

TITLE 19 - HEALTH PROFESSION LICENSING

CHAPTER 6

HEALTH PROFESSION LICENSING

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An Act to provide for licensing of health professionals, to establish a Board and to repeal certain provisions of the Health Services Act, 1983, and the Nursing Practice Act, 1995.

Commencement: March 24, 2010
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PART I - PRELIMINARY

§601. Short title.

This Chapter may be cited as the Health Profession Licensing Act, 2010.

§602. In this Chapter , unless the context otherwise requires:

(a) "Approval school" means a learning institution approved by the Board of Health Professions or other board as meeting the minimum requirements established by the Board for the preparation of health professionals;

(b) "Board" means the Marshall Islands Board of Health Professions established under Section 3 of this Chapter ;

(c) "Ex Officio" means a public official who attends Board meetings to sit as advisory member by reason of their office pursuant to Section 5(3)(e);

(d) "Health Profession" means any profession practiced by a health professional;

- (e) "Health professional" means any health professional with titles listed in Section 22;
- (f) "Licensee" means a valid document permitting the practice of a health profession as specified under this Chapter ;
- (g) "Licensee" means person to whom the license is issued or renewed by Board, or the person at whose request the license is issued or renewed;
- (h) "Minister of Health" means the Minister of Health of the Republic of the Marshall Islands;
- (I) "Other board" means a health professional regulatory agency comparable to the Health Officers Association, or by other state, territory, commonwealth, or a foreign country;
- (j) "Secretary" means the Secretary of Health responsible for health services.

PART II - BOARD OF HEALTH PROFESSIONS

§603. Establishment of Board of Health Professions.

There shall establish within the Ministry of Health and Environment, the Marshall Islands Board of Health Professions hereinafter refer to as ("the Board").

§604. Functions and Duties of the Board.

- (1) The functions and duties of the Board are to:
- (a) examine, issue, and renew the licenses of health professionals;
 - (b) enforce qualifications for licensing of health professionals;
 - (c) regulate health professionals to practice with a license;
 - (d) develop and enforce reasonable standards for health professional;
 - (e) collect data regarding practices of health professions;
 - (f) implement a disciplinary process;
 - (g) issue limited, temporary or provisional licenses to health professional subject to restricted terms and conditions that the Board may impose;
 - (h) notify all license and certificate holders about changes in laws and regulation regarding health professions practice;
 - (I) submit annual reports and collect information upon request, to the Minister of Health and the Secretary of Health;
 - (j) maintain records of the Boards proceeding;
 - (k) provide consultation and conduct conferences, forums, studies and research on health professional practices and education;
 - (l) maintain records of the Boards proceeding;
 - (m) promote improvement of standards of the practice, for the protection of the public health, safety, and welfare of the various health professions;
 - (n) enforce certain health professionals to obtain malpractice insurance prior to obtaining a license;
 - (o) create by-laws and promulgate regulations, and
 - (p) any other duties and functions which are consistent with the provisions of this Chapter .
- (2)The Board shall advise the Secretary of Health on any of the matters encompassed under this Chapter and on any other matter that may be referred to the Board by the Minister of Health.
- (3) This Chapter shall not be construed to require the Board to report violations of the provisions of the Act to the Minister of Health when, in the Board's opinion and in the public interest, a written notice of warning is to be served on the individual who violates the provisions of this Chapter .

§605. Composition of Board.

- (1) The Board shall consist of 5 members, appointed by the Cabinet as recommended by the Minister of Health.
- (2) The Secretary will submit nominations to the Minister who will recommend the nominee to the Cabinet for appointment.
- (3) The five members shall be nominated as follows:

(a) one (1) physician licensed to practice in the Republic of the Marshall Islands from a list of three nominees.

(b) one (1) dentist licensed to practice in the Republic of the Marshall Islands from a list of three nominees.

(c) two (2) nurses licensed to practice in the Republic of the Marshall Islands from a list of three nominees.

(d) one (1) allied health practitioner licensed to practice in the Republic of the Marshall Islands from a list of three nominees.

