

GOVERNMENT OF THE DISTRICT OF COLUMBIA

**HEALTH OCCUPATIONS
REVISION ACT OF 1985
AMENDMENT ACT OF 1994**

District of Columbia Official Code
Title 3, Chapter 12
Sections 3-1201.01-3-1213.13,
3-1251.01-3.1251.16

Updated through March 2007



DEPARTMENT OF HEALTH
HEALTH PROFESSIONAL
LICENSING ADMINISTRATION

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Unit A. General.

Subchapter I. Definitions; Scope.

§ 3-1201.01. General definitions [Formerly § 2-3301.1]

For the purposes of this chapter, the term:

(1) "Board" means the Board of Chiropractic, the Board of Dentistry, the Board of Dietetics and Nutrition, the Board of Marriage and Family Therapy, the Board of Medicine, the Board of Nursing, the Board of Nursing Home Administration, the Board of Occupational Therapy, the Board of Optometry, the Board of Pharmacy, the Board of Physical Therapy, the Board of Podiatry, the Board of Professional Counseling, the Board of Psychology, the Board of Respiratory Care, or the Board of Social Work, established by this chapter, as the context requires.

(2) "Collaboration" means the process in which health professionals jointly contribute to the health care of patients with each collaborator performing actions he or she is licensed or otherwise authorized to perform pursuant to this chapter.

(A)-(C) Repealed.

(3) "Attorney General" means the Attorney General of the District of Columbia.

(4) "Council" means the Council of the District of Columbia.

(5) "Day" means calendar day unless otherwise specified in this chapter.

(6) "District" means the District of Columbia.

(7) "Health occupation" means a practice that is regulated under the authority of this chapter.

(8) "Health professional" means a person licensed under this chapter or permitted by this chapter to practice a health occupation in the District.

(9) "Impaired health professional" means a health professional who is unable to perform his or her professional responsibilities reliably due to a mental or physical disorder, excessive use of alcohol, or habitual use of any narcotic or controlled substance or any other drug in excess of therapeutic amounts or without valid medical indication.

(10) "Mayor" means the Mayor of the District of Columbia.

(11) "Person" means an individual, corporation, trustee, receiver, guardian, representative, firm, partnership, society, school, or other entity.

(12) [Repealed].

(13) "State" means any of the several states, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

(14) "Superior Court" means the Superior Court of the District of Columbia.

HISTORY: 1981 Ed., § 2-3301.1; Mar. 25, 1986, D.C. Law 6-99, § 101, 33 DCR 729; July 22, 1992, D.C. Law 9-126, § 2(a), 39 DCR 3824; Mar. 14, 1995, D.C. Law 10-203, § 2(a), 41 DCR 7707; Mar. 21, 1995, D.C. Law 10-231, § 2(a), 42 DCR 15; Mar. 23, 1995, D.C. Law 10-247, § 2(a), 42 DCR 457; Mar. 10, 2004, D.C. Law 15-88, § 2(b), 50 DCR 10999.

NOTES:

SECTION REFERENCES. --This section is referenced in § 21-501.01 and § 22-1314.01.

EFFECT OF AMENDMENTS. --D.C. Law 15-88 inserted "the Board of Marriage and Family Therapy" in (1).

LEGISLATIVE HISTORY OF LAW 6-99. --Law 6-99, the "District of Columbia Health Occupations Revision Act of 1985," was introduced in Council and assigned Bill No. 6-317. The Bill was adopted on first and second readings on December 17, 1985, and January 14, 1986, respectively. Signed by the Mayor on January 28, 1986, it was assigned Act No. 6-127 and transmitted to both Houses of Congress for its review.

LEGISLATIVE HISTORY OF LAW 9-126. --See note to § 3-1202.13.

LEGISLATIVE HISTORY OF LAW 10-203. --Law 10-203, the "Respiratory Care Practice Amendment Act of 1994," was introduced in Council and assigned Bill No. 10-85. The Bill was adopted on first and second readings on October 4, 1994, and November 1, 1994, respectively. Signed by the Mayor on November 22, 1994, it was assigned Act No. 10-341 and transmitted to both Houses of Congress for its review. D.C. Law 10-203 became effective on March 14, 1995.

LEGISLATIVE HISTORY OF LAW 10-231. --Law 10-231, the "Chiropractic Licensing Amendment Act of 1994," was introduced in Council and assigned Bill No. 10-142. The Bill was adopted on first and second readings on November 1, 1994, and December 6, 1994, respectively. Signed by the Mayor on December 27, 1994, it was assigned Act No. 10-373 and transmitted to both Houses of Congress for its review. D.C. Law 10-231 became effective on March 21, 1995.

LEGISLATIVE HISTORY OF LAW 10-247. --Law 10-247, the "Health Occupations Revision Act of 1985 Amendment Act of 1994," was introduced in Council and assigned Bill No. 10-598. The Bill was adopted on first and second readings on November 1, 1994, and December 6, 1994, respectively. The Council overrode the Mayor's veto on January 17, 1995. Bill No. 10-598 was re-enacted and assigned Act No. 10-394 and transmitted to both Houses of Congress for its review. D.C. Law 10-247 became effective on March 23, 1995.

LEGISLATIVE HISTORY OF LAW 15-88. --Law 15-88, the "Marriage and Family Therapy Amendment Act of 2003," was introduced in Council and assigned Bill No. 15-179. The Bill was

adopted on first and second readings on Oct. 7, 2003, and Nov. 4, 2003, respectively. Signed by the Mayor on Nov. 25, 2003, it was assigned Act No. 15-256 and transmitted to Congress for its review. D.C. Law 15-88 became effective on Mar. 10, 2004.

EDITOR'S NOTES. --In view of the designation of §§ 3-1251.01 -- 3-1251.16 as enacted by D.C. Law 13-297 as a new Unit B of this chapter, the original provisions of Chapter 12 were designated as Unit A.

Section 4(c) of Pub. L. 107-114 provided: "(1) In general. -- Not later than 6 months after January 8, 2002, the Mayor of the District of Columbia shall submit to the President and Congress a plan for integrating the computer systems of the District government with the computer systems of the Superior Court of the District of Columbia so that the Family Court of the Superior Court and the appropriate offices of the District government which provide social services and other related services to individuals and families served by the Family Court of the Superior Court (including the District of Columbia Public Schools, the District of Columbia Housing Authority, the Child and Family Services Agency, the Office of the Corporation Counsel, the Metropolitan Police Department, the Department of Health, and other offices determined by the Mayor) will be able to access and share information on the individuals and families served by the Family Court.

"(2) Authorization of appropriations.-- There are authorized to be appropriated to the Mayor of the District of Columbia such sums as may be necessary to carry out paragraph (1)."

ANALYSIS

Construction

Licensure

Notice sufficient

CONSTRUCTION.

Petitioner completed a doctoral degree in guidance and counseling but was denied a license to practice psychology by the District of Columbia Board of Psychology due to a statutory change in the D.C. Health Occupation Revision Act of 1985, D.C. Code § 3-1201.01 et seq., that required applicants to have a doctoral degree in psychology and no longer recognized degrees in fields related to psychology; the Court of Appeals affirmed the license denial because the Board's interpretation of the Revision Act was consistent with the language of the statute and its legislative history and not otherwise arbitrary or capricious. *Donahue v. District of Columbia Bd. of Psychology*, App. D.C., 562 A.2d 116 (1989).

LICENSURE.

Court of Appeals remanded the denial of a license to practice medicine in the District of Columbia to a psychiatrist licensed in Michigan who had sought licensure without taking a new test under the statutory provisions for endorsement and reciprocity in the District of Columbia Health Occupations Revision Act of 1985, D.C. Code §§ 3-1201.01 to 3-1213.01; appellant had scored 73.3% on the federation licensing examination in Michigan which was below the federation-certified score of

75% required on the same exam to receive a passing score in the District, but had sixteen years of experience and demonstrated that the medical board had not explained its practices in requiring strict equivalency of those doctors who had taken the standardized test but did license other doctors who had taken a different state exam. *Roberts v. District of Columbia Bd. of Med., App. D.C., 577 A.2d 319 (1990)*.

NOTICE SUFFICIENT.

District of Columbia Board of Medicine acted with proper jurisdiction in the revocation of a doctor's license despite an erroneous citation to a repealed statute in a revocation notice, where the same conduct was cause for discipline under both the repealed and the current statute, the same disciplinary sanctions were prescribed by both for the conduct, and no prejudice was shown. *Salama v. District of Columbia Bd. of Med., App. D.C., 578 A.2d 693 (1990)*.

