

**Maine Revised Statute Title 32, Chapter 48:  
BOARD OF LICENSURE IN MEDICINE**

**Table of Contents**

<b>Subchapter 1. BOARD OF LICENSURE .....</b>	<b>3</b>
Section 3263. APPOINTMENT; VACANCIES; COMPENSATION.....	3
Section 3264. OATH.....	3
Section 3265. SECRETARY-TREASURER; BONDING (REPEALED).....	3
Section 3266. ELECTIONS; MEETINGS; SEAL; EXPENSES.....	3
Section 3267. QUORUM.....	4
Section 3268. MEMBERS MAY ADMINISTER OATHS.....	4
Section 3269. POWERS AND DUTIES OF THE BOARD.....	4
<b>Subchapter 2. LICENSURE .....</b>	<b>7</b>
Section 3270. LICENSURE REQUIRED.....	7
Section 3270-A. ASSISTANTS.....	8
Section 3270-B. LICENSE AND REGULATION.....	8
Section 3270-C. TERMINATION OF LICENSE.....	9
Section 3270-D. TERMINATION OF EFFECTIVENESS (REPEALED).....	10
Section 3271. QUALIFICATIONS FOR MEDICAL LICENSURE.....	10
Section 3272. EXAMINATIONS (REPEALED).....	12
Section 3273. REEXAMINATION (REPEALED).....	13
Section 3274. LICENSES.....	13
Section 3275. LICENSURE BY RECIPROCITY.....	13
Section 3276. TEMPORARY LICENSURE.....	14
Section 3277. YOUTH CAMP PHYSICIANS.....	14
Section 3278. EMERGENCY 100-DAY LICENSE.....	14
Section 3279. INTERNS; RESIDENTS; VISITING INSTRUCTORS.....	14
Section 3280. BIENNIAL REREGISTRATION; FEES (REPEALED).....	16
Section 3280-A. BIENNIAL RENEWAL OF LICENSES; QUALIFICATION; FEES; REINSTATEMENT AFTER LAPSE.....	16
Section 3281. WITHDRAWAL OF LICENSE.....	18
Section 3282. COMPLAINTS; ALLEGATIONS; GROUNDS FOR INVESTIGATION AND HEARING (REPEALED).....	18
Section 3282-A. DISCIPLINARY SANCTIONS.....	18
Section 3283. DISCIPLINARY ACTION (REPEALED).....	21
Section 3284. DISCIPLINARY ACTION; NOTICE, APPEAL (REPEALED).....	21
Section 3285. PUBLIC HEARINGS (REPEALED).....	21
Section 3286. EMERGENCY ACTION.....	21
Section 3287. REINSTATEMENT ON BOARD'S OWN MOTION (REPEALED).....	22
Section 3288. REINSTATEMENT ON APPLICATION OF PERSON WHOSE LICENSE IS SUSPENDED OR REVOKED (REPEALED).....	22
Section 3289. RECORD OF REINSTATEMENT.....	22

**Subchapter 3. GENERAL PROVISIONS..... 22**

Section 3290. RECORDS OF PROCEEDINGS AND ORDERS OF PROCEEDINGS  
(REPEALED)..... 22

Section 3291. IMMUNITY OF LICENSEE RENDERING EMERGENCY CARE  
(REPEALED)..... 22

Section 3292. TREATMENT OF MINORS..... 22

Section 3293. REVIEW COMMITTEE MEMBER IMMUNITY..... 23

Section 3294. JURISDICTION (REPEALED)..... 23

Section 3295. COMMUNICATIONS BETWEEN PHYSICIANS AND PATIENTS  
(REPEALED)..... 23

Section 3296. RECORDS OF PROCEEDINGS OF MEDICAL STAFF REVIEW  
COMMITTEES CONFIDENTIAL..... 23

Section 3297. POSTING OF POLICY REGARDING ACCEPTANCE OF MEDICARE  
ASSIGNMENT..... 24

Section 3298. ESTABLISHMENT OF PROTOCOLS FOR OPERATION OF PROFESSIONAL  
REVIEW COMMITTEE..... 24

Section 3299. PROMULGATION OF COMPLAINT PROCEDURES (REPEALED)..... 24

Section 3299-A. CONSUMER INFORMATION (REPEALED)..... 24

Section 3300. RELEASE OF CONTACT LENS PRESCRIPTION..... 24

Section 3300-A. CONFIDENTIALITY OF PERSONAL INFORMATION OF APPLICANT OR  
LICENSEE..... 25

Subchapter 1: BOARD OF LICENSURE  
HEADING: PL 1993, C. 600, PT. A, §197 (RPR)

**32 §3263. APPOINTMENT; VACANCIES; COMPENSATION**

Members of said board shall be compensated according to the provisions of Title 5, chapter 379. If the fees to be collected under any of the provisions of this chapter are insufficient to pay the salaries and expenses provided by this section, the members of said board shall be entitled to only a pro rata payment for salary in any years in which such fees are insufficient. [1983, c. 812, §228 (AMD).]

The Board of Licensure in Medicine, as established by Title 5, section 12004-A, subsection 24, and in this chapter called the "board," consists of 9 individuals who are residents of this State, appointed by the Governor. Three individuals must be representatives of the public. Six individuals must be graduates of a legally chartered medical college or university having authority to confer degrees in medicine and must have been actively engaged in the practice of their profession in this State for a continuous period of 5 years preceding their appointments to the board. A full-term appointment is for 6 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. [2007, c. 695, Pt. B, §11 (AMD).]

SECTION HISTORY

1971, c. 591, §1 (NEW). 1975, c. 575, §37 (AMD). 1975, c. 771, §§360,361 (AMD). 1977, c. 388, §1 (AMD). 1983, c. 176, §16 (AMD). 1983, c. 812, §228 (AMD). 1989, c. 462, §9 (AMD). 1989, c. 503, §B139 (AMD). 1989, c. 878, §A95 (AMD). 1993, c. 600, §A198 (AMD). 1997, c. 680, §C1 (AMD). 2007, c. 695, Pt. B, §11 (AMD).

**32 §3264. OATH**

Each member of the board shall, before entering upon the duties of the member's office, take the constitutional oath of office, and shall, in addition, make oath that the member is qualified under the terms of this chapter to hold the office. [1993, c. 600, Pt. A, §199 (AMD).]

SECTION HISTORY

1971, c. 591, §1 (NEW). 1993, c. 600, §A199 (AMD).

**32 §3265. SECRETARY-TREASURER; BONDING**  
*(REPEALED)*

SECTION HISTORY

1971, c. 591, §1 (NEW). 1993, c. 600, §A200 (RP).

**32 §3266. ELECTIONS; MEETINGS; SEAL; EXPENSES**

The members of the board shall meet on the 2nd Tuesday of July of the uneven-numbered years at the time and place the board may determine and shall elect a chair and a secretary who shall hold their respective offices for the term of 2 years. The secretary of the board shall perform such duties as delegated by the board, including license application review functions. The board through its executive director shall receive all fees, charges and assessments payable to the board and account for and pay over the same according to law. The board shall hold regular meetings, one in March, one in July and one in November of each year, and any additional meetings at other times and places as it may determine. The board shall cause a seal to be engraved and shall keep a record of all their proceedings. [2003, c. 601, §2 (AMD).]

SECTION HISTORY

1971, c. 591, §1 (NEW). 1993, c. 600, §A201 (AMD). 2003, c. 601, §2 (AMD).

## 32 §3267. QUORUM

A majority of the members of the board constitutes a quorum for the transaction of business under this chapter, but a less number may adjourn from time to time until a quorum is present. [1993, c. 600, Pt. A, §201 (AMD).]

### SECTION HISTORY

1971, c. 591, §1 (NEW). 1993, c. 600, §A201 (AMD).