(e) an ex-officio member may be appointed by the Minister upon recommendation by the Secretary of Health. The ex-officio member may sit only as an advisory capacity and may not vote on any matter.

§606. Terms of office and qualifications.

(1) Appointments shall be for a term of four years.

(2) Each member of the Board shall be a citizen or resident of the Republic.

(3) Each member of the Board must have a valid licence to practice as health profession in the Republic of the Marshall Islands.

§607. Appointment, vacancies, removal, suspensions.

Appointment, vacancies, removal and suspension of members shall be made as follows:

(1) This Secretary shall circulate a list of names of nominees to serve as members of the Board. A nominee who consents to serve as a member of the Board shall place his or her signature opposite his or her name on the list;

(2) Subject to Section 5(2) of this Chapter , the Secretary shall submit nominations to the Minister of Health, who will recommend the nominations for appointment by the Cabinet;

(3) Any vacancy in the membership on the Board shall be filled for the unexpired term in the same manner as provided for other Board members;

(4) If a successor has not been appointed when the term of a member expires, the term of the member shall be extended until a successor is appointed; provided that under no circumstances may an extension last longer than 60 days;

(5) The powers of the Board shall not be affected by reason of a vacancy or vacancies in the membership of the Board, except when there are insufficient Board members to constitute a quorum of majority of 3;

(6) If a Board member changes his or her area of professional practice so that the Board's composition no longer complies with the provisions of this Chapter , that Board member shall be deemed to have resigned from the Board as of the date of his or her change of practice;

(7) The Secretary may by motion or recommendations of the Board, supported by documentary evidence, submit to the Minister of Health and Cabinet, removal of any member of the Board on the grounds of neglect of duty, incompetence, unprofessional or disreputable conduct, or conviction of a felony or misdemeanor; and

(8) Where any criminal or disciplinary investigation or proceeding is commenced against a Board member, the Secretary may suspend the member from the Board until the conclusion of the investigation or proceeding.

§608. Meetings

The Board shall meet at least twice yearly and may hold other special meetings during a year as may be necessary to conduct its business.

§609. Compensation of members.

The members of the Board shall not be entitled to receive any salary, remuneration, or other compensation for their services except that they may be reimbursed for necessary expenses incurred in the performance of official duties. At the discretion of the Secretary of Health, travel and per diem may be authorized for those members who reside apart from the location of a Board meeting.

§610. Immunity.

(1) All members of the Board shall have immunity from individual civil liability for acts or omissions committed while acting within the course and scope of their duties as Board members.

(2) Any professional review committee authorized by the Board shall be immune from suit in any civil action taken by a licensee who is the subject of a professional review proceeding.

(3) Subject to the Evidence Act, the testimony of any witness appearing before the Board shall be privileged from discovery and may not be used in any subsequent civil or criminal proceeding. At the discretion of the Board, the identity and testimony of any witness shall remain the confidential information of the Board.

§611. Administrative support.

The Secretary shall provide such administrative support to the Board as may be necessary for the due and efficient conduct of its affairs.

§612. Advisory committee.

The board may appoint advisory committees to assist the board in the implementation of this Chapter . Members of advisory committees shall not be entitled to receive any salary, remuneration, or other compensation for their services except that they may be reimbursed for necessary expenses incurred in the performance of official duties. At the discretion of the Secretary of Health, travel and per diem may be authorized for those members who must travel from off-island to attend to Board business.

PART III - LICENSING OF HEALTH PROFESSIONALS

§613. License required; qualifications of applicants.

(1) No person shall practice a health profession in the Republic of the Marshall Islands unless that person holds a valid license issued by the Board or is permitted under this Chapter .

(2) Any person who holds a valid license to practice a health profession in the Republic of the Marshall Islands on the effective date of this Chapter shall be deemed to be license under the conditions and standards prescribed in the Chapter and the regulations.

§614. Standards for licensing Health Professionals.

(1) The Board shall establish criteria and standards for licensing of health professionals.

(2) The Board shall publish those standards in the regulations.

§615. Renewal of license.