CITED in *Greenlee v. Board of Med., 813 F. Supp. 48 (D.D.C. 1993)*.

§ 3-1201.02. Definitions of health occupations.

For the purposes of this chapter, the term:

(1) "Practice of acupuncture" means the insertion of needles, with or without accompanying electrical or thermal stimulation, at a certain point or points on or near the surface of the human body to relieve pain, normalize physiological functions, and treat ailments or conditions of the body. A licensed acupuncturist does not need to enter into a collaboration agreement with a licensed physician or osteopath to practice acupuncture.

(2) "Practice of advanced registered nursing" means the performance of advanced-level nursing actions by an advanced practice registered nurse certified pursuant to this chapter which, by virtue of post-basic specialized education, training, and experience, are proper to be performed. The advanced practice registered nurse may perform actions of nursing diagnosis and nursing treatment of alterations of the health status. The advanced practice registered nurse may also perform actions of medical diagnosis and treatment, prescription, and other functions which are identified in subchapter VI of this chapter and carried out in accordance with the procedures required by this chapter.

(2A)(A) "Practice by anesthesiologist assistants" means assisting an anesthesiologist in developing and implementing anesthesia care plans for patients under the supervision and direction of the anesthesiologist.

(B) For the purposes of this paragraph, the term "anesthesiologist" means a physician who has completed a residency in anesthesiology approved by the American Board of Anesthesiology or the American Osteopathic Board of Anesthesiology and who is currently licensed to practice medicine in the District of Columbia.

(3)(A) "Practice of Chiropractic" means the detecting and correcting of subluxations that cause vertebral, neuromuscular, or skeletal disorder, by adjustment of the spine or manipulation of

bodily articulations for the restoration and maintenance of health; the use of x-rays, physical examination, and examination by noninvasive instrumentation for the detection of subluxations; and the referral of a patient for diagnostic x-rays, tests, and clinical laboratory procedures in order to determine a regimen of chiropractic care or to form a basis or referral of patients to other licensed health care professionals. "Practice of Chiropractic" does not include the use of drugs, surgery, or injections, but may include, upon certification by the Board, counseling about hygienic and other noninvasive ancillary procedures authorized by rules issued pursuant to this chapter.

(B) Nothing in this paragraph shall be construed as preventing or restricting the services or activities of any individual engaged in the lawful practice of cosmetology or massage, provided that the individual does not represent by title or description of services that he or she is a chiropractor.

(4)(A) "Practice of dental hygiene" means the performance of any of the following activities in accordance with the provisions of subparagraph (B) of this paragraph:

(i) A preliminary dental examination; a complete prophylaxis, including the removal of any deposit, accretion, or stain from the surface of a tooth or a restoration; or the polishing of a tooth or a restoration;

(ii) The charting of cavities during preliminary examination, prophylaxis, or polishing;

(iii) The application of a medicinal agent to a tooth for a prophylactic purpose;

(iv) The taking of a dental X-ray;

(v) The instruction of individuals or groups of individuals in oral health care; and

(vi) Any other functions included in the curricula of approved educational programs in dental hygiene.

(B) A dental hygienist may perform the activities listed in subparagraph (A) of this paragraph only under the general supervision of a licensed dentist, in his or her office or any public school or institution rendering dental services. The Mayor may issue rules identifying specific functions authorized by subparagraph (A)(vi) of this paragraph and may require higher levels of supervision for the performance of these functions by a dental hygienist. The license of a dentist who permits a dental hygienist, operating under his or her supervision, to perform any operation other than that permitted under this paragraph, may be suspended or revoked, and the license of a dental hygienist violating this paragraph may also be suspended or revoked, in accordance with the provisions of this chapter.

(C) For the purpose of subparagraph (B) of this paragraph, the term "general supervision" means the performance by a dental hygienist of procedures permitted by subparagraph (A) of this paragraph based on instructions given by a licensed dentist, but not requiring the physical presence of the dentist during the performance of these procedures.

(5) "Practice of dentistry" means:

(A) The diagnosis, treatment, operation, or prescription for any disease, disorder, pain, deformity, injury, deficiency, defect, or other physical condition of the human teeth, gums, alveolar process, jaws, maxilla, mandible, or adjacent tissues or structures of the oral cavity, including the removal of stains, accretions, or deposits from the human teeth;

(B) The extraction of a human tooth or teeth;

(C) The performance of any phase of any operation relative or incident to the replacement or restoration of all or a part of a human tooth or teeth with an artificial substance, material, or device;

(D) The correction of the malposition or malformation of the human teeth;

(E) The administration of an appropriate anesthetic agent, by a dentist properly trained in the administration of the anesthetic agent, in the treatment of dental or oral diseases or physical conditions, or in preparation for or incident to any operation within the oral cavity;

(F) The taking or making of an impression of the human teeth, gums, or jaws;

(G) The making, building, construction, furnishing, processing, reproduction, repair, adjustment, supply or placement in the human mouth of any prosthetic denture, bridge, appliance, corrective device, or other structure designed or constructed as a substitute for a natural human tooth or teeth or as an aid in the treatment of the malposition or malformation of a tooth or teeth;

(H) The use of an X-ray machine or device for dental treatment or diagnostic purposes, or the giving of interpretations or readings of dental X-rays; or

(I) The performance of any of the clinical practices included in the curricula of accredited dental schools or colleges or qualifying residency or graduate programs.

(6)(A) "Practice of dietetics and nutrition" means the application of scientific principles and food management techniques to assess the dietary or nutritional needs of individuals and groups, make recommendations for short-term and long-term dietary or nutritional practices which foster good health, provide diet or nutrition counseling, and develop and manage nutritionally sound dietary plans and nutrition care systems consistent with the available resources of the patient or client.

(B) Nothing in this paragraph shall be construed as preventing or restricting the practices, services, or activities of dietetic technicians and dietetic assistants working under the supervision of a licensed dietitian or nutritionist, other health professionals licensed pursuant to this chapter, or other persons who in the course of their responsibilities offer dietary or nutrition information or deal with nutritional policies or practices on an occasional basis incidental to their primary duties, provided that they do not represent by title or description of services that

they are dietitians or nutritionists

(6A)(A) "Practice of massage therapy" means the performance of therapeutic maneuvers in which the practitioner applies massage techniques, including use of the hand or limb to apply touch and pressure to the human body through tapping, stroking, kneading, compression, friction, stretching, vibrating, holding, positioning, or causing movement of an individual's body to positively affect the health and well-being of the individual.

(B) A licensed massage therapist shall not diagnose disease or injury; prescribe medicines, drugs, or other treatments of disease; or perform adjustments of the articulations of the osseous structure of the body or spine.

(C) A licensed massage therapist may perform cross-gender massage.

(D) Massage therapy includes the use of adjunctive therapies, which are defined as including the application of heat, cold, water, and mild abrasives. For the purposes of this paragraph, the term "adjunctive therapies" does not include galvanic stimulation, ultra sound, doppler vascularizers, diathermy, transcutaneous electrical nerve stimulation, or traction.

(7) "Practice of medicine" means the application of scientific principles to prevent, diagnose, and treat physical and mental diseases, disorders, and conditions and to safeguard the life and health of any woman and infant through pregnancy and parturition.

(7A)(A) "Practice of naturopathic medicine" means a system of health care that utilizes education, natural medicines, and natural therapies to support and stimulate a patient's intrinsic self-healing processes to prevent, diagnose, and treat human conditions and injuries.

(B) The term "practice of naturopathic medicine" does not include the practices of physical therapy, physical rehabilitation, acupuncture, or chiropractic.

(8)(A) "Practice of nursing home administration" means the administration, management, direction, or the general administrative responsibility for an institution or part of an institution that is licensed as a nursing home.

(B) Within the meaning of this paragraph, the term "nursing home" means a 24- hour inpatient facility, or distinct part thereof, primarily engaged in providing professional nursing services, health-related services, and other supportive services needed by the patient or resident.

