided in subsection 2, an individual licensed under this chapter whose scope of practice includes prescribing opioid medication may not prescribe:

- A. To a patient any combination of opioid medication in an aggregate amount in excess of 100 morphine milligram equivalents of opioid medication per day; [PL 2015, c. 488, §17 (NEW).]
- B. To a patient who, on the effective date of this section, has an active prescription for opioid medication in excess of 100 morphine milligram equivalents of an opioid medication per day, an opioid medication in an amount that would cause that patient's total amount of opioid medication

to exceed 300 morphine milligram equivalents of opioid medication per day; except that, on or after July 1, 2017, the aggregate amount of opioid medication prescribed may not be in excess of 100 morphine milligram equivalents of opioid medication per day; [PL 2015, c. 488, §17 (NEW).]

C. On or after January 1, 2017, within a 30-day period, more than a 30-day supply of an opioid medication to a patient under treatment for chronic pain. For purposes of this paragraph, "chronic pain" has the same meaning as in Title 22, section 7246, subsection 1-C; or [PL 2015, c. 488, §17 (NEW).]

D. On or after January 1, 2017, within a 7-day period, more than a 7-day supply of an opioid medication to a patient under treatment for acute pain unless the opioid product is labeled by the federal Food and Drug Administration to be dispensed only in a stock bottle that exceeds a 7-day supply as prescribed, in which case the amount dispensed may not exceed a 14-day supply. For purposes of this paragraph, "acute pain" has the same meaning as in Title 22, section 7246, subsection 1-A. [PL 2017, c. 213, §14 (AMD).]

[PL 2017, c. 213, §14 (AMD).]

2. Exceptions. An individual licensed under this chapter whose scope of practice includes prescribing opioid medication is exempt from the limits on opioid medication prescribing established in subsection 1 only:

A. When prescribing opioid medication to a patient for:

- (1) Pain associated with active and aftercare cancer treatment;
- (2) Palliative care, as defined in Title 22, section 1726, subsection 1, paragraph A, in conjunction with a serious illness, as defined in Title 22, section 1726, subsection 1, paragraph B;
- (3) End-of-life and hospice care;
- (4) Medication-assisted treatment for substance use disorder; or
- (5) Other circumstances determined in rule by the Department of Health and Human Services pursuant to Title 22, section 7254, subsection 2; and [PL 2015, c. 488, §17 (NEW).]

B. When directly ordering or administering a benzodiazepine or opioid medication to a person in an emergency room setting, an inpatient hospital setting, a long-term care facility or a residential care facility or in connection with a surgical procedure.

As used in this paragraph, "administer" has the same meaning as in Title 22, section 7246, subsection 1-B. [PL 2017, c. 213, §15 (AMD).]

[PL 2017, c. 213, §15 (AMD).]

3. Electronic prescribing. An individual licensed under this chapter whose scope of practice includes prescribing opioid medication and who has the capability to electronically prescribe shall prescribe all opioid medication electronically by July 1, 2017. An individual who does not have the capability to electronically prescribe must request a waiver from this requirement from the Commissioner of Health and Human Services stating the reasons for the lack of capability, the availability of broadband infrastructure and a plan for developing the ability to electronically prescribe opioid medication. The commissioner may grant a waiver for circumstances in which exceptions are appropriate, including prescribing outside of the individual's usual place of business and technological failures.

[PL 2015, c. 488, §17 (NEW).]

4. Continuing education. By December 31, 2017, an individual licensed under this chapter must successfully complete 3 hours of continuing education every 2 years on the prescription of opioid medication as a condition of prescribing opioid medication. The board shall adopt rules to implement

this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[PL 2015, c. 488, §17 (NEW).]

5. Penalties. An individual who violates this section commits a civil violation for which a fine of \$250 per violation, not to exceed \$5,000 per calendar year, may be adjudged. The Department of Health and Human Services is responsible for the enforcement of this section.

[PL 2015, c. 488, §17 (NEW).]

6. Opioid medication policy. No later than January 1, 2018, a health care entity that includes an individual licensed under this chapter whose scope of practice includes prescribing opioid medication must have in place an opioid medication prescribing policy that applies to all prescribers of opioid medications employed by the entity. The policy must include, but is not limited to, procedures and practices related to risk assessment, informed consent and counseling on the risk of opioid use. For the purposes of this subsection, "health care entity" has the same meaning as in Title 22, section 1718-B, subsection 1, paragraph B.