## 32 §3268. MEMBERS MAY ADMINISTER OATHS

A member of the board has the authority to administer oaths, compel the testimony of witnesses and compel the production of books, records and documents relevant to inquiry pursuant to a subpoena issued in accordance with section 3269. [1993, c. 600, Pt. A, §201 (AMD).]

### SECTION HISTORY

1971, c. 591, §1 (NEW). 1993, c. 600, §A201 (AMD).

## 32 §3269. POWERS AND DUTIES OF THE BOARD

The board has the following powers and duties in addition to all other powers and duties imposed by this chapter: [1993, c. 600, Pt. A, §202 (AMD).]

**1. Set standards.** The power to set standards of eligibility for examination for candidates desiring admission to medical practice in Maine;

[ 1971, c. 591, §1 (NEW) .]

**2. Adopt criteria.** The power to design or adopt an examination and other suitable criteria for establishing a candidate's knowledge in medicine and its related skills;

[ 1971, c. 591, §1 (NEW) .]

**3. Licensing and standards.** The power to license and to set standards of practice for physicians and surgeons practicing medicine in Maine;

[ 1993, c. 600, Pt. A, §202 (AMD) .]

**4. Hearings and procedure.** The power to hold hearings and take evidence in all matters relating to the exercise and performance of the powers and duties vested in the board and the board, acting through the secretary, has the authority to subpoena witnesses, books, records and documents in hearings before it;

[ 1993, c. 600, Pt. A, §202 (AMD) .]

**5. Legal representation.** The power to engage legal counsel, to be approved by the Attorney General, and investigative assistants of its own choosing to advise the board generally and specifically, to represent the board in hearings before it and in appeals taken from a decision of the board;

[ 1993, c. 600, Pt. A, §202 (AMD) .]

**6. Salary and duties.** Except as provided in subsections 15 and 16, the power to employ and prescribe the duties of other personnel as the board determines necessary. Except as prescribed in subsection 15, the appointment and compensation of that staff is subject to the Civil Service Law;

[ 1993, c. 600, Pt. A, §202 (AMD) .]

**7. Rules.** The power to adopt rules as the board determines necessary and proper to carry out this chapter;

[ 1993, c. 600, Pt. A, §202 (AMD) .]

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

[ 1993, c. 600, Pt. A, §202 (AMD) .]

**8-A. 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; [1989, c. 462, §11 (NEW).]

B. The number of complaints dismissed for lack of merit or insufficient evidence of grounds for discipline; [1989, c. 462, §11 (NEW).]

C. The number of cases in process of investigation or hearing carried over at year end; and [1989, c. 462, §11 (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.; [1993, c. 600, Pt. A, §202 (AMD).]

[ 1993, c. 600, Pt. A, §202 (AMD) .]

**9. Open financial records.** The duty to keep a record of the names and residences of all individuals licensed under this chapter and a record of all money received and disbursed by the board, and records or duplicates must always be open to inspection in the office of the secretary during regular office hours. The board shall annually make a report to the Commissioner of Professional and Financial Regulation and to the Legislature containing a full and complete account of all its official acts during the preceding year, and a statement of its receipts and disbursements and comments or suggestions as the board determines essential;

[ 1993, c. 600, Pt. A, §202 (AMD) .]

**10. Powers.** The power to mandate, conduct and operate or contract with other agencies, individuals, firms or associations for the conduct and operation of programs of medical education, including statewide programs of health education for the general public and to disburse funds accumulated through the receipt of licensure fees for this purpose, provided that funds may not be disbursed for this purpose for out-of-state travel, meals or lodging for a physician being educated under this program. The power to conduct and operate or contract with other agencies or nonprofit organizations for the conduct and operation of a program of financial assistance to medical students indicating an intent to engage in family practice in rural Maine, under which program the students may be provided with interest-free grants or interest-bearing loans in an amount not to exceed \$5,000 per student per year on terms and conditions as the board may determine.

Notwithstanding any other provision of this subsection, if the board contracts with the Commissioner of Education to provide funds for the costs of positions for which the State has contracted at the University of Vermont College of Medicine, or the Tufts University School of Medicine, the terms of the contract between the board and the commissioner must be in accordance with the requirements of Title 20-A, chapter 421;

[ 1993, c. 600, Pt. A, §202 (AMD) .]

**11. Conduct examinations.** The power to conduct examinations in medicine;

[ 1993, c. 600, Pt. A, §202 (AMD) .]

**12. Other services and functions.** The power to provide services and carry out functions necessary to fulfill the board's statutory responsibilities. The board may set reasonable fees for services such as providing license certification and verifications, providing copies of board law and rules, and providing copies of documents. The board may also set reasonable fees to defray its cost in administering examinations for special purposes that it may from time to time require and for admitting courtesy candidates from other states to its examinations;

[ 1991, c. 425, §11 (AMD) .]

**13. Liaison; limitation.**

[ 1995, c. 462, Pt. B, §6 (RP) .]

**14. Budget.** The duty to 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 revision, alteration or change, unless alterations are mutually agreed upon by the department and the board or the board's designee;

[ 1995, c. 462, Pt. B, §7 (RPR) .]

**15. Adequacy of budget, fees and staffing.** The duty to ensure that the budget submitted by the board to the Commissioner of Professional and Financial Regulation is sufficient, if approved, to provide for adequate legal and investigative personnel on the board's staff and that of the Attorney General to ensure that professional liability complaints described in Title 24, section 2607 and complaints regarding a section of this chapter can be resolved in a timely fashion. The board's staff must include one position staffed by an individual who is primarily a consumer assistant. The functions and expense of the consumer assistant position must be shared on a pro rata basis with the Board of Osteopathic Licensure. Within the limit set by section 3279, the board shall charge sufficient licensure fees to finance this budget provision. The board shall submit legislation to request an increase in these fees should they prove inadequate to the provisions of this subsection.

Within the limit of funds provided to it by the board, the Department of the Attorney General shall make available to the board sufficient legal and investigative staff to enable all consumer complaints mentioned in this subsection to be resolved in a timely fashion;

[ 2001, c. 260, Pt. H, §1 (AMD) .]

**16. Executive director.** The power to appoint an executive director who serves at the pleasure of the board and who shall assist the board in carrying out its administrative duties and responsibilities under this chapter. The salary range for the executive director must be set by the board within the range established by Title 2, section 6-C; and

[ 2001, c. 260, Pt. H, §2 (AMD) .]

**17. Approval of licenses.** The power to direct staff to review and approve applications for licensure or renewal in accordance with criteria established in law or in rules adopted by the board. Licensing decisions made by staff may be appealed to the full board.

[ 2001, c. 260, Pt. H, §3 (NEW) .]

The Commissioner of Professional and Financial Regulation acts as a liaison between the board and the Governor. [1995, c. 462, Pt. B, §8 (NEW).]

The Commissioner of Professional and Financial Regulation does not have the authority to 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. [1995, c. 462, Pt. B, §8 (NEW).]

#### SECTION HISTORY

1971, c. 591, §1 (NEW). 1975, c. 404, §1 (AMD). 1975, c. 504, (AMD). 1977, c. 388, §2 (AMD). 1977, c. 451, (AMD). 1977, c. 604, §§28,29 (AMD). 1979, c. 345, §1 (AMD). 1981, c. 239, (AMD). 1985, c. 748, §42 (AMD). 1985, c. 804, §§19,22 (AMD). 1987, c. 178, §§2,3 (AMD). 1989, c. 462, §§10-12 (AMD). 1989, c. 700, §A147 (AMD). 1991, c. 425, §11 (AMD). 1993, c. 600, §A202 (AMD). 1993, c. 659, §§B14,15 (AMD). 1995, c. 462, §§B6-8 (AMD). 1997, c. 680, §C2 (AMD). 2001, c. 260, §§H1-3 (AMD).