(9)(A) "Practice of occupational therapy" means the evaluation and treatment of individuals whose ability to manage normal daily functions is threatened or impaired by developmental deficits, the aging process, poverty and cultural differences, physical injury or illness, or psychological and social disability, utilizing task-oriented activities to prevent or correct physical or emotional disabilities and enhance developmental and functional skills. Specific therapeutic and diagnostic techniques used in occupational therapy include:

(i) Self-care and other activities of daily living;

- (ii) Developmental, perceptual-motor, and sensory integrative activities;
- (iii) Training in basic work habits;
- (iv) Prevocational evaluation and treatment;
- (v) Fabrication and application of splints;
- (vi) Selection and use of adaptive equipment, and exercise and other modalities to enhance functional performance; and
- (vii) Performing and interpreting manual muscle and range of motion tests.

(B) An individual licensed as an occupational therapy assistant pursuant to this chapter may assist in the practice of occupational therapy under the supervision of or in consultation with a licensed occupational therapist.

(C) Nothing in this paragraph shall be construed as preventing or restricting the practices, services, or activities of an occupational therapy aide who works only under the direct supervision of an occupational therapist, and whose activities do not require advanced training in the basic anatomical, biological, psychological, and social sciences involved in the practice of occupational therapy.

(10)(A) "Practice of optometry" means the application of the scientific principles of optometry in the examination of the human eye, its adnexa, appendages, or visual system, with or without the use of diagnostic pharmaceutical agents to prevent, diagnose, or treat defects or abnormal conditions; the prescription or use of lenses, prisms, orthoptics, vision training or therapy, low vision rehabilitation, therapeutic pharmaceutical agents, or prosthetic devices; or the application of any method, other than invasive surgery, necessary to prevent, diagnose, or treat any defects or abnormal conditions of the human eye, its adnexa, appendages, or visual system.

(B) The Mayor shall issue rules identifying which, and under what circumstances, diagnostic and therapeutic pharmaceutical agents may be used by optometrists pursuant to this paragraph.

(C) An individual licensed to practice optometry pursuant to this chapter may use diagnostic and therapeutic agents only if certified to do so by the Board of Optometry in accordance with the provisions of § 3-1202.07.

(D) Nothing in this paragraph shall be construed to authorize an individual licensed to practice optometry to use surgical lasers; to perform any surgery including cataract surgery or cryosurgery; or to perform radial keratotomy. For the purpose of this subparagraph, the term "surgery" shall not include punctal plugs, superficial foreign body removal, epilation, or dialation and irrigation.

(E) Nothing in this paragraph shall be construed to authorize an individual licensed to practice

optometry to administer or prescribe any oral systemic drug except for antibiotics, appropriate analgesics, antihistamines, non-steroidal anti-inflammatories, or medication for the emergency treatment of angle closure glaucoma; to administer or prescribe any injectable systemic drug except for an injection to counter an anaphylactic reaction; or to administer or prescribe any drug for any purpose other than that authorized by this paragraph. For the purposes of this subparagraph, the term "antibiotics" shall not include antiviral or antifungal agents.

(F) Prior to initiating treatment for glaucoma, an optometrist shall consult with the patient's physician or other appropriate physician. The treatment of angle closure glaucoma by an optometrist shall be limited to the initiation of immediate emergency treatment.

(G) Nothing in this paragraph shall be construed as preventing or restricting the practice, services, or activities of a licensed physician or as prohibiting an optician from providing eyeglasses or lenses on the prescription of a licensed physician or optometrist or a dealer from selling eyeglasses or lenses; provided, that the optician or dealer does not represent by title or description of services that he or she is an optometrist.

(11)(A) "Practice of pharmacy" means the interpretation and evaluation of prescription orders; the compounding, dispensing, and labeling of drugs and devices, and the maintenance of proper records therefor; the responsibility of advising, where regulated or otherwise necessary, of therapeutic values and content, hazards, and use of drugs and devices; and the offering or performance of those acts, services, operations, and transactions necessary in the conduct, operation, management, and control of a pharmacy.

(B) Within the meaning of this paragraph, the term:

(i) "Pharmacy" means any establishment or institution, or any part thereof, where the practice of pharmacy is conducted; drugs are compounded or dispensed, offered for sale, given away, or displayed for sale at retail; or prescriptions are compounded or dispensed.

(ii) "Prescription" means any order for a drug, medicinal chemical, or combination or mixtures thereof, or for a medically prescribed medical device, in writing, dated and signed by an authorized health professional, or given orally to a pharmacist by an authorized health professional or the person's authorized agent and immediately reduced to writing by the pharmacist or pharmacy intern, specifying the address of the person for whom the drug or device is ordered and directions for use to be placed on the label.

(12) "Practice of physical therapy" means the independent evaluation of human disability, injury, or disease by means of noninvasive tests of neuromuscular functions and other standard procedures of physical therapy, and the treatment of human disability, injury, or disease by therapeutic procedures, rendered on the prescription of or referral by a licensed physician, osteopath, dentist, or podiatrist, or by a licensed registered nurse certified to practice as an advanced registered nurse as authorized pursuant to subchapter VI of this chapter, embracing the specific scientific application of physical measures to secure the functional rehabilitation of the human body. These measures include the use of therapeutic exercise, therapeutic massage, heat or cold, air, light, water, electricity, or sound for the purpose of correcting or alleviating any

physical or mental disability, or preventing the development of any physical or mental disability, or the performance of noninvasive tests of neuromuscular functions as an aid to the detection or treatment of any human condition.

(13) "Practice by physician assistants" means the performance, in collaboration with a licensed physician or osteopath, of acts of medical diagnosis and treatment, prescription, preventive health care, and other functions which are authorized by the Board of Medicine pursuant to § 3-1202.03.

(14) "Practice of podiatry" means the diagnosis, treatment, or prevention of any ailment of the human foot by medical, surgical, or mechanical means, but does not include:

(A) The amputation of the foot;

(B) The administration of an anesthetic agent other than a local one; or

(C) The general medical treatment of any systemic disease causing manifestations in the foot.

(15) "Practice of practical nursing" means the performance of actions of preventive health care, health maintenance, and the care of persons who are ill, injured, or experiencing alterations in health processes, requiring a knowledge of and skill in nursing procedures gained through successful completion of an approved educational program in practical nursing.

(15A)(A) "Practice of professional counseling" means engaging in counseling activities, for compensation, by a person who represents by title or description of services that he or she is a "professional counselor" or "licensed professional counselor".

(B) For the purposes of this paragraph, the term "professional counselor" or "licensed professional counselor" means a person trained in counseling and guidance services, with an emphasis on individual and group guidance and counseling designed to assist individuals in achieving effective personal, social, educational, and career development objectives and adjustment.

(C) Nothing in subparagraph (B) of this paragraph shall be construed as preventing or restricting the practices, services, or activities of:

(i) A professional counselor employed by and working in accordance with the rules of the District of Columbia Board of Education ("Board of Education");

(ii) Any person employed as a professional counselor by an academic institution or research laboratory if the service offered by the person is within the scope of his or her employment, is related to the person's education, research, and training, and is provided to the employing organization or is offered to another academic institution or research laboratory; or

(iii) A professional counselor employed by, or in a position funded by, the District or a private nonprofit organization sponsored or funded by a community-based organization.

(D) Any person who is employed in accordance with subparagraph (C) of this paragraph and who is also engaged in private practice shall be required to obtain a license.

(16)(A) "Practice of psychology" means the application of established scientific methods and principles, including the principles of psychophysiology, learning, perception, motivation, emotions, organizational and social behaviors for the purpose of understanding, assessing, treating, explaining, predicting, preventing, or influencing behavior; the application of psychological methods and procedures for interviewing, counseling, psychotherapy, including behavior therapy, behavior modification, behavior medicine, or hypnotherapy; or the application of psychological methods or procedures for constructing, administering, or interpreting tests of intelligence, mental abilities and disorders, neuropsychological functioning, aptitudes, interests, attitudes, personality characteristics, emotions, or motivations.

(B) Nothing in this paragraph shall be construed as preventing or restricting the practice, services, or activities of:

(i) An individual bearing the title of psychologist in the employ of any academic institution or research laboratory, if the services are offered within the scope of employment and are provided only within the confines of the organization or are offered to like organizations, and if the services do not include psychotherapy; or

(ii) A school psychologist employed by and working in accordance with the regulations of the District of Columbia Board of Education.