(1) The Board shall issue licenses for a maximum duration of two (2) years.

(2) The Board shall establish a schedule of fees for renewal of licenses in the regulations.

(3) The Board shall establish criteria and standards for renewal of licence health and shall publish those criteria and standards in the regulations.

(4) The Board shall issue short-term licenses to medical teams providing health care services to the people of the Republic for a period of week or a month.

(5) Any medical team applying for a short time license shall submit credentials to the Secretary of Health and will be reviewed and approved by the Board.

§616. Inactive status.

(1) Upon written request to the Board, a health professional in good standing may cause his or her license to be placed on an inactive list, and such licensee may not practice during the time the license is inactive.

(2) No renewal fee shall be required during the period of inactivity. If an inactive licensee desires to resume practice, the licensee must meet the criteria for competency as established in the regulation.

§617. Reinstatement of lapsed licenses.

A licensee, whose license is lapsed or expired, may apply for reinstatement according to the Boards regulations.

§618. Authority.

(1) The Board shall have the power to refuse the issuance or renewal a license; to suspend, revoke, restrict, or place any condition upon any license; to place on probation, or to reprimand a license for any of the reasons set forth below.

(2) The Board may take such disciplinary action pursuant to its regulations when it is proven that a licensee or applicant has violated the terms of this Chapter or Regulations made under this Chapter.

§619. Establish fees.

(1) The Board is authorized to establish appropriate fees for licensing by examination, re-examination, endorsement, or reciprocity and such other fees and fines as the Board determines necessary as designate in a fee schedule in the regulations.

(2) The fees and fines collected under this Section and Section 28 of this Chapter shall be deposited into an account for use by the Board in conducting its activities.

§620. Duties of licensees

(1) A health professional who holds a valid license shall;

(a) Provide information upon request by the Board, enabling the Board to perform its duties in regulating and controlling health professions. Failure to provide the requested information may result in non-renewal, suspension, or revocation of the health professional's license to practice.

(b) Submit a physical or mental examination by a designated physician when directed in writing by the Secretary of Health; provided, that the Secretary of Health may only direct a mental or physical examination after the Secretary of Health receives a written recommendation from the Board.

(c) Subject to subsection (1)(b) of this Section, the Board may:

(i) if requested by the licensee, designate the license a physician for an independent medical examination. This request shall not constitute an admission of any allegation relating to such cause.

(ii) waive all objections by the licensee as to admissibility of the examining physician's testimony or examination reports at any Board proceeding on the grounds that they constitute a privileged communication.

(iii) not use medical testimony or examination reports against a health professional in any non-Board proceeding and shall be confidential. At reasonable intervals, the health professional shall be afforded an opportunity to demonstrate that he or she can resume the competent practice of his or her profession with reasonable skill and safety to patients.

(iv) base its determination on criteria set in the regulations and make recommendations to the Secretary of Health that a licensee required to submit to a mental or physical examination.

(d) Report to the Board any acts or omissions committed by the health professional as grounds for disciplinary action as are set forth in this Chapter.

(e) Report to the Board every adverse judgment in a professional or occupational malpractice action to which the licensee is a party, and every settlement of a claim against the licensee's alleging malpractice.

(f) Submit a complete application for license renewal with any documents and fees as may be required for re-licensure by the Board, before expiration of the professional's current license to practice. Failure of the Board to remind the professional in advance of the date of expiration shall not constitute adequate grounds for the professional to fail to renew his/her license on time.

PART IV - TITLES AND ABBREVIATIONS

§621. Titles and abbreviations.

Any person who holds a valid license to practice a health profession in Republic of the Marshall Islands shall have the right to use the following titles or abbreviations as part of provision of services.