### Subchapter 2: LICENSURE HEADING: PL 1993, C. 600, PT. A, §203 (RPR)

## **32 §3270. LICENSURE REQUIRED**

Unless licensed by the board, an individual may not practice medicine or surgery or a branch of medicine or surgery or claim to be legally licensed to practice medicine or surgery or a branch of medicine or surgery within the State by diagnosing, relieving in any degree or curing, or professing or attempting to diagnose, relieve or cure a human disease, ailment, defect or complaint, whether physical or mental, or of physical and mental origin, by attendance or by advice, or by prescribing or furnishing a drug, medicine, appliance, manipulation, method or a therapeutic agent whatsoever or in any other manner unless otherwise provided by statutes of this State. An individual licensed under chapter 36 may prefix the title "Doctor" or the letters "Dr." to that individual's name, as provided in section 2581, or a chiropractor licensed by this State may prefix the title "Doctor" or the letters "Dr." to that individual's name when accompanied by the word "Chiropractor," or a dentist duly licensed by this State may prefix the title "Doctor" or the letters "Dr." to that individual's name or a naturopathic doctor licensed by this State may prefix the title "Doctor" or the letters "Dr." to that individual's name when accompanied by the word "Naturopathy" or the words "Naturopathic Medicine" or an optometrist duly licensed under the laws of this State may prefix the title "Doctor" or the letters "Dr." to that individual's name when accompanied by the word "Optometrist" or a podiatrist licensed under the laws of this State may prefix the title "Doctor" or the letters "Dr." to that individual's name when accompanied by the word "Podiatrist" or "Chiropodist." [1995, c. 671, §11 (AMD).]

Whoever, not being duly licensed by the board, practices medicine or surgery or a branch of medicine or surgery, or purports to practice medicine or surgery or a branch of medicine or surgery in a way cited in this section, or who uses the title "Doctor" or the letters "Dr." or the letters "M.D." in connection with that individual's name, contrary to this section, commits a Class E crime. The prefixing of the title "Doctor" or the letters "Dr." or the appending of the letters "M.D." by an individual to that individual's name or the use of the title of doctor or physician in any way by an individual not licensed as described is prima facie evidence that that individual is purporting to practice medicine or surgery contrary to this section, except that nothing contained in this section prevents an individual who has received the doctor's degree from a reputable college or university, other than the degree of "Doctor of Medicine" from prefixing the letters "Dr." to that individual's name, if that individual is not engaged, and does not engage, in the practice of medicine or surgery or the treatment of a disease or human ailment. Nothing in this chapter may be construed as to affect or prevent the practice of the religious tenets of a church in the ministration to the sick or suffering by mental or spiritual means. [1993, c. 600, Pt. A, §204 (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. [1991, c. 425, §12 (NEW).]

#### SECTION HISTORY

1971, c. 591, §1 (NEW). 1973, c. 788, §161 (AMD). 1991, c. 425, §12 (AMD). 1991, c. 797, §17 (AMD). 1993, c. 600, §A204 (AMD). 1995, c. 671, §11 (AMD).

## 32 §3270-A. ASSISTANTS

This chapter may not be construed to prohibit an individual from rendering medical services if these services are rendered under the supervision and control of a physician or surgeon and if that individual has satisfactorily completed a training program approved by the Board of Licensure in Medicine and a competency examination determined by this board. Supervision and control may not be construed as requiring the personal presence of the supervising and controlling physician at the place where these services are rendered, unless a physical presence is necessary to provide patient care of the same quality as provided by the physician. This chapter may not be construed as prohibiting a physician or surgeon from delegating to the physician's or surgeon's employees certain activities relating to medical care and treatment carried out by custom and usage when the activities are under the control of the physician or surgeon who must be present on the premises at the time the activities are performed. The physician delegating these activities to employees, 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. This section may not be construed to apply to registered nurses acting pursuant to chapter 31. [1999, c. 159, §1 (AMD).]

When the delegated activities are part of the practice of optometry as defined in chapter 34-A, 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 otherwise acting 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. [1993, c. 600, Pt. A, §205 (AMD).]

### SECTION HISTORY

1973, c. 514, §2 (NEW). 1975, c. 404, §2 (AMD). 1977, c. 78, §181 (AMD). 1993, c. 600, §A205 (AMD). 1999, c. 159, §1 (AMD).

## 32 §3270-B. LICENSE AND REGULATION

A physician assistant is not permitted to practice until the physician assistant has applied for and obtained a license issued by the Board of Licensure in Medicine, which must be renewed biennially, and a certificate of registration. All applications for certificate of registration must be accompanied by an application by the proposed supervisory physician that must contain a statement that that physician is responsible for all medical activities of the physician assistant. The Board of Licensure in Medicine is authorized to adopt rules regarding the training and licensure of physician assistants and the agency relationship between the physician assistant and the supervising physician. Those rules may pertain, but are not limited, to the following matters: [1997, c. 271, §8 (AMD).]

**1. Application information.** The information to be contained in the application for a certificate of registration;

[ 1997, c. 271, §9 (AMD) .]

**2. Application information required of proposed supervisory physician.** The information that is required on the application filed by the proposed supervisory physician;

[ 1993, c. 600, Pt. A, §206 (AMD) .]

**3. Supervising physician's requirements.** The training and educational requirements, scope of permissible clinical medical procedures, the manner and methods by which the supervising physician shall supervise the physician assistant's medical services;

[ 1975, c. 680, §1 (NEW) .]

**4. Methods and conditions.** The methods and conditions under which the physician assistant may perform medical services;

[ 1975, c. 680, §1 (NEW) .]

**5. Temporary eligibility.** The issuance of temporary physician assistant certification and equivalency training eligibility for registration of physician assistant trainees;

[ 1975, c. 680, §1 (NEW) .]

**6. Advisory committee appointment.** Appointment of an advisory committee for continuing review of physician assistant program and rules;

[ 1993, c. 600, Pt. A, §206 (AMD) .]

**7. Continuing educational requirements.** Continuing educational requirements as a precondition to continued licensure or licensure renewal;

[ 1975, c. 680, §1 (NEW) .]

**8. Fees for original application.** Fees for the original physician assistant application, which may not exceed \$250;

[ 1999, c. 685, §5 (AMD) .]

**9. Initial application of supervising physician.** Fee for the initial application of the supervising physician, which may not exceed \$100;

[ 1993, c. 600, Pt. A, §206 (AMD) .]

**10. Fee for transfer of license.** Fee for transfer of registration by a physician assistant from one supervising physician to another, which may not exceed \$50; and

[ 1993, c. 600, Pt. A, §206 (AMD) .]

**11. Fees for biennial license renewal.** Fees for the biennial license renewal of physician assistants in an amount not to exceed \$250.

[ 1999, c. 685, §6 (AMD) .]

#### SECTION HISTORY

1975, c. 680, §1 (NEW). 1991, c. 425, §13 (AMD). 1993, c. 600, §A206 (AMD). 1997, c. 271, §§7-10 (AMD). 1999, c. 685, §§5,6 (AMD).

## 32 §3270-C. TERMINATION OF LICENSE

**1. Grounds.** The sanctions of section 3282-A apply to a physician assistant.

A. [1993, c. 600, Pt. A, §207 (RP).]

A-1. [2005, c. 162, §1 (RP).]

B. [2005, c. 162, §1 (RP).]

C. [2005, c. 162, §1 (RP).]

D. [2005, c. 162, §1 (RP).]

[ 2005, c. 162, §1 (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 registered under these rules who accepts the privilege of rendering medical services in this State by the filing of an application and of biannual registration renewal:

A. Is deemed to have consented to a mental or physical examination when directed in writing by the board; and [1993, c. 600, Pt. A, §207 (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. [1993, c. 600, Pt. A, §207 (AMD).]