(17) "Practice of registered nursing" means the performance of acts requiring substantial specialized knowledge, judgment, and skill based upon the principles of the biological, physical, behavioral, and social sciences in:

(A) The observation, assessment, and recording of physiological and behavioral signs and symptoms of health, disease, and injury, including the performance of examinations and testing and their evaluation for the purpose of differentiating normal from abnormal;

(B) The provision of direct and indirect registered nursing services of a therapeutic, preventive, and restorative nature in response to an assessment of the patient's requirements;

(C) The performance of services, counseling, and education for the safety, comfort, personal hygiene, and protection of patients, the prevention of disease and injury, and the promotion of health in individuals, families, and communities;

(D) The administration of nursing services within a health care facility, including the delegation and supervision of direct nursing functions and the evaluation of the performance of these functions;

(E) The education and training of persons in the direct nursing care of patients; or

(F) The pursuit of nursing research to improve methods of practice.

(17A) "Practice of respiratory care" means the performance in collaboration with a licensed physician, of actions responsible for the treatment, management, diagnostic testing, control, and care of patients with deficiencies and abnormalities associated with the cardiopulmonary system, including, but not limited to:

(A) Therapeutic and diagnostic use of medical gases, humidity, and aerosols, including the maintenance of associated apparatus;

(B) Administration of medications to the cardiorespiratory system; provision of ventilatory assistance, ventilatory control, including high frequency ventilation; postural drainage, chest physiotherapy, breathing exercises, and other respiratory rehabilitation procedures;

(C) Cardiopulmonary resuscitation and maintenance of natural airways, the insertion and maintenance of artificial airways and the transcription and implementation of a physician's written or verbal orders pertaining to the practice of respiratory care;

(D) Testing techniques utilized in respiratory care to assist in diagnosis, monitoring, treatment, and research; and

(E) Measurement of ventilatory volumes, pressures and flows, specimen collection of blood and other materials, pulmonary function testing pH and blood gas analysis, hemodynamic and other related physiological monitoring of the cardiopulmonary system.

(18)(A) "Practice of social work" means rendering or offering to render professional services to individuals, families, or groups of individuals that involve the diagnosis and treatment of psychosocial problems according to social work theory and methods. Depending upon the level at which an individual social worker is licensed under this chapter, the professional services may include, but shall not be limited to, the formulation of psychosocial evaluation and assessment, counseling, psychotherapy, referral, advocacy, mediation, consultation, research, administration, education, and community organization.

(B) Nothing in this paragraph shall be construed to authorize any person licensed as a social worker under this chapter to engage in the practice of medicine.

(19)(A) "Practice of marriage and family therapy" means the diagnosis and treatment of mental and emotional disorders, whether cognitive, affective, or behavioral, within the context of marriage and family systems. The practice of marriage and family therapy involves the professional application of psychotherapeutic and family systems theories and techniques in the delivery of services to individuals, couples, and families, singly or in groups, whether the services are offered directly to the general public or through organizations, either public or private, for a fee, monetary or otherwise, for the purpose of treating the diagnosed nervous and mental disorders.

(B) Nothing in subparagraph (A) of this paragraph shall be construed as preventing or restricting the practices, services, or activities of:

(i) A person practicing marriage and family therapy within the scope of the person's employment or duties at:

(I) A recognized academic institution, or a federal, state, county, or local governmental institution or agency; or

(II) A nonprofit organization that is determined by the Board to meet community needs;

(ii) A person who is a marriage and family therapy intern or person preparing for the practice of marriage and family therapy under qualified supervision in a training institution or facility or under another supervisory arrangement recognized and approved by the Board; provided, that the person is designated by a title clearly indicating the training status, such as "marriage and family therapy intern," "marriage therapy intern," or "family therapy intern,"; or

(iii) A person who has been issued a temporary permit by the Board to engage in the activities for which licensure is required.

(C) Nothing in this chapter shall be construed as preventing or restricting members of the clergy, or other health professionals licensed under this chapter, including clinical social workers, psychiatric nurses, psychiatrists, psychologists, physicians, or professional counselors, from practicing marriage and family therapy consistent with the accepted standards of their professions; provided, that no such persons shall represent by title or description of services that they are marriage and family therapists.

CREDIT(S)

(Mar. 25, 1986, D.C. Law 6-99, § 102, 33 DCR 729; July 22, 1992, D.C. Law 9-126, § 2(b), 39 DCR 3824; Mar. 14, 1995, D.C. Law 10-203, § 2(b), 41 DCR 7707; Mar. 14, 1995, D.C. Law 10-205, § 2(a), 41 DCR 7712; Mar. 21, 1995, D.C. Law 10-231, § 2(b), 42 DCR 15; Mar. 23, 1995, D.C. Law 10-247, § 2(b), 42 DCR 457; Apr. 18, 1996, D.C. Law 11-110, § 7(a), 43 DCR 530; July 24, 1998, D.C. Law 12-139, § 2(a), 45 DCR 2975; Mar. 10, 2004, D.C. Law 15-88, § 2(c), 50 DCR 10999; July 8, 2004, D.C. Law 15-172, § 2(b), 51 DCR 4938; Mar. 16, 2005, D.C. Law 15-237, § 2(b), 51 DCR 10593.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 2-3301.2.

Effect of Amendments

D.C. Law 15-88 added par. (19).

D.C. Law 15-172, in par. (1), substituted "A licensed acupuncturist does not need to enter into a collaboration agreement with a licensed physician or osteopath to practice acupuncture." for "The practice of acupuncture by a nonphysician acupuncturist shall be carried out in general collaboration with a licensed physician or osteopath."; and added par. (7A).

D.C. Law 15-237 added par. (2A).

Legislative History of Laws

For legislative history of D.C. Law 6-99, see Historical and Statutory Notes following § 3-1201.01.

For legislative history of D.C. Law 9-126, see Historical and Statutory Notes following § 3-1202.13.

For legislative history of D.C. Law 10-203, see Historical and Statutory Notes following § 3-1201.01.

For legislative history of D.C. Law 10-205, see Historical and Statutory Notes following § 3-1207.31.

For legislative history of D.C. Law 10-231, see Historical and Statutory Notes following § 3-1201.01.

For legislative history of D.C. Law 10-247, see Historical and Statutory Notes following § 3-1201.01.

Law 11-110, the "Technical Amendments Act of 1996," was introduced in Council and assigned Bill No. 11-485, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 5, 1995, and January 4, 1996, respectively. Signed by the Mayor on January 26, 1996, it was assigned Act No. 11-199 and transmitted to both Houses of Congress for its review. D.C. Law 11-110 became effective on April 18, 1996.

Law 12-139, the "Definition of Optometry Amendment Act of 1998," was introduced in Council and assigned Bill No. 12-152, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on March 17, 1998, and April 7, 1998, respectively. Signed by the Mayor on April 22, 1998, it was assigned Act No. 12-341 and transmitted to both Houses of Congress for its review. D.C. Law 12-139 became effective on July 24, 1998.

For Law 15-88, see notes following § 3-1201.01.

Law 15-172, the "Practice of Naturopathic Medicine Licensing Amendment Act of 2004", was introduced in Council and assigned Bill No. 15-57, which was referred to Committee of Human

Services. The Bill was adopted on first and second readings on March 2, 2004, and April 6, 2004, respectively. Signed by the Mayor on May 5, 2004, it was assigned Act No. 15-419 and transmitted to both Houses of Congress for its review. D.C. Law 15-172 became effective on July 8, 2004.

Law 15-237, the "Anesthesiologist Assistant Licensure Amendment Act of 2004", was introduced in Council and assigned Bill No. 15-634, which was referred to the Committee Human Services. The Bill was adopted on first and second readings on September 21, 2004, and October 5, 2004, respectively. Signed by the Mayor on November 1, 2004, it was assigned Act No. 15-577 and transmitted to both Houses of Congress for its review. D.C. Law 15-237 became effective on March 16, 2005.

§ 3-1201.03. Scope of chapter.

(a) This chapter does not limit the right of an individual to practice a health occupation that he or she is otherwise authorized to practice under this chapter, nor does it limit the right of an individual to practice any other profession that he or she is authorized to practice under the laws of the District.

(b) The practices of health occupations regulated by this chapter are not intended to be mutually exclusive.

(c) This chapter shall not be construed to prohibit the practice of a health occupation by an individual enrolled in a recognized school or college as a candidate for a degree or certificate in a health occupation, or enrolled in a recognized postgraduate training program provided that the practice is:

(1) Performed as a part of the individual's course of instruction;

(2) Under the supervision of a health professional who is either licensed to practice in the District or qualified as a teacher of the practice of the health occupation by the board charged with the regulation of the health occupation;

(3) Performed at a hospital, nursing home, or health facility operated by the District or federal government, a health education center, or other health-care facility considered appropriate by the school or college; and

(4) Performed in accordance with procedures established by the board charged with the regulation of the health occupation.