(1) Physicians:

- (a) M.D. (Doctor of Medicine)
 - (b) M.O. (Medical Officer)
 - (c) D.O. (Doctor of Osteopathy)
 - (d) M.B.B.S. (Bachelor of Medicine and Bachelor of Surgery)
 - (e) D.C.H.M.S. (Diploma of Community Health, Medicine, & Surgery)
- (2) Dentistry:
- (a) D.M.D. (Doctor of Medicine in Dentistry)
 - (b) D.D.S. (Doctor of Dental Surgery)
 - (c) D.A. (Dental Assistant)
 - (d) D.N. (Dental Nurse)
 - (e) D.T. (Dental therapist)
 - (f) B.D.S. (Bachelor of Dental Surgery)
 - (g) B.D.Sc. (Bachelor of Dental Science)
- (3) Nurses:
- (a) R.N. (Register Nurse)
 - (b) L.P.N. (Licensed practical Nurse)
 - (c) A.N.P. (Advance Nurse Practitioner)
 - (d) C.N.A. (Certified Nurse Anesthetist)
 - (e) C.N.M. (Certified Nurse Midwife)
 - (f) N.A. (Nursing Assistant)
 - (g) N.P. (Nurse practitioner)
 - (h) O.R.T. (Operating Room Technicians)
- (4) Behavioral Health Professionals:
- (a) Ph.D. (Clinical Psychologist)
 - (b) M.A., M.S. (counselor)
 - (c) B.S.W., B.S., B.A., M.S.W., M.S., Ph.D., L.C.S.W. (Social worker)
 - (d) Certified Addictions Counselor
 - (e) Psychiatric Technician
- (5) Physician Assistant:
- (a) P.A. (Physician Assistant)
 - (b) Medex (Medex)
 - (c) A.M.O. (Assistant Medical Officer)
 - (d) Health Assistants
 - (e) Community Health Workers
- (6) Pharmacy Professionals:
- (a) R.P. (Pharmacist)
 - (b) Pharmacy Technologist
 - (c) Pharmacy Technician
- (7) Laboratory Professionals:
- (a) Laboratory Professionals
 - (b) Laboratory Technician
- (8) X-Ray Professionals:
- (a) X-Ray Technologist
 - (b) X-Ray Technician
- (9) Sanitarian
- (10) Therapists:
- (a) P.T. (Physiotherapist)
 - (b) O.T. (Occupational Therapist)
 - (c) M.T. (Music Therapist)
 - (d) Massage Therapist
- (11) Acupuncturists
- (a) C.A. (Certified Acupuncturist)
 - (b) Lic.At. (Licensed Acupuncturist)
- (12) R.D. (Registered Dietitian)
- (13) Veterinarians:
- (a) Veterinary Technicians
- (14) Other medical professions as set forth in regulations.

The various categories of specialists, titles, and abbreviations shall be designated by the Board in its regulations.

PART V - APPROVAL OF EDUCATIONAL PROGRAMS AND PHARMACIES**§622. Approval of health professional education programs.**

(1) The Board shall approve the establishment, conduct of, and standards for health professional education programs including all clinical facilities use for learning, and shall survey and approve programs that meet the requirements of this Chapter.

(2) An institution desiring to conduct a health professional education program in Republic of the Marshall Islands shall apply to the Board and submit evidence that its program meets the standards established by the Board.

(3) The Board shall approve the program, if the Board finds that the program meets the established standards for this type of educational program.

(4) The Board shall periodically survey and evaluate approved health professional education programs and shall publish a list of approved programs.

(5) The Board may deny or withdraw approval or take such action as deemed necessary when health professional education programs fail to meet the standards established by the Board.

(6) The Board shall reinstate approval of a health professional education program upon submission of satisfactory evidence that the program meets the standards established by the Board.

(7) Provisional approval of new programs may be granted pending the licensing results of the first graduating or participating class.

(8) Conditional approval may be granted to a health professional program which is working toward meeting the conditions for full approval. The graduates of conditionally approved programs may be eligible for licensing.

§623. Approval of Pharmacies.

(1) The Board shall, by regulation, approve the establishment, conduct of, and standards for pharmacies, and shall survey and approve pharmacies that meet the requirements of this Chapter and the Board.

(2) Any party desiring to conduct a pharmacy in Republic of the Marshall Islands shall apply to the Board and submit evidence that its pharmacy meets the standards established by the Board. If the Board finds that the pharmacy meets the established standards, it shall approve the program.