[PL 2017, c. 186, §2 (NEW).]

SECTION HISTORY

PL 2015, c. 488, §17 (NEW). PL 2017, c. 186, §2 (AMD). PL 2017, c. 213, §§14, 15 (AMD).

§2600-D. Prohibition on providing conversion therapy to minors

An individual licensed under this chapter may not advertise, offer or administer conversion therapy to a minor. [PL 2019, c. 165, §12 (NEW).]

REVISOR'S NOTE: §2600-D. Duty to warn and protect as enacted by PL 2019, c. 317, §1 is REALLOCATED TO TITLE 32, SECTION 2600-F

SECTION HISTORY

PL 2019, c. 165, §12 (NEW).

§2600-E. Inspection or copying of record; procedure

1. Request for record; redaction. When the board receives a request to inspect or copy all or part of the record of an applicant or licensee, the board shall redact information that is not public before making the record available for inspection or copying.

[PL 2019, c. 499, §2 (NEW).]

2. Notice and opportunity to review. When the board acknowledges a request to inspect or copy an applicant's or a licensee's record as required by Title 1, section 408-A, subsection 3, the board shall send a notice to the applicant or licensee at the applicant's or licensee's last address on file with the board explaining that the request has been made and that the applicant or licensee may review the redacted record before it is made available for inspection or copying. The acknowledgment to the requester must include a description of the review process provided to the applicant or licensee pursuant to this section, including the fact that all or part of the record may be withheld if the board finds that disclosure of all or part of the redacted record creates a potential risk to the applicant's or licensee's personal safety or the personal safety of any 3rd party. The applicant or licensee has 10 business days from the date the board sends the notice to request the opportunity to review the redacted record. If the applicant or licensee so requests, the board shall send a copy of the redacted record to the applicant or licensee for review. The board shall make the redacted record available to the requester for inspection or copying 10 business days after sending the redacted record to the applicant or licensee for review unless the board receives a petition from the applicant or licensee under subsection 4.

[PL 2019, c. 499, §2 (NEW).]

3. Reasonable costs. Reasonable costs related to the review of a record by the applicant or licensee are considered part of the board's costs to make the redacted record available for inspection or copying under subsection 2 and may be charged to the requester.
[PL 2019, c. 499, §2 (NEW).]

4. Action based on personal safety. An applicant or licensee may petition the board to withhold the release of all or part of a record under subsection 2 based on the potential risk to the applicant's or licensee's personal safety or the personal safety of any 3rd party if the record is disclosed to the public. The applicant or licensee must petition the board to withhold all or part of the record within 10 business days after the board sends the applicant or licensee the redacted record. The petition must include an explanation of the potential safety risks and a list of items requested to be withheld. Within 60 days of receiving the petition, the board shall notify the applicant or licensee of its decision on the petition. If the applicant or licensee disagrees with the board's decision, the applicant or licensee may file a petition in Superior Court to enjoin the release of the record under subsection 5.
[PL 2019, c. 499, §2 (NEW).]

5. Injunction based on personal safety. An applicant or licensee may bring an action in Superior Court to enjoin the board from releasing all or part of a record under subsection 2 based on the potential risk to the applicant's or licensee's personal safety or the personal safety of any 3rd party if the record is disclosed to the public. The applicant or licensee must file the action within 10 business days after the board notifies the applicant or licensee under subsection 4 that the board will release all or part of the redacted record to the requester. The applicant or licensee shall immediately provide written notice to the board that the action has been filed, and the board may not make the record available for inspection or copying until the action is resolved.
[PL 2019, c. 499, §2 (NEW).]

6. Hearing. The hearing on an action filed under subsection 5 may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require.
[PL 2019, c. 499, §2 (NEW).]

7. Application. This section does not apply to requests for records from other governmental licensing or disciplinary authorities or from any health care providers located within or outside this State that are concerned with granting, limiting or denying an applicant's or licensee's employment or privileges.
[PL 2019, c. 499, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 499, §2 (NEW).