(d) Nothing in this chapter shall be construed to require licensure for or to otherwise regulate, restrict, or prohibit individuals from engaging in the practices, services, or activities set forth in the paragraphs of this subsection if the individuals do not hold themselves out, by title, description of services, or otherwise, to be practicing any of the health occupations regulated by this chapter. Nothing in this subsection shall be construed as exempting any of the following categories from other applicable laws and regulations of the District or federal government:

(1) Any minister, priest, rabbi, officer, or agent of any religious body or any practitioner of any religious belief engaging in prayer or any other religious practice or nursing practiced solely in accordance with the religious tenets of any church for the purpose of fostering the physical, mental, or spiritual well-being of any person;

(2) Any person engaged in the care of a friend or member of the family, including the domestic administration of family remedies, or the care of the sick by domestic servants, housekeepers, companions, or household aids of any type, whether employed regularly or because of an emergency or illness, or other volunteers;

(3) Any individual engaged in the lawful practice of audiology, speech pathology, X-ray technology, laboratory technology, or respiratory therapy;

(4) An orthotist or prosthetist engaged in fitting, making, or applying splints or other orthotic or prosthetic devices;

(5) Any individual engaged in the practice of cosmetology, the practice of nontherapeutic massage, or the operation of a health club;

(6) Any individual engaged in the commercial sale or fitting of shoes or foot appliances; or

(7) Marriage and family therapists, marriage counselors, art therapists, drama therapists, attorneys, or other professionals working within the standards and ethics of their respective professions.

(e) This chapter shall not be construed to prohibit the practice of a health occupation by an individual who has filed an initial application for licensure in the health occupation and is awaiting action on that initial application, provided the practice is performed:

(1) Under the supervision of a health professional licensed in the District;

(2) At a hospital, nursing home, health facility operated by the District or federal government, or other health care facility considered appropriate by the Board; and

(3) In accordance with any other requirements established by the Mayor.

CREDIT(S)

(Mar. 25, 1986, D.C. Law 6-99, § 103, 33 DCR 729; July 22, 1992, D.C. Law 9-126, § 2(c), 39 DCR 3824; Mar. 23, 1995, D.C. Law 10-247, § 2(c), 42 DCR 457.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 2-3301.3.

Legislative History of Laws

For legislative history of D.C. Law 6-99, see Historical and Statutory Notes following § 3-1201.01.

For legislative history of D.C. Law 9-126, see Historical and Statutory Notes following § 3-1202.13.

For legislative history of D.C. Law 10-247, see Historical and Statutory Notes following § 3-1201.01.

§ 3-1201.04. Persons licensed under prior law.

(a) Except as expressly provided to the contrary in this chapter, any person licensed, registered, or certified by any agency of the District established or continued by any statute amended, repealed, or superseded by this act is considered for all purposes to be licensed, registered, or certified by the appropriate health occupations board established under this chapter for the duration of the term for which the license, registration, or certification was issued, and may renew that authorization in accordance with the appropriate renewal provisions of this chapter.

(b) Except as provided to the contrary in this chapter, an individual who was originally licensed, registered, or certified under a provision of law that has been deleted by this act continues to meet the education and experience requirements as if that provision had not been deleted.

(c) Each employee of the Commission on Mental Health Services who was employed at St. Elizabeths Hospital prior to October 1, 1987, and who accepted employment with the District government on October 1, 1987, without a break in service, shall, within 27 months of appointment by the District government, meet all licensure requirements. If the employee does not meet all licensure requirements, the employee shall be issued a limited license subject to the provisions, limitations, conditions, or restrictions that shall be determined by the appropriate board or commission. The limited license shall not exceed the term of employment with the Commission on Mental Health Services.

CREDIT(S)

(Mar. 25, 1986, D.C. Law 6-99, § 104, 33 DCR 729; Oct. 18, 1989, D.C. Law 8-40, § 3, 36 DCR 5756.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 2-3301.4.

Legislative History of Laws

For legislative history of D.C. Law 6-99, see Historical and Statutory Notes following § 3-1201.01.

Law 8-40, the "Commission on Mental Health Services Employees Retention Amendment Act of 1989," was introduced in Council and assigned Bill No. 8-104, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on June 27, 1989 and July 11, 1989, respectively. Signed by the Mayor on July 27, 1989, it was assigned Act No. 8-69 and transmitted to both Houses of Congress for its review.

References in Text

"This Act," referred to near the middle of subsections (a) and (b), is D.C. Law 6-99.

Subchapter II. Establishment of Health Occupation Boards and Advisory Committees; Memberships; Terms.

§ 3-1202.01. Board of Dentistry [Formerly § 2-3302.1]

(a) There is established a Board of Dentistry consisting of 7 members appointed by the Mayor with the advice and consent of the Council.

(b) The Board shall regulate the practice of dentistry and dental hygiene.

(c) Of the members of the Board, 5 shall be dentists licensed in the District, 1 shall be a dental hygienist licensed in the District, and 1 shall be a consumer member.

(d) Except as provided in subsection (e) of this section, members of the Board shall be appointed for terms of 3 years.

(e) Of the members initially appointed under this section, 2 shall be appointed for a term of 1 year, 2 shall be appointed for a term of 2 years, and 3 shall be appointed for a term of 3 years. The terms of the members first appointed shall begin on the date that a majority of the first members are sworn in, which shall become the anniversary date for all subsequent appointments.

(f) The Board shall provide advice to the Mayor concerning limitations, which the Mayor may impose by rule, on the number of dental hygienists who may be supervised by 1 dentist, provided that the limit may not be reduced below the ratio of 2 dental hygienists to 1 dentist, and provided that this limitation shall not apply to dentists or dental hygienists who are employees of, or operating pursuant to a contract with, the District or federal government.

HISTORY: 1981 Ed., § 2-3302.1; Mar. 25, 1986, D.C. Law 6-99, § 201, 33 DCR 729; Oct. 7, 1987, D.C. Law 7-31, § 3(a), 34 DCR 3789.

NOTES:

SECTION REFERENCES. --This section is referenced in § 1-523.01.

LEGISLATIVE HISTORY OF LAW 6-99. --See note to § 3-1201.01.

LEGISLATIVE HISTORY OF LAW 7-31. --Law 7-31, the "Boards and Commissions Amendment Act of 1987," was introduced in Council and assigned Bill No. 7-139. The Bill was adopted on first and second readings on April 14, 1987 and May 5, 1987, respectively. Signed by the Mayor on June 1, 1987, it was assigned Act No. 7-26 and transmitted to both Houses of Congress for its review.

§ 3-1202.02. Board of Dietetics and Nutrition [Formerly § 2-3302.2]

(a) There is established a Board of Dietetics and Nutrition to consist of 3 members appointed by the Mayor.

(b) The Board shall regulate the practice of dietetics and nutrition.

(c) Of the members of the Board, 1 shall be a licensed dietitian, 1 shall be a licensed nutritionist who is not a dietitian, and 1 shall be a consumer member.

(d) Except as provided in subsection (e) of this section, members of the Board shall be appointed for terms of 3 years.

(e) Of the members initially appointed under this section, 1 shall be appointed for a term of 1 year, 1 shall be appointed for a term of 2 years, and 1 shall be appointed for a term of 3 years.

HISTORY: 1981 Ed., § 2-3302.2; Mar. 25, 1986, D.C. Law 6-99, § 202, 33 DCR 729.

NOTES:

SECTION REFERENCES. --This section is referenced in § 1-523.01.

LEGISLATIVE HISTORY OF LAW 6-99. --See note to § 3-1201.01.

§ 3-1202.03. Board of Medicine; Advisory Committees on Acupuncture, Anesthesiologist Assistants, Naturopathic Medicine, and Physician Assistants [Formerly § 2-3302.3]

3-1202.03. Board of Medicine; Advisory Committees on Acupuncture, Anesthesiologist Assistants, Naturopathic Medicine, Physician Assistants, and Surgical Assistants.

(a)(1) There is established a Board of Medicine to consist of 11 members appointed by the Mayor with the advice and consent of the Council.

(2) The Board shall regulate the practice of medicine, the practice of acupuncture with the advice of the Advisory Committee on Acupuncture, the practice by anesthesiologists assistants with the advice of the Advisory Committee on Anesthesiologists Assistants, the practice of naturopathic medicine with the advice of the Advisory Committee on Naturopathic Medicine, the practice by

physician assistants with the advice of the Advisory Committee on Physician Assistants, and the practice of surgical assistants with the advice of the Advisory Committee on Surgical Assistants.