Pursuant to Title 4, section 184, subsection 6, the District Court shall immediately suspend the certificate 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.

[ 1999, c. 547, Pt. B, §66 (AMD); 1999, c. 547, Pt. B, §80 (AFF) .]

### **3. Jurisdiction.**

[ 1977, c. 694, §609 (RP) .]

### **4. Enforcement.**

[ 1977, c. 694, §609 (RP) .]

#### SECTION HISTORY

1975, c. 680, §1 (NEW). 1977, c. 694, §§607-609 (AMD). 1983, c. 378, §46 (AMD). 1993, c. 600, §A207 (AMD). 1999, c. 547, §B66 (AMD). 1999, c. 547, §B80 (AFF). 2003, c. 601, §3 (AMD). 2005, c. 162, §1 (AMD).

## **32 §3270-D. TERMINATION OF EFFECTIVENESS**

*(REPEALED)*

#### SECTION HISTORY

1975, c. 680, §1 (NEW). 1977, c. 47, (RP).

## **32 §3271. QUALIFICATIONS FOR MEDICAL LICENSURE**

Except where otherwise specified by this chapter, all applicants for licensure as a physician or surgeon in the State must satisfy the following requirements. [1993, c. 600, Pt. A, §208 (AMD).]

**1. Medical education.** Each applicant must:

A. Graduate from a medical school designated as accredited by the Liaison Committee on Medical Education; [1983, c. 741, §1 (NEW).]

B. Graduate from an unaccredited medical school, be evaluated by the Educational Commission for Foreign Medical Graduates and receive a permanent certificate from the Educational Commission for Foreign Graduates; or [1989, c. 5, §1 (AMD).]

C. Graduate from an unaccredited medical school and achieve a passing score on the Visa Qualifying Examination or another comprehensive examination determined by the board to be substantially equivalent to the Visa Qualifying Examination. [1993, c. 600, Pt. A, §208 (AMD).]

[ 1993, c. 600, Pt. A, §208 (AMD) .]

**2. Postgraduate training.** Each applicant who has graduated from an accredited medical school on or after January 1, 1970 but before July 1, 2004 must have satisfactorily completed at least 24 months in a graduate educational program accredited by the Accreditation Council on Graduate Medical Education, the Canadian Medical Association or the Royal College of Physicians and Surgeons of Canada. Notwithstanding other requirements of postgraduate training, an applicant is eligible for licensure when the candidate has satisfactorily graduated from a combined postgraduate training program in which each of the contributing programs is accredited by the Accreditation Council on Graduate Medical Education and the applicant is eligible for accreditation by the American Board of Medical Specialties in both specialties. Each applicant who has graduated from an accredited medical school prior to January 1, 1970 must have satisfactorily completed at least 12 months in a graduate educational program accredited by the Accreditation Council on Graduate Medical Education, the Canadian Medical Association or the Royal College of Physicians and Surgeons of Canada. Each applicant who has graduated from an accredited medical school on or after July 1, 2004 or an unaccredited medical school must have satisfactorily completed at least 36 months in a graduate educational program accredited by the Accreditation Council on Graduate Medical Education, the Canadian Medical Association, the Royal College of Physicians and Surgeons of Canada or the Royal Colleges of England, Ireland or Scotland. An applicant who has completed 24 months of postgraduate training and has received an unrestricted endorsement from the director of an accredited graduate education program in the State is considered to have satisfied the postgraduate training requirements of this subsection if the applicant continues in that program and completes 36 months of postgraduate training. Notwithstanding this subsection, an applicant who is board certified by the American Board of Medical Specialties is deemed to meet the postgraduate training requirements of this subsection.

[ 2005, c. 162, §2 (AMD) .]

**3. Examination.** Each applicant must achieve a passing score on each component of the uniform examination of the Federation of State Medical Boards or other examinations designated by the board as the qualifying examination or examinations for licensure. Each applicant must additionally achieve a passing score on a State of Maine examination administered by the board.

[ 1993, c. 600, Pt. A, §208 (AMD) .]

**4. Fees.** Each applicant shall pay a fee up to \$600 plus the cost of the qualifying examination or examinations.

[ 1999, c. 685, §7 (AMD) .]

**5. Board action.** An applicant may not be licensed unless the board finds that the applicant is qualified and no cause exists, as set forth in section 3282-A, that may be considered grounds for disciplinary action against a licensed physician or surgeon.

[ 1993, c. 600, Pt. A, §208 (AMD) .]

**6. Waiver for exceptional circumstances.** The board may waive the requirements of subsection 2 for a physician who does not meet the postgraduate training requirements but who meets the requirements of this subsection.

A. To be considered for a waiver under this subsection, the physician must:

- (1) Be a graduate of a foreign medical school, not including a medical school in Canada or Great Britain;
- (2) Be licensed in another state; and
- (3) Have at least 3 years of clinical experience in the area of expertise. [ 2005, c. 363, §1 (NEW) . ]

B. If the physician meets the requirements of paragraph A, the board shall use the following qualifications of the physician to determine whether to grant a waiver:

- (1) Completion of a 3-year clinical fellowship in the United States in the area of expertise. The burden of proof as to the quality and content of the fellowship is placed on the applicant;
- (2) Appointment to a clinical academic position at a licensed medical school in the United States;
- (3) Publication in peer-reviewed clinical medical journals recognized by the board;
- (4) The number of years in clinical practice; and
- (5) Other criteria demonstrating expertise, such as awards or other recognition. [ 2005, c. 363, §1 (NEW) . ]

C. The costs associated with the board's determination of licensing eligibility in regard to paragraph B must be paid by the applicant upon completion of the determination under paragraph A. The application cost must reflect and not exceed the actual cost of the final determination. [ 2005, c. 363, §1 (NEW) . ]

[ 2005, c. 363, §1 (NEW) . ]

**7. Special license categories.** The board may issue a license limited to the practice of administrative medicine as defined by routine technical rule of the board adopted pursuant to Title 5, chapter 375, subchapter 2-A.

[ 2007, c. 380, §2 (NEW) . ]

#### SECTION HISTORY

1971, c. 591, §1 (NEW). 1971, c. 622, §117C (AMD). 1975, c. 404, §3 (AMD). 1977, c. 388, §3 (AMD). 1979, c. 345, §2 (AMD). 1981, c. 240, (AMD). 1981, c. 616, §1 (AMD). 1983, c. 378, §47 (AMD). 1983, c. 741, §1 (RPR). 1985, c. 542, (AMD). 1989, c. 5, §§1-3 (AMD). 1991, c. 425, §14 (AMD). 1993, c. 600, §A208 (AMD). 1993, c. 659, §B16 (AMD). 1995, c. 462, §A60 (AMD). 1999, c. 685, §7 (AMD). 2003, c. 601, §4 (AMD). 2005, c. 162, §2 (AMD). 2005, c. 363, §1 (AMD). 2007, c. 380, §2 (AMD).

## 32 §3272. EXAMINATIONS

*(REPEALED)*

#### SECTION HISTORY

1971, c. 591, §1 (NEW). 1983, c. 741, §2 (RPR). 1993, c. 600, §A209 (AMD). 2005, c. 162, §3 (RP).

**32 §3273. REEXAMINATION***(REPEALED)*

## SECTION HISTORY

1971, c. 591, §1 (NEW). 1979, c. 345, §3 (AMD). 1983, c. 378, §48 (AMD). 1983, c. 741, §3 (AMD). 1991, c. 425, §15 (AMD). 2005, c. 162, §4 (RP).

**32 §3274. LICENSES**

Each physician licensed under this chapter is entitled to receive a license under the seal of the board and signed by the chair and the secretary, which must be publicly displayed at the individual's principal place of practice, as long as this individual continues the practice of medicine. [1993, c. 600, Pt. A, §210 (AMD).]