(3) The Board shall periodically re-survey and re-evaluate approved pharmacies and shall publish a list of approved pharmacies.

(4) The Board may deny or withdraw approval or take such action as deemed necessary when pharmacies fail to meet the standards established by the Board.

(5) The Board shall reinstate approval of a pharmacy upon submission of satisfactory evidence that the pharmacy meets the standards established by the Board.

PART VI - VIOLATIONS**§624. Violations.**

A person shall not:

(a) Engage in the practice of a health profession as defined in this Chapter without a valid license, except as otherwise permitted under this Chapter and the Regulations promulgated under this Chapter.

(b) Practice a health profession under cover of any diploma, license, or record illegally or fraudulently obtained, signed, or issued.

(c) Use any words, abbreviations, figures, letters, title, sign, card, or device sending to imply that he or she is a licensed health practitioner unless the person is licensed to practice under this Chapter and the Regulations promulgated under this Chapter.

(d) Fraudulently obtain a license or furnish a license to another.

(e) Knowingly employ unlicensed persons in the practice of a health profession.

(f) Conduct a pharmacy without the approval of the Board.

(g) Fail to report known violations of this Chapter.

(h) Conduct a health professional education program without the approval of the Board.

(i) Violate or assist another person to violate any provision of this Chapter.

§625. Exceptions.

No provision in this Chapter shall be construed to prohibit:

- (1) Gratuitous care of the sick, injured, or infirm by friends or relatives.
- (2) Incidental care of the sick, injured, or infirm by persons acting as parents or by persons primarily employed as house-keeper.
- (3) Domestic administration of Marshallese family or Marshallese traditional remedies or healing acts.
- (4) Necessary health care services performed in case of an emergency, epidemic, or public disaster.
- (5) The practice of a health profession which forms an integral part of a student's training program approved by the Board, or which forms an integral part of a program leading to qualification as a physician, dentist, surgeon or practitioner of any other health profession and not expressly provided in this Chapter.
- (6) The establishment of an independent practice by one or more health professionals for the purpose of rendering to patients health care services within the scope of their educational preparation and the scope of their license(s) to practice.
- (7) The practice of any health professional on board a vessel or aircraft traveling to or from any part of Republic of the Marshall Islands to any port outside Republic of the Marshall Islands.
- (8) Care of any employee, servant, or agent of a foreign government organization or any individual present in Republic of the Marshall Islands in connection with any educational or assistance program approved by the government of Republic of the Marshall Islands.

PART VII - MISCELLANEOUS

§626. Good Samaritans

- (1) No licensee, employer of a licensee, or other person, who in good faith renders emergency care the scene of an emergency, shall be liable to any civil damages as a result of any negligent or reckless acts or omissions by the licensee or other person in rendering the emergency care.
- (2) For the purpose of this Section "Good Samaritans" means emergency medical care rendered at scene of emergency.
- (3) For purposes of this section, "the scene of an emergency" means
 - (i) any place other than within a hospital or medical clinic; or
 - (ii) the emergency room or similar urgent care facility of any hospital; or
 - (iii) medical clinic when immediate emergency care is needed by three or more patients for each doctor that is present.

§627. Offenses and Penalties.

- (1) Criminal Offenses: A person who violates any provisions of this Chapter shall be guilty of a criminal offense and shall, upon conviction, be sentenced to not more than six months in prison, and fined not more than \$1,000 per violation.
- (2) Civil Penalties: Any institution or company or corporation or organization which violates any provision of this Chapter shall be punishable by civil penalties not exceeding \$1,000 per initial violation or \$10,000 for each subsequent violation.

§628. Repealer.

The provisions applicable to health professions in the Nursing Practice Act, 1995 and the Health Services Act, 1983 are hereby repealed.

§629. Transition.

Section 18, 19a, 20, 21, 22, 24, and 25 of this Chapter shall not be enforced until 100 days after the effective date of the Chapter.

§630. Bylaws and Regulations.

The Board shall promulgate regulations pursuant to the requirements of the Administrative Procedures Act.