(3) Of the members of the Board, 7 shall be physicians licensed to practice in the District, 3 shall be consumer members, and 1 shall be the Director of the Department of Health, or his or her designee.

(4) In selecting nominees to the Board, the Mayor shall consult with appropriate officials of professional medical societies and schools of medicine located in the District, and shall submit nominees whose professional training and experience provide a representative sample of the medical specialties practiced in the District.

(5) Except as provided in paragraph (6) of this subsection, members of the Board shall be appointed for terms of 3 years. This paragraph shall not apply to the Director of the Department of Health who shall serve for the duration of his or her term as Director.

(6) Of the members initially appointed under this section, 3 shall be appointed for a term of 1 year, 3 shall be appointed for a term of 2 years, and 4 shall be appointed for a term of 3 years. The terms of the members first appointed shall begin on the date that a majority of the first members are sworn in, which shall become the anniversary date for all subsequent appointments.

(7)(A) The Mayor shall appoint an executive director who shall be a full-time employee of the District to administer and implement the orders of the Board in accordance with this chapter and rules and regulations issued pursuant to this chapter.

(B) On or before January 1, 2007, in addition to the executive director, the Mayor shall require, at a minimum, that an investigator, an attorney, and 2 clerical support staff be hired, which persons shall be full-time employees of the District and whose work shall be limited solely to administering and implementing the orders of the Board in accordance with this act and rules and regulations issued pursuant to this chapter. The mandatory minimum number of employees established under this section shall not restrict the Mayor's ability to authorize additional staff.

(8) The Board shall provide recommendations to the Mayor for his consideration in developing and issuing rules authorizing:

(A) The practice of acupuncture in accordance with guidelines approved by the Advisory Committee on Acupuncture;

(B) Repealed;

(B-1) The practice by anesthesiologist assistants in accordance with guidelines approved by the Advisory Committee on Anesthesiologist Assistants;

(B-2) The practice of naturopathic medicine in accordance with guidelines approved by the Advisory Committee on Naturopathic Medicine; and

(C) The practice by physician assistants in accordance with guidelines approved by the Advisory Committee on Physician Assistants; and

(D) The practice of surgical assistants in accordance with guidelines approved by the Advisory Committee on Surgical Assistants.

(a-1)(1) The Board shall waive the educational and examination requirements for any applicant for licensure as a physician assistant who can demonstrate, to the satisfaction of the Board, that he or she has performed the function of a physician assistant, as defined in this chapter and rules issued pursuant to this chapter, on a full-time or substantially full-time basis continuously for at least 36 months immediately preceding March 25, 1986, and is qualified to do so on the basis of pertinent education, training, experience, and demonstrated current competence, provided that application for the license is made within 12 months of July 25, 1990.

(2) An applicant licensed under paragraph (1) of this subsection shall be eligible for license renewal on the same terms as any other licensed physician assistant.

(b)(1) There is established an Advisory Committee on Acupuncture to consist of 3 members appointed by the Mayor.

(2) The Advisory Committee on Acupuncture shall develop and submit to the Board guidelines for the licensing of acupuncturists and the regulation of the practice of acupuncture in the District.

(3) Of the members of the Advisory Committee on Acupuncture, 1 shall be a physician licensed in the District who has training and experience in the practice of acupuncture, 1 shall be a nonphysician acupuncturist licensed in the District, and 1 shall be the Director of the Department of Health or his or her designee.

(4) The Advisory Committee on Acupuncture shall submit initial guidelines to the Board within 180 days of March 25, 1986, and shall subsequently meet at least annually to review the guidelines and make necessary revisions for submission to the Board.

(c) Repealed.

(c-1)(1) There is established an Advisory Committee on Anesthesiologist Assistants to consist of 3 members appointed by the Mayor.

(2) The Advisory Committee on Anesthesiologist Assistants shall develop and submit to the Board guidelines for the licensing and regulation of anesthesiologist assistants in the District. The guidelines shall set forth the actions which may be performed by anesthesiologist assistants under the direct supervision of a licensed anesthesiologist, who shall be responsible for the overall medical direction of the care and treatment of patients.

(3) Of the members of the Advisory Committee on Anesthesiologist Assistants, 1 shall be an anesthesiologist licensed in the District with experience working with anesthesiologist assistants,

1 shall be an anesthesiologist assistant licensed in the District, and 1 shall be the Commissioner of Public Health, or his or her designee.

(4) The Advisory Committee on Anesthesiologist Assistants shall submit initial guidelines to the Board within 180 days of March 16, 2005, and shall subsequently meet at least annually to review the guidelines and make necessary revisions for submission to the Board.

(c-2)(1) There is established an Advisory Committee on Naturopathic Medicine to consist of 3 members appointed by the Mayor.

(2) The Advisory Committee on Naturopathic Medicine shall develop and submit to the Board guidelines for the licensing of naturopathic physicians and the regulation of the practice of naturopathic medicine in the District.

(3) Of the members of the Advisory Committee on Naturopathic Medicine, 1 shall be a licensed physician with experience in naturopathic medicine or in working with naturopathic physicians, 1 shall be a licensed naturopathic physician, and 1 shall be the Director of the Department of Health or his or her designee.

(4) An individual who is eligible for licensure to practice naturopathic medicine and is currently registered to practice naturopathy in the District may be appointed as the initial naturopathic physician member of the Advisory Committee on Naturopathic Medicine.

(5) The Advisory Committee on Naturopathic Medicine shall submit initial guidelines to the Board within 180 days of July 8, 2004, and shall subsequently meet at least annually to review the guidelines and make necessary revisions for submission to the Board.

(c-3)(1) There is established an Advisory Committee on Surgical Assistants to consist of 5 members appointed by the Mayor.

(2) The Advisory Committee on Surgical Assistants shall develop and submit to the Board guidelines for the licensing and regulation of surgical assistants in the District. The guidelines shall set forth the actions that may be performed by surgical assistants under the direct supervision of a licensed surgeon, who shall be responsible for the overall medical direction of the care and treatment of patients.

(3) Of the members of the Advisory Committee on Surgical Assistants, one shall be a surgeon licensed in the District with experience working with surgical assistants, 3 shall be surgical assistants licensed in the District, and one shall be the Director of the Department of Health, or his or her designee.

(4) The Advisory Committee on Surgical Assistants shall submit initial guidelines to the Board within 180 days of March 6, 2007, and shall subsequently meet at least annually to review the guidelines and make necessary revisions for submission to the Board.

(d)(1) There is established an Advisory Committee on Physician Assistants to consist of 3 members appointed by the Mayor.

(2) The Advisory Committee on Physician Assistants shall develop and submit to the Board guidelines for the licensing and regulation of physician assistants in the District. The guidelines shall set forth the actions which may be performed by physician assistants in collaboration with a licensed physician or osteopath, who shall be responsible for the overall medical direction of the care and treatment of patients, and the levels of collaboration required for each action.

(3) Of the members of the Advisory Committee on Physician Assistants, 1 shall be a physician or osteopath licensed in the District with experience working with physician assistants, 1 shall be a physician assistant licensed in the District, and 1 shall be the Director of the Department of Health or his or her designee.

(4) The Advisory Committee on Physician Assistants shall submit initial guidelines to the Board within 180 days of March 25, 1986, and shall subsequently meet at least annually to review the guidelines and make necessary revisions for submission to the Board.

(e) Of the members initially appointed to the Advisory Committees on Acupuncture, Anesthesiologist Assistants, Naturopathic Medicine, and Physician Assistants, and Surgical Assistants, 1 member of each committee shall be appointed to a term of 2 years and 1 member of each shall be appointed to a term of 3 years. Subsequent appointments shall be for terms of 3 years. This subsection shall not apply to the Director of the Department of Health, or his or her designee.

(f) Upon request by the Board, the Advisory Committees on Acupuncture, Anesthesiologist Assistants, Physician Assistants, and Surgical Assistants shall, respectively, review applications for licensure to practice acupuncture or to practice as an anesthesiologist assistant, a physician assistant, or a surgical assistant and shall forward recommendations to the Board for action.

(g) Repealed.