## SECTION HISTORY

1971, c. 591, §1 (NEW). 1993, c. 600, §A210 (AMD).

**32 §3275. LICENSURE BY RECIPROCITY**

**1. Licensure without examination.** The board may, at its discretion, grant licensure without written examination to a physician in good standing who otherwise meets the requirements of section 3271 and who has been:

A. Examined and certified by the National Board of Medical Examiners; [1977, c. 388, §4 (RPR).]

B. Examined and licensed by a board of another state, if the examination passed by the applicant is determined by the board to be equivalent to its own examination; or [1993, c. 600, Pt. A, §211 (AMD).]

C. Graduated from a nationally accredited medical school located in the United States, Canada or the British Isles and:

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

(2) Has been examined and certified by the board of a Canadian province or a country in the British Isles, if the examination passed by the applicant is determined by the board to be equivalent in all essentials to its own examination. [1993, c. 600, Pt. A, §211 (AMD).]

An applicant may not be licensed pursuant to this section, unless the board finds that no cause exists, as set forth in section 3282-A, that would be considered grounds for disciplinary action against a licensed physician or surgeon.

[ 1993, c. 600, Pt. A, §211 (AMD) .]

**2. Fees.** A physician who applies for a license pursuant to subsection 1 shall pay a fee of not more than \$600.

[ 1999, c. 685, §8 (AMD) .]

**3. Rules.** The board may make rules as may be necessary in connection with this section.

[ 1993, c. 600, Pt. A, §211 (AMD) .]

## SECTION HISTORY

1971, c. 591, §1 (NEW). 1975, c. 680, §2 (RPR). 1977, c. 388, §4 (AMD). 1979, c. 345, §§4,5 (AMD). 1983, c. 741, §4 (AMD). 1991, c. 425, §16 (AMD). 1993, c. 600, §A211 (AMD). 1999, c. 685, §8 (AMD).

## 32 §3276. TEMPORARY LICENSURE

A physician who is qualified under section 3275 may, without examination, be granted a temporary license for a period not to exceed one year when the board determines that this action is necessary in order to provide relief for local or national emergencies or for situations in which the number of physicians is insufficient to supply adequate medical services or for the purpose of permitting the physician to serve as locum tenens for another physician who is licensed to practice medicine in this State. The fee for this temporary license may not be more than \$400. [2003, c. 601, §5 (AMD).]

### SECTION HISTORY

1971, c. 591, §1 (NEW). 1975, c. 623, §51 (RP). 1975, c. 404, §4 (RPR). 1975, c. 770, §186 (REN). 1983, c. 741, §5 (AMD). 1991, c. 425, §17 (AMD). 1993, c. 600, §A212 (AMD). 1999, c. 685, §9 (AMD). 2003, c. 601, §5 (AMD).

## 32 §3277. YOUTH CAMP PHYSICIANS

A physician who is qualified under section 3275 may, at the discretion of the board, be temporarily licensed as a youth camp physician so that the physician may care for the campers in that particular youth camp licensed under Title 22, section 2495 for which the physician was hired and retained as a youth camp physician. That physician is entitled to practice only on patients in the youth camp. The temporary license must be obtained each year. Application for this temporary license must be made in the same form and manner as for regular licensure. An examination may not be exacted from applicants for these temporary licenses. The fee for temporary licensure may not be more than \$400 annually. [2009, c. 211, Pt. B, §28 (AMD).]

### SECTION HISTORY

1971, c. 591, §1 (NEW). 1975, c. 404, §5 (AMD). 1977, c. 388, §5 (AMD). 1983, c. 741, §6 (AMD). 1991, c. 425, §18 (AMD). 1993, c. 600, §A213 (AMD). 2005, c. 162, §5 (AMD). 2009, c. 211, Pt. B, §28 (AMD).

## 32 §3278. EMERGENCY 100-DAY LICENSE

A physician who presents a current active unconditioned license from another United States licensing jurisdiction and who can provide reasonable proof of meeting qualifications for licensure in this State must be issued a license to serve temporarily for declared emergencies in the State or for other appropriate reasons as determined by the board. The license is effective for not more than 100 days. The fee for this license may be not more than \$400. [2005, c. 162, §6 (AMD).]

### SECTION HISTORY

1971, c. 591, §1 (NEW). 1975, c. 404, §6 (AMD). 1977, c. 388, §6 (RPR). 1983, c. 741, §7 (AMD). 1991, c. 425, §19 (AMD). 1993, c. 600, §A214 (AMD). 1999, c. 685, §10 (AMD). 2003, c. 601, §6 (AMD). 2005, c. 162, §6 (AMD).

## 32 §3279. INTERNS; RESIDENTS; VISITING INSTRUCTORS

### 1. Interns.

[ 2003, c. 601, §7 (RP) .]

**2. Residents.** An applicant who is qualified under section 3271, subsection 1 may receive a temporary educational certificate from the board to act as a hospital resident. A certificate to a hospital resident may be renewed every 3 years at the discretion of the board for not more than 7 years.

[ 2003, c. 601, §8 (AMD) .]

**2-A. Joint-program resident.** An applicant who is enrolled in a program of medical and graduate medical training conducted jointly by a medical school accredited by the Liaison Committee on Medical Education and a graduate medical education program approved by the Accreditation Council on Graduate Medical Education may receive a temporary educational certificate from the board to act as a hospital resident as part of that graduate medical education program if the applicant is concurrently enrolled in the final year of medical training and the initial year of graduate medical education. The board may not issue a certificate pursuant to this subsection for a period longer than that required to obtain the M.D. degree. The period during which the certificate is in force may not be considered in determining satisfaction of the requirement for postgraduate medical education under section 3271, subsection 2.

[ 1995, c. 337, §2 (NEW) .]

**3. Conditions of certification.** An applicant for a temporary educational certificate may not be certified unless the board finds that the applicant is qualified and that there exists no cause, as set forth in section 3282-A, that would be considered grounds for disciplinary action against a licensed physician or surgeon. The board, in its discretion, may require an examination for applicants for temporary educational certificates. Recipients of these certificates are entitled to all the rights granted to physicians who are licensed to practice medicine and surgery, except that their practice is limited to the training programs in which they are enrolled. A temporary educational certificate may be suspended or revoked, or the board may refuse to renew the certificate, for the reasons stated in section 3282-A, or if the intern or hospital resident has violated the limitations placed upon the intern's temporary educational certificate.

[ 1993, c. 600, Pt. A, §215 (AMD) .]

**4. Visiting instructors.** A physician who has an unrestricted license to practice medicine or surgery in another state may practice medicine or surgery in this State when the physician is performing medical procedures as part of a course of instruction in graduate medical education in a hospital located in this State. The right of a visiting medical instructor to practice medicine in this State may be suspended or revoked for the reasons stated in section 3282-A, or if the visiting medical instructor has performed medical procedures that are not a part of a course of instruction.

[ 1993, c. 600, Pt. A, §215 (AMD) .]

**5. Contract students.** An applicant who is qualified under section 3271, subsection 1, who received a medical education as a contract student as provided in Title 20-A, chapter 421, and who agrees to practice in a primary care or other specialized area as defined in Title 20-A, section 11803, subsection 2, or an underserved area as defined in Title 20-A, section 11802, is considered to have completed the postgraduate training requirements of section 3271, subsection 2, upon satisfactory completion of at least 12 months in a graduate educational program approved as specified in section 3271. The board may make the relicensure of an individual for 4 years after the individual's licensure under this subsection contingent on the individual's continuing to practice in an underserved area.

This subsection applies only to individuals entering into a contract under Title 20-A, chapter 421, on or before December 31, 1984.

[ 1993, c. 600, Pt. A, §215 (AMD) .]

**6. Fees.** The board shall set fees for physicians and students licensed pursuant to this section. The amounts set for licenses issued under this section may not be more than \$300.