§2600-F. Duty to warn and protect

(REALLOCATED FROM TITLE 32, SECTION 2600-D)

1. Duty. An osteopathic physician licensed under this chapter has a duty to warn of or to take reasonable precautions to provide protection from a patient's violent behavior if the osteopathic physician has a reasonable belief based on communications with the patient that the patient is likely to engage in physical violence that poses a serious risk of harm to self or others. The duty imposed under this subsection may not be interpreted to require the osteopathic physician to take any action that in the reasonable professional judgment of the osteopathic physician would endanger the osteopathic physician or increase the threat of danger to a potential victim.
[PL 2019, c. 317, §1 (NEW); RR 2019, c. 1, Pt. A, §44 (RAL).]

2. Discharge of duty. An osteopathic physician subject to a duty to warn or provide protection under subsection 1 may discharge that duty if the osteopathic physician makes reasonable efforts to communicate the threat to a potential victim, notifies a law enforcement agency or seeks involuntary hospitalization of the patient under Title 34-B, chapter 3, subchapter 4, article 3.

[PL 2019, c. 317, §1 (NEW); RR 2019, c. 1, Pt. A, §44 (RAL).]

3. Immunity. No monetary liability and no cause of action may arise concerning patient privacy or confidentiality against an osteopathic physician licensed under this chapter for information disclosed to 3rd parties in an effort to discharge a duty under subsection 2.

[PL 2019, c. 317, §1 (NEW); RR 2019, c. 1, Pt. A, §44 (RAL).]

SECTION HISTORY

PL 2019, c. 317, §1 (NEW). RR 2019, c. 1, Pt. A, §44 (RAL).

SUBCHAPTER 8

TELEHEALTH SERVICES

§2600-AA. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 2021, c. 291, Pt. B, §7 (NEW).]

1. Asynchronous encounter. "Asynchronous encounter" means an interaction between a patient and a person licensed under this chapter through a system that has the ability to store digital information, including, but not limited to, still images, video files, audio files, text files and other relevant data, and to transmit such information without requiring the simultaneous presence of the patient and the person licensed under this chapter.

[PL 2021, c. 291, Pt. B, §7 (NEW).]

2. Store and forward transfer. "Store and forward transfer" means the transmission of a patient's records through a secure electronic system to a person licensed under this chapter.

[PL 2021, c. 291, Pt. B, §7 (NEW).]

3. Synchronous encounter. "Synchronous encounter" means a real-time interaction conducted with an interactive audio or video connection between a patient and a person licensed under this chapter or between a person licensed under this chapter and another health care provider.

[PL 2021, c. 291, Pt. B, §7 (NEW).]

4. Telehealth services. "Telehealth services" means health care services delivered through the use of information technology and includes synchronous encounters, asynchronous encounters, store and forward transfers and telemonitoring.

[PL 2021, c. 291, Pt. B, §7 (NEW).]

5. Telemonitoring. "Telemonitoring" means the use of information technology to remotely monitor a patient's health status via electronic means, allowing the person licensed under this chapter to track the patient's health data over time. Telemonitoring may be synchronous or asynchronous.

[PL 2021, c. 291, Pt. B, §7 (NEW).]

SECTION HISTORY

PL 2021, c. 291, Pt. B, §7 (NEW).

§2600-BB. Telehealth services permitted

A person licensed under this chapter may provide telehealth services as long as the licensee acts within the scope of practice of the licensee's license, in accordance with any requirements and restrictions imposed by this subchapter and in accordance with standards of practice. [PL 2021, c. 291, Pt. B, §7 (NEW).]

SECTION HISTORY

PL 2021, c. 291, Pt. B, §7 (NEW).

§2600-CC. Confidentiality

When providing telehealth services, a person licensed under this chapter shall comply with all state and federal confidentiality and privacy laws. [PL 2021, c. 291, Pt. B, §7 (NEW).]

SECTION HISTORY

PL 2021, c. 291, Pt. B, §7 (NEW).

§2600-DD. Professional responsibility

All laws and rules governing professional responsibility, unprofessional conduct and generally accepted standards of practice that apply to a person licensed under this chapter also apply to that licensee while providing telehealth services. [PL 2021, c. 291, Pt. B, §7 (NEW).]

SECTION HISTORY

PL 2021, c. 291, Pt. B, §7 (NEW).

§2600-EE. Rulemaking

The board shall adopt rules governing telehealth services by persons licensed under this chapter. These rules must establish standards of practice and appropriate restrictions for the various types and forms of telehealth services. Rules adopted pursuant to this section are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A. [PL 2021, c. 291, Pt. B, §7 (NEW).]

SECTION HISTORY

PL 2021, c. 291, Pt. B, §7 (NEW).

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