CREDIT(S)

(Mar. 25, 1986, D.C. Law 6-99, § 203, 33 DCR 729; Oct. 7, 1987, D.C. Law 7-31, § 3(b), 34 DCR 3789; Jan. 30, 1990, D.C. Law 8-60, § 2, 36 DCR 7386; July 25, 1990, D.C. Law 8-152, § 2, 37 DCR 3743; Mar. 21, 1995, D.C. Law 10-231, § 2(c), 42 DCR 15; Mar. 23, 1995, D.C. Law 10-247, § 2(d), 42 DCR 457; July 8, 2004, D.C. Law 15-172, § 2(c), 51 DCR 4938; Mar. 16, 2005, D.C. Law 15-237, § 2(c), 51 DCR 10593; Oct. 20, 2005, D.C. Law 16-33, § 5022, 52 DCR 7503; Mar. 2, 2007, D.C. Law 16-191, § 17(a), 53 DCR 6794; Mar. 6, 2007, D.C. Law 16-228, § 2(c), 53 DCR 10244; Mar. 14, 2007, D.C. Law 16-263, § 201(a), 54 DCR 807.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 2-3302.3.

Effect of Amendments

D.C. Law 15-172, in the section heading, substituted ", Naturopathic Medicine, and" for "and"; in subsec. (a), added "the practice of naturopathic medicine with the advice of the Advisory Committee on Naturopathic Medicine" after "Advisory Committee on Acupuncture" in par. (2), deleted "and" in subpar. (A) of par. (8), and added subpar. (B-1) of par. (8); added subsec. (c-1); in subsec. (e), substituted "Naturopathic Medicine, and Physician" for "and Physician" and substituted "Commissioner of Public Health or the Director of the Department of Health, or to their designees" for "Commissioner of Public Health or his or her designee"; and rewrote subsec. (f). Prior to amendment, subsec. (f) had read as follows:

"(f) Upon request by the Board, the Advisory Committees on Acupuncture and Physician Assistants shall review applications for licensure to practice acupuncture or to practice as a physician assistant, respectively, and shall forward recommendations to the Board for action."

D.C. Law 15-237, in the section heading, inserted 'Anesthesiologist Assistants,'; in par. (2) of subsec. (a), inserted "the practice by anesthesiologist assistants with the advice of the Advisory Committee on Anesthesiologist Assistants,"; in par. (8) of subsec. (a), redesignated former subpar. (B-1) as (B-2) and added new subpar. (B-1); redesignated former subsec. (c-1) as (c-2) and added new subsec. (c-1); in subsec. (e), inserted "Anesthesiologist Assistants,"; and, in subsec. (f), inserted "Anesthesiologist Assistants," and "an anesthesiologist assistant or".

D.C. Law 16-33, in subsec. (a)(3), substituted "Director of the Department of Health, or his or her designee" for "Commissioner of Public Health"; in subsec. (a)(5), substituted "Director of the Department of Health" for "Commissioner of Public Health", and substituted "as Director" for "as Commissioner"; in subsec. (b)(3), substituted "Director of the Department of Health" for "Commissioner of Public Health"; in subsec. (d), substituted "Director of the Department of Health" for "Commissioner of Public Health"; and in subsec. (e), substituted "Director of the Department of Health, or his or her designee" for "Commissioner of Public Health or the Director of the Department of Health, or to their designees".

D.C. Law 16-191, in subsec. (a)(8)(B-1), validated a previously made technical correction.

D.C. Law 16-228, in the section heading, substituted " Surgical Assistants" for "and Physician Assistants"; in subsec. (a), par. (2), substituted "the practice of physician assistants with the advice of the Advisory Committee on Physician Assistants, and the practice of surgical assistants with the advice of the Advisory Committee on Surgical Assistants" for "and the practice of physician assistants with the advice of the Advisory Committee on Physician Assistants"; in subsec. (a), par. (8), added subparagraph (D); added subsec. (c-3); and in subsections (e) and (f), added surgical assistants to the scope of each respective subsection.

D.C. Law 16-263, in subsec. (a)(7), designated subpar. (A) and added subpar. (B).

Temporary Amendments of Section

For temporary (225 day) amendment of section, see § 2 of District of Columbia Health Occupations Revision Act of 1985 Physician Assistants Temporary Amendment Act of 1989 (D.C. Law 8-60, January 30, 1990, law notification 37 DCR 1210).

Emergency Act Amendments

For temporary (90 day) amendment of section, see § 5022 of Fiscal Year 2006 Budget Support Emergency Act of 2005 (D.C. Act 16-168, July 26, 2005, 52 DCR 7667).

Legislative History of Laws

For legislative history of D.C. Law 6-99, see Historical and Statutory Notes following § 3-1201.01.

For legislative history of D.C. Law 7-31, see Historical and Statutory Notes following § 3-1202.01.

Law 8-152, the "District of Columbia Health Occupations Revision Act of 1985 Physician Assistants Amendment Act of 1990," was introduced in Council and assigned Bill No. 8-353, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on May 1, 1990, and May 15, 1990, respectively. Signed by the Mayor on May 30, 1990, it was assigned Act No. 8-210 and transmitted to both Houses of Congress for its review.

For legislative history of D.C. Law 10-231, see Historical and Statutory Notes following § 3-1201.01.

For legislative history of D.C. Law 10-247, see Historical and Statutory Notes following § 3-1201.01.

For Law 15-172, see notes following § 3-1201.02.

For Law 15-237, see notes following § 3-1201.02.

Law 16-33, the "Fiscal Year 2006 Budget Support Act of 2005", was introduced in Council and assigned Bill No. 16-200 which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 10, 2005, and June 21, 2005, respectively. Signed by the Mayor on July 26, 2005, it was assigned Act No. 16-166 and transmitted to both Houses of Congress for its review. D.C. Law 16-33 became effective on October 20, 2005.

For Law 16-191, see notes following § 3-326.

For Law 16-228, see notes following § 3-1201.02.

Law 16-263, the "Medical Malpractice Amendment Act of 2006", was introduced in Council and

assigned Bill No. 16-334, which was referred to Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on December 5, 2006, and December 19, 2006, respectively. Signed by the Mayor on December 28, 2006, it was assigned Act No. 16-619 and transmitted to both Houses of Congress for its review. D.C. Law 16-263 became effective on March 14, 2007.

Miscellaneous Notes

Short title of subtitle C of title V of Law 16-33: Section 5021 of D.C. Law 16-33 provided that subtitle C of title V of the act may be cited as the Board of Medicine Amendment Act of 2005.

DC CODE § 3-1202.03

§ 3-1202.04. Board of Nursing [Formerly § 2-3302.4]

(a) There is established a Board of Nursing to consist of 11 members appointed by the Mayor with the advice and consent of the Council.

(b) (1) The Board shall regulate the practice of advanced practice registered nursing, registered nursing, and practical nursing. Advanced practice registered nursing includes, but is not limited to, the categories of nurse midwife, nurse anesthetist, nurse-practitioner, and clinical nurse specialist.

(2) The Board shall recommend for promulgation by the Mayor minimum curricula and standards for the accreditation of nursing schools and programs, and shall accredit those District of Columbia schools and programs which meet the standards established. The Board may also recommend to the Mayor rules governing the procedure for the granting and withdrawal of accreditation.

(c) Of the members of the Board, 7 shall be registered nurses licensed and practicing in the District; 2 shall be practical nurses licensed in the District; and 2 shall be consumer members.

(d) Except as provided in subsection (e) of this section, members of the Board shall be appointed for terms of 3 years.

(e) Of the members initially appointed under this section, 3 shall be appointed for a term of 1 year, 4 shall be appointed for a term of 2 years, and 4 shall be appointed for a term of 3 years. The terms of the members first appointed shall begin on the date that a majority of the first members are sworn in, which shall become the anniversary date for all subsequent appointments.

HISTORY: 1981 Ed., § 2-3302.4; Mar. 25, 1986, D.C. Law 6-99, § 204, 33 DCR 729; Oct. 7, 1987, D.C. Law 7-31, § 3(c), 34 DCR 3789; Mar. 23, 1995, D.C. Law 10-247, § 2(e), 42 DCR 457.

NOTES:

SECTION REFERENCES. --This section is referenced in § 1-523.01 and § 44-1051.02.

LEGISLATIVE HISTORY OF LAW 6-99. --See note to § 3-1201.01.

LEGISLATIVE HISTORY OF LAW 7-31. --See note to § 3-1202.01.

LEGISLATIVE HISTORY OF LAW 10-247. --See note to § 3-1201.01.