[ 2003, c. 601, §8 (AMD) .]

#### SECTION HISTORY

1971, c. 591, §1 (NEW). 1975, c. 404, §7 (AMD). 1977, c. 564, §122 (AMD). 1983, c. 378, §49 (AMD). 1983, c. 741, §8 (RPR). 1987, c. 239, (AMD). 1991, c. 425, §§20,21 (AMD). 1993, c. 600, §A215 (AMD). 1995, c. 337, §2 (AMD). 2003, c. 601, §§7,8 (AMD).

### **32 §3280. BIENNIAL REREGISTRATION; FEES**

*(REPEALED)*

#### SECTION HISTORY

1971, c. 591, §1 (NEW). 1975, c. 404, §§8,9 (AMD). 1975, c. 770, §187 (AMD). 1977, c. 388, §7 (AMD). 1979, c. 345, §6 (AMD). 1981, c. 616, §2 (AMD). 1983, c. 378, §50 (AMD). 1983, c. 378, §51 (AMD). 1985, c. 804, §20 (AMD). 1991, c. 425, §§22-24 (AMD). 1993, c. 600, §A216 (AMD). 1993, c. 526, §4 (AFF). 1993, c. 526, §1 (RP). 1995, c. 462, §A61 (RP).

### **32 §3280-A. BIENNIAL RENEWAL OF LICENSES; QUALIFICATION; FEES; REINSTATEMENT AFTER LAPSE**

**1. Renewal of licenses.** A physician licensed pursuant to section 3271 or 3275 shall apply to the board for relicensure using application forms and submitting supporting documents required by the board. Except as provided in paragraph A for initial proration of expiration dates, the board shall provide to every physician whose application is approved and accepted a proof of license renewal that is valid for no longer than 2 years.

A. Beginning with licenses expiring after July 1, 1994, regardless of the date of initial licensure or last license renewal, the license of every physician born in an odd-numbered year expires at midnight in 1995 on the last day of the month of the physician's birth. The license of every physician born in an even-numbered year expires at midnight in 1996 on the last day of the month of the physician's birth. Upon expiration, a physician must renew the license issued pursuant to this section and this license must be renewed every 2 years by the last day of the month of birth of the physician seeking license renewal by means of application to the board, on forms prescribed and supplied by the board. [1993, c. 526, §2 (NEW); 1993, c. 526, §4 (AFF).]

B. At least 60 days prior to expiration of a current license, the board shall mail to each licensee at the licensee's last known address a notice of the requirement to renew the license with appropriate application forms for the renewal. Whenever a licensee fails, prior to the expiration of the licensee's current license, to return to the board a completed application either to renew the license or to withdraw from licensure, the board shall notify the licensee as soon as possible at the licensee's last known address that the license renewal is past due. Thirty days after the notice has been sent, if the application has neither been submitted by the licensee nor returned by the United States Postal Service as undeliverable, the board shall notify the licensee by certified mail, return receipt requested, that the licensee's license has been administratively suspended for 30 days. If an administratively complete relicensure application, pursuant to subsection 3, paragraph B, has not been submitted within the 30-day period of administrative suspension, the license immediately and automatically lapses. The board may not restore the license prior to completion of the reinstatement proceedings pursuant to subsection 4. [1993, c. 526, §2 (NEW); 1993, c. 526, §4 (AFF).]

[ 1993, c. 526, §2 (NEW); 1993, c. 526, §4 (AFF) .]

**2. Criteria for license renewal.** Prior to renewing a license:

A. The board may pose any question to the licensee or other sources that the board determines appropriate related to qualification for relicensure. These matters may include, but are not limited to, confirmation of health status, professional standing and conduct, professional liability claims history and license status in other jurisdictions. The board shall, after affording the licensee due process, deny license renewal if the board finds cause that may be considered grounds for refusal to renew the license pursuant to section 3282-A, including, but not limited to, a determination that an outstanding financial obligation to the board exists; and [2003, c. 601, §9 (AMD).]

B. Every licensee seeking renewal of a license with the intent of conducting active medical practice in this State shall submit evidence, satisfactory to the board, of successful completion of a course of continuing medical education within the preceding 24 months, as prescribed by rule. A physician licensed pursuant to section 3271 or 3275 may not engage in the practice of medicine in this State in any degree, including advising or prescribing medication for self, friends or family with or without charge, unless the board has found the licensee qualified by continuing medical education and has marked the current license with the designation "active." [1993, c. 526, §2 (NEW); 1993, c. 526, §4 (AFF).]

[2003, c. 601, §9 (AMD).]

**3. Fees.** The following fees apply to licensure.

A. The board may charge a license renewal application fee of not more than \$500 to all applicants for license renewal. [2005, c. 162, §7 (AMD).]

B. In addition to the application processing fee, the board may require payment of a late application fee of not more than \$100 from all licensees, regardless of age, from whom the board has not received an administratively complete license renewal application prior to the license expiration date. An application is not administratively complete if it is not signed and dated by the licensee or does not provide full information and responses of sufficient detail to permit board review, evaluation and decision on renewal qualification. An application received without the required license renewal application fee is considered incomplete and the applicant is subject to a late fee. [1993, c. 526, §2 (NEW); 1993, c. 526, §4 (AFF).]

C. The board may prorate the fee for biennial relicensure for physicians who have been initially licensed within the past 12 months. The manner of proration, if done, must be explained in the board's published schedule of fees. The board may waive all or a portion of the established license renewal application fee upon receipt of a request for waiver based on hardship or other special circumstance. Any waiver request granted and the basis for the waiver must be recorded in the minutes of the board's proceedings. [1993, c. 526, §2 (NEW); 1993, c. 526, §4 (AFF).]

D. Unless received and deposited to the board's account in error and in violation of this section or the board's rules, a license renewal application fee or late fee paid to the board is not refundable if the board or the board's staff has commenced processing the application, regardless of the board's action on the application. [1993, c. 526, §2 (NEW); 1993, c. 526, §4 (AFF).]

[2005, c. 162, §7 (AMD).]

**4. Reinstatement after lapse.** A physician may be reinstated after the lapse of a license under the following conditions.

A. A license that has lapsed pursuant to subsection 1, paragraph B may be reinstated upon application by the physician on forms provided by the board. A physician whose license has lapsed for more than 5 years shall apply for a new license in order to practice medicine in the State. [1993, c. 526, §2 (NEW); 1993, c. 526, §4 (AFF).]

B. When applying for reinstatement, the licensee must state the reason why the license lapsed and pay all fees in arrears at the time of lapse plus the current license renewal application fee and a nonrefundable reinstatement application processing fee of \$100. [1993, c. 526, §2 (NEW); 1993, c. 526, §4 (AFF).]

C. The board may not reinstate a lapsed license if the board finds any cause that may be considered a ground for discipline pursuant to section 3282-A if the license had been in force. Prior to concluding that no cause exists, the board shall conduct the inquiries required by subsection 2, paragraph A for applications for renewal. In addition, the board may not reinstate the license of any physician who has not provided evidence satisfactory to the board of having actively engaged in the practice of medicine continuously for at least the past 12 months under the license of another jurisdiction of the United States or Canada unless the applicant has first satisfied the board of the applicant's current competency by passage of written examinations or practical demonstrations as the board may from time to time prescribe for this purpose through rulemaking. [1993, c. 526, §2 (NEW); 1993, c. 526, §4 (AFF).]

[ 1993, c. 526, §2 (NEW); 1993, c. 526, §4 (AFF) .]

#### SECTION HISTORY

1993, c. 526, §2 (NEW). 1993, c. 526, §4 (AFF). 1997, c. 680, §C3 (AMD). 1999, c. 685, §11 (AMD). 2003, c. 601, §9 (AMD). 2005, c. 162, §7 (AMD).