§ 3-1202.05. Board of Nursing Home Administration [Formerly § 2-3302.5]

(a) There is established a Board of Nursing Home Administration to consist of 5 members appointed by the Mayor with the advice and consent of the Council.

(b) The Board shall regulate the practice of nursing home administration.

(c) Of the members of the Board, 2 shall be nursing home administrators licensed in the District, 1 shall be an educator from an institution of higher learning engaged in teaching health care administration, 1 shall be a physician or osteopath licensed in the District who has a demonstrated interest in long-term care, and 1 shall be a consumer member.

(d) Except as provided in subsection (e) of this section, members of the Board shall be appointed for terms of 3 years.

(e) Of the members initially appointed under this section, 1 shall be appointed for a term of 1 year, 2 shall be appointed for a term of 2 years, and 2 shall be appointed for a term of 3 years. The terms of the members first appointed shall begin on the date that a majority of the first members are sworn in, which shall become the anniversary date for all subsequent appointments.

HISTORY: 1981 Ed., § 2-3302.5; Mar. 25, 1986, D.C. Law 6-99, § 205, 33 DCR 729; Oct. 7, 1987, D.C. Law 7-31, § 3(d), 34 DCR 3789.

NOTES:

SECTION REFERENCES. --This section is referenced in § 1-523.01.

LEGISLATIVE HISTORY OF LAW 6-99. --See note to § 3-1201.01.

LEGISLATIVE HISTORY OF LAW 7-31. --See note to § 3-1202.01.

§ 3-1202.06. Board of Occupational Therapy [Formerly § 2-3302.6]

(a) There is established a Board of Occupational Therapy to consist of 5 members appointed by the Mayor.

(b) The Board shall regulate the practice of occupational therapy and the practice by occupational therapy assistants.

(c) Of the members of the Board, 3 shall be occupational therapists licensed in the District, 1 shall be an occupational therapy assistant licensed in the District, and 1 shall be a consumer member.

(d) Except as provided in subsection (e) of this section, members of the Board shall be appointed for

terms of 3 years.

(e) Of the members initially appointed under this section, 1 shall be appointed for a term of 1 year, 2 shall be appointed for a term of 2 years, and 2 shall be appointed for a term of 3 years.

HISTORY: 1981 Ed., § 2-3302.6; Mar. 25, 1986, D.C. Law 6-99, § 206, 33 DCR 729.

NOTES:

SECTION REFERENCES. --This section is referenced in § 1-523.01.

LEGISLATIVE HISTORY OF LAW 6-99. --See note to § 3-1201.01.

§ 3-1202.07. Board of Optometry [Formerly § 2-3302.7]

(a) There is established a Board of Optometry to consist of 5 members appointed by the Mayor.

(b) The Board shall regulate the practice of optometry.

(c) Of the members of the Board, 4 shall be optometrists licensed in the District and 1 shall be a consumer member.

(d) Except as provided in subsection (e) of this section, members of the Board shall be appointed for terms of 3 years.

(e) Of the members initially appointed under this section, 1 shall be appointed for a term of 1 year, 2 shall be appointed for a term of 2 years, and 2 shall be appointed for a term of 3 years.

(f) The Board shall grant applications by licensed optometrists for certification to administer diagnostic pharmaceutical agents for applicants who demonstrate to the satisfaction of the Board that they have:

(1) Successfully completed a Board-approved course in general and ocular pharmacology as it relates to the practice of optometry, that consists of at least 55 classroom hours, including a minimum of 10 classroom hours of clinical laboratory, offered or approved by an accredited institution of higher education; and

(2) Passed an examination administered or approved by the Board on general and ocular pharmacology designed to test knowledge of the proper use, characteristics, pharmacological effects, indications, contraindications, and emergency care associated with the use of diagnostic pharmaceutical agents.

(g) The Board shall grant applications for certification to administer therapeutic pharmaceutical agents to applicants who demonstrate to the satisfaction of the Board that they have:

(1) Been certified by the Board to use diagnostic pharmaceutical agents;

(2) Successfully completed a Board-approved course in the use of therapeutic pharmaceutical agents as it relates to the practice of optometry, offered by an accredited institution of higher learning; and

(3) Passed an examination administered or approved by the Board on the use of therapeutic pharmaceutical agents.

HISTORY: 1981 Ed., § 2-3302.7; Mar. 25, 1986, D.C. Law 6-99, § 207, 33 DCR 729; Mar. 23, 1995, D.C. Law 10-247, § 2(f), 42 DCR 457; July 24, 1998, D.C. Law 12-139, § 2(b), 45 DCR 2975.

NOTES:

SECTION REFERENCES. --This section is referenced in § 1-523.01 and § 3-1201.02.

LEGISLATIVE HISTORY OF LAW 6-99. --See note to § 3-1201.01.

LEGISLATIVE HISTORY OF LAW 10-247. --See note to § 3-1201.01.

LEGISLATIVE HISTORY OF LAW 12-139. --Law 12-139, the "Definition of Optometry Amendment Act of 1998," was introduced in Council and assigned Bill No. 12-152. The Bill was adopted on first and second readings on March 17, 1998, and April 7, 1998, respectively. Signed by the Mayor on April 22, 1998, it was assigned Act No. 12-341 and transmitted to both Houses of Congress for its review. D.C. Law 12-139 became effective on July 24, 1998.

§ 3-1202.08. Board of Pharmacy [Formerly § 2-3302.8]

(a) There is established a Board of Pharmacy to consist of 7 members appointed by the Mayor.

(b) The Board shall regulate the practice of pharmacy.

(c) Of the members of the Board, 5 shall be pharmacists licensed in the District and 2 shall be consumer members.

(d) Except as provided in subsection (e) of this section, members of the Board shall be appointed for terms of 3 years.

(e) Of the members initially appointed under this section, 2 shall be appointed for a term of 1 year, 2 shall be appointed for a term of 2 years, and 3 shall be appointed for a term of 3 years.

HISTORY: 1981 Ed., § 2-3302.8; Mar. 25, 1986, D.C. Law 6-99, § 208, 33 DCR 729.

NOTES:

SECTION REFERENCES. --This section is referenced in § 1-523.01 and § 1-1106.02.

LEGISLATIVE HISTORY OF LAW 6-99. --See note to § 3-1201.01.

§ 3-1202.09. Board of Physical Therapy [Formerly § 2-3302.9]

(a) There is established a Board of Physical Therapy to consist of 5 members appointed by the Mayor.

(b) The Board shall regulate the practice of physical therapy.

(c) Of the members of the Board, 4 shall be physical therapists licensed in the District and 1 shall be a consumer member.

(d) Except as provided in subsection (e) of this section, members of the Board shall be appointed for terms of 3 years.

(e) Of the members initially appointed under this section, 1 shall be appointed for a term of 1 year, 2 shall be appointed for a term of 2 years, and 2 shall be appointed for a term of 3 years.

HISTORY: 1981 Ed., § 2-3302.9; Mar. 25, 1986, D.C. Law 6-99, § 209, 33 DCR 729.

NOTES:

SECTION REFERENCES. --This section is referenced in § 1-523.01.

LEGISLATIVE HISTORY OF LAW 6-99. --See note to § 3-1201.01.

§ 3-1202.10. Board of Podiatry [Formerly § 2-3302.10]

(a) There is established a Board of Podiatry to consist of 3 members appointed by the Mayor.

(b) The Board shall regulate the practice of podiatry.

(c) Of the members of the Board, 2 shall be podiatrists licensed in the District and 1 shall be a consumer member.

(d) Except as provided in subsection (e) of this section, members of the Board shall be appointed for terms of 3 years.

(e) Of the members initially appointed under this section, 1 shall be appointed for a term of 1 year, 1 shall be appointed for a term of 2 years, and 1 shall be appointed for a term of 3 years.

HISTORY: 1981 Ed., § 2-3302.10; Mar. 25, 1986, D.C. Law 6-99, § 210, 33 DCR 729.

NOTES:

SECTION REFERENCES. --This section is referenced in § 1-523.01.

LEGISLATIVE HISTORY OF LAW 6-99. --See note to § 3-1201.01.

§ 3-1202.11. Board of Psychology [Formerly § 2-3302.11]

(a) There is established a Board of Psychology to consist of 5 members appointed by the Mayor with the advice and consent of the Council.

(b) The Board shall regulate the practice of psychology.

(c) Of the members of the Board, 4 shall be psychologists licensed in the District and 1 shall be a consumer member.

(d) Except as provided in subsection (e) of this section, members of