### 32 §3281. WITHDRAWAL OF LICENSE

The holder of a license or temporary license who notifies the board in writing of the withdrawal of the holder's license is not required to pay licensure fees or penalties beyond those due at the time of the holder's withdrawal, but after a holder gives this notice, the holder's license to practice is not valid until reinstated by the board. [1993, c. 600, Pt. A, §217 (AMD).]

An applicant for reinstatement is entitled to be reinstated upon paying a reinstatement fee of \$50 and satisfying the board that the applicant has paid all fees and penalties due at the time of the applicant's withdrawal, and no cause exists for revoking or suspending the applicant's license, and the applicant has applied within 5 years after the applicant's withdrawal, and was in active practice outside this State within one year prior to the filing of application for reinstatement. [1993, c. 600, Pt. A, §217 (AMD).]

#### SECTION HISTORY

1971, c. 591, §1 (NEW). 1977, c. 388, §8 (AMD). 1993, c. 600, §A217 (AMD).

### 32 §3282. COMPLAINTS; ALLEGATIONS; GROUNDS FOR INVESTIGATION AND HEARING

*(REPEALED)*

#### SECTION HISTORY

1971, c. 591, §1 (NEW). 1977, c. 694, §610 (AMD). 1977, c. 388, §9 (RPR). 1979, c. 619, §1 (RPR). 1983, c. 176, §A17 (AMD). 1983, c. 378, §52 (RP). 1985, c. 506, §A69 (AMD).

### 32 §3282-A. DISCIPLINARY SANCTIONS

**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; [1983, c. 378, §53 (NEW).]
- B. Habitual substance abuse that has resulted or is foreseeably likely to result in the licensee performing services in a manner that endangers the health or safety of patients; [1993, c. 600, Pt. A, §218 (AMD).]
- C. A professional diagnosis of a mental or physical condition that has resulted or may result in the licensee performing services in a manner that endangers the health or safety of patients; [1993, c. 600, Pt. A, §218 (AMD).]
- D. Aiding or abetting the practice of medicine by an individual who is not licensed under this chapter and who claims to be legally licensed; [1993, c. 600, Pt. A, §218 (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; [1993, c. 600, Pt. A, §218 (AMD).]
- F. Unprofessional conduct. A licensee is considered to have engaged in unprofessional conduct if the licensee violates a standard of professional behavior, including engaging in disruptive behavior, that has been established in the practice for which the licensee is licensed. For purposes of this paragraph, "disruptive behavior" means aberrant behavior that interferes with or is likely to interfere with the delivery of care; [2007, c. 380, §3 (AMD).]
- G. Subject to the limitations of Title 5, chapter 341, conviction of a crime that involves dishonesty or false statement or 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; [1993, c. 600, Pt. A, §218 (AMD).]
- H. A violation of this chapter or a rule adopted by the board; [1993, c. 600, Pt. A, §218 (AMD).]
- I. Engaging in false, misleading or deceptive advertising; [1983, c. 378, §53 (NEW).]
- J. Prescribing narcotic or hypnotic or other drugs listed as controlled substances by the Drug Enforcement Administration for other than accepted therapeutic purposes; [1989, c. 291, §4 (AMD).]
- K. Failure to report to the secretary of the board a physician licensed under this chapter for addiction to alcohol or drugs or for mental illness in accordance with Title 24, section 2505, except when the impaired physician is or has been a patient of the licensee; [1997, c. 680, Pt. C, §6 (AMD).]
- L. Failure to comply with the requirements of Title 24, section 2905-A; or [1997, c. 680, Pt. C, §7 (AMD).]
- M. 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. [1997, c. 680, Pt. C, §8 (NEW).]

[ 2007, c. 380, §3 (AMD) . ]

**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 any 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 not later than 60 days after 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 or a subcommittee of the board may request and conduct an informal conference with the licensee. The board shall provide the licensee with adequate notice of the conference and 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 or a subcommittee 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 or a subcommittee of 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. The complainant, the licensee or either of their representatives shall maintain the confidentiality of the conference.

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 physician's record on which action was taken and disciplinary actions of the board with respect to that physician.

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 determines appropriate.

A. With the consent of the licensee, the board may enter into a consent agreement that fixes the period and terms of probation best adapted to protect the public health and safety and 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. [1991, c. 824, Pt. A, §68 (RPR).]

B. In consideration for acceptance of a voluntary surrender of the license, the board may negotiate stipulations, including terms and conditions for reinstatement, that ensure protection of the public health and safety and 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. [1991, c. 824, Pt. A, §68 (RPR).]

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 Title 5, chapter 375, subchapter 4. [2009, c. 28, §1 (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. [1999, c. 547, Pt. B, §67 (AMD); 1999, c. 547, Pt. B, §80 (AFF).]

The board shall require a licensee to notify all patients of the licensee of a probation or stipulation under which the licensee is practicing as a result of board disciplinary action. This requirement does not apply to a physician participating in an alcohol or drug treatment program pursuant to Title 24, section 2505, a physician

who retires following charges made or complaints investigated by the board or a physician under the care of a professional and whose medical practices and services are not reduced, restricted or prohibited by the disciplinary action.

[ 2009, c. 28, §1 (AMD) .]

#### SECTION HISTORY

1983, c. 378, §53 (NEW). 1989, c. 291, §§4,5 (AMD). 1991, c. 186, (AMD). 1991, c. 534, §7 (AMD). 1991, c. 824, §A68 (AMD). 1993, c. 600, §A218 (AMD). 1997, c. 680, §§C4-8 (AMD). 1999, c. 547, §B67 (AMD). 1999, c. 547, §B80 (AFF). 2007, c. 380, §3 (AMD). 2009, c. 28, §1 (AMD).

### **32 §3283. DISCIPLINARY ACTION**

*(REPEALED)*

#### SECTION HISTORY

1971, c. 591, §1 (NEW). 1977, c. 388, §10 (AMD). 1977, c. 694, §611 (RPR). 1979, c. 619, §2 (RPR). 1983, c. 378, §54 (RP).

### **32 §3284. DISCIPLINARY ACTION; NOTICE, APPEAL**

*(REPEALED)*

#### SECTION HISTORY

1971, c. 591, §1 (NEW). 1977, c. 694, §612 (RP).

### **32 §3285. PUBLIC HEARINGS**

*(REPEALED)*

#### SECTION HISTORY

1971, c. 591, §1 (NEW). 1977, c. 694, §613 (RP).

### **32 §3286. EMERGENCY ACTION**

Upon its own motion or upon complaint, the board, in the interests of public health, safety and welfare, shall treat as an emergency a complaint or allegation that an individual licensed under this chapter is or may be unable to practice medicine with reasonable skill and safety to patients by reason of mental illness, alcohol intemperance, excessive use of drugs, narcotics or as a result of a mental or physical condition interfering with the competent practice of medicine. In enforcing this paragraph, the board may compel a physician to submit to a mental or physical examination by physicians designated by it. Failure of a physician to submit to this examination when directed constitutes an admission of the allegations against the physician, unless the failure was due to circumstances beyond the physician's control, upon which a final order of disciplinary action may be entered without the taking of testimony or presentation of evidence. A physician affected under this paragraph must, at reasonable intervals, be afforded an opportunity to demonstrate that the physician can resume the competent practice of medicine with reasonable skill and safety to patients. [1993, c. 600, Pt. A, §219 (AMD).]

For the purpose of this chapter, by practicing or by making and filing a biennial license to practice medicine in this State, every physician licensed under this chapter who accepts the privilege to practice medicine in this State is 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 physicians' testimony or examination reports on the grounds that the testimony or reports constitute a privileged communication. [1997, c. 271, §11 (AMD).]

Injunctions must issue immediately to enjoin the practice of medicine by an individual licensed to practice under this chapter when that individual's continued practice will or may cause irreparable damage to the public health or safety prior to the time proceedings under this chapter could be instituted and completed. In a petition for injunction pursuant to this section, there must be set forth with particularity the facts that make it appear that irreparable damage to the public health or safety will or may occur prior to the time proceedings under this chapter could be instituted and completed. The petition must be filed in the name of the board on behalf of the State. [1993, c. 600, Pt. A, §219 (AMD).]

SECTION HISTORY

1971, c. 591, §1 (NEW). 1981, c. 594, §2 (AMD). 1993, c. 600, §A219 (AMD). 1997, c. 271, §11 (AMD).

### **32 §3287. REINSTATEMENT ON BOARD'S OWN MOTION**

*(REPEALED)*

SECTION HISTORY

1971, c. 591, §1 (NEW). 1983, c. 378, §55 (RP).

### **32 §3288. REINSTATEMENT ON APPLICATION OF PERSON WHOSE LICENSE IS SUSPENDED OR REVOKED**

*(REPEALED)*

SECTION HISTORY

1971, c. 591, §1 (NEW). 1983, c. 378, §55 (RP).

### **32 §3289. RECORD OF REINSTATEMENT**

Upon the reinstatement of a license by the board, either upon its own motion or upon application, the secretary of the board shall immediately enter the order of reinstatement in the minutes and records of the board. [1993, c. 600, Pt. A, §220 (AMD).]

SECTION HISTORY

1971, c. 591, §1 (NEW). 1993, c. 600, §A220 (AMD).

## Subchapter 3: GENERAL PROVISIONS

### **32 §3290. RECORDS OF PROCEEDINGS AND ORDERS OF PROCEEDINGS**

*(REPEALED)*

SECTION HISTORY

1971, c. 591, §1 (NEW). 1983, c. 741, §9 (RP).

### **32 §3291. IMMUNITY OF LICENSEE RENDERING EMERGENCY CARE**

*(REPEALED)*

SECTION HISTORY

1971, c. 591, §1 (NEW). 1975, c. 452, §4 (RP).

### **32 §3292. TREATMENT OF MINORS**

An individual licensed under this chapter who renders medical care to a minor for treatment of venereal disease or abuse of drugs or alcohol 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 treatment. This section may not be construed to prohibit the licensed individual rendering the treatment from informing the parent or guardian. For purposes of this section, "abuse of drugs" means the use of drugs solely for their 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. [1999, c. 90, §4 (AMD).]

#### SECTION HISTORY

1971, c. 591, §1 (NEW). 1973, c. 145, §3 (RPR). 1979, c. 96, §3 (AMD). 1993, c. 600, §A221 (AMD). 1999, c. 90, §4 (AMD).

### **32 §3293. REVIEW COMMITTEE MEMBER IMMUNITY**

A physician licensed under this chapter who is a member of a utilization review committee, medical review committee, surgical review committee, peer review committee or disciplinary committee that is a requirement of accreditation by the Joint Commission on Accreditation of Hospitals or is established and operated under the auspices of the physician's respective state or county professional society or the Board of Licensure in Medicine is immune from civil liability for undertaking or failing to undertake an act within the scope of the function of the committee. [1993, c. 600, Pt. A, §222 (AMD).]

#### SECTION HISTORY

1971, c. 591, §1 (NEW). 1975, c. 83, §2 (RPR). 1987, c. 646, §10 (RPR). 1993, c. 600, §A222 (AMD).

### **32 §3294. JURISDICTION**

*(REPEALED)*

#### SECTION HISTORY

1971, c. 591, §1 (NEW). 1977, c. 694, §614 (RP).

### **32 §3295. COMMUNICATIONS BETWEEN PHYSICIANS AND PATIENTS**

*(REPEALED)*

#### SECTION HISTORY

1973, c. 625, §218 (NEW). 1977, c. 564, §123 (RP).

### **32 §3296. RECORDS OF PROCEEDINGS OF MEDICAL STAFF REVIEW COMMITTEES CONFIDENTIAL**

All proceedings and records of proceedings concerning medical staff reviews, hospital reviews and other reviews of medical care conducted by committees of physicians and other health care personnel on behalf of hospitals located within the State or on behalf of individual physicians, when the reviews are required by state or federal law, rule or as a condition of accreditation by the Joint Commission on Accreditation of Hospitals or the American Osteopathic Association Committee on Hospital Accreditation or are conducted under the auspices of the state or county professional society to which the physician belongs, are confidential and are exempt from discovery. [1993, c. 600, Pt. A, §223 (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. [1997, c. 271, §12 (NEW).]

#### SECTION HISTORY

1975, c. 137, §2 (NEW). 1987, c. 646, §11 (AMD). 1993, c. 600, §A223 (AMD). 1997, c. 271, §12 (AMD).

### **32 §3297. POSTING OF POLICY REGARDING ACCEPTANCE OF MEDICARE ASSIGNMENT**

An allopathic physician licensed pursuant to chapter 48, an osteopathic physician licensed pursuant to chapter 36, a chiropractor licensed pursuant to chapter 9 and a podiatrist licensed pursuant to chapter 51 who treats Medicare-eligible individuals shall post in a conspicuous place that professional's policy regarding the acceptance of Medicare assignment. [1993, c. 600, Pt. A, §224 (AMD).]

This posting must state the policy on accepting assignment and name the individual with whom the patient should communicate regarding the policy. [1993, c. 600, Pt. A, §224 (AMD).]

The Board of Licensure in Medicine, the Board of Osteopathic Licensure, the Board of Licensure of Podiatric Medicine and the Board of Chiropractic Licensure shall enforce the provisions of this section and inform each licensee of the licensee's obligation under this law. Each board may discipline a licensee under its jurisdiction for failing to comply with this section and impose a monetary penalty of not less than \$100 and not more than \$1,000 for each violation. [1993, c. 600, Pt. A, §224 (AMD).]

#### SECTION HISTORY

1983, c. 325, (NEW). 1987, c. 719, (AMD). 1993, c. 600, §A224 (AMD).

### **32 §3298. ESTABLISHMENT OF PROTOCOLS FOR OPERATION OF PROFESSIONAL REVIEW COMMITTEE**

The board may establish protocols for the operation of a professional review committee as defined in Title 24, section 2502, subsection 4-A. The protocols must include the committee reporting information the board considers appropriate regarding reports received, contacts or investigations made and the disposition of each report, provided that the committee is not required to disclose any personally identifiable information. The protocols may not prohibit an impaired physician or physician assistant from seeking alternative forms of treatment. [1993, c. 39, §2 (AMD).]

#### SECTION HISTORY

1985, c. 185, §5 (NEW). 1993, c. 39, §2 (AMD).

### **32 §3299. PROMULGATION OF COMPLAINT PROCEDURES**

*(REPEALED)*

#### SECTION HISTORY

1989, c. 462, §13 (NEW). 1993, c. 600, §A225 (RP).

### **32 §3299-A. CONSUMER INFORMATION**

*(REPEALED)*

#### SECTION HISTORY

1993, c. 600, §A226 (NEW). 1995, c. 370, §4 (RP).

### **32 §3300. 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. [1997, c. 117, §7 (AMD).]

The prescribing physician is not liable for an injury to or a condition of a patient that results from negligence in packaging, manufacturing or dispensing lenses by anyone other than the prescribing physician. [1993, c. 600, Pt. A, §227 (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, a corporation or any 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. [1997, c. 117, §8 (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. The board shall conduct its actions in accordance with the Maine Administrative Procedure Act. [1993, c. 600, Pt. A, §227 (AMD).]

#### SECTION HISTORY

1991, c. 675, §5 (NEW). 1993, c. 600, §A227 (AMD). 1997, c. 117, §§7,8 (AMD).

## **32 §3300-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. [2001, c. 214, §2 (NEW).]

#### SECTION HISTORY

2001, c. 214, §2 (NEW).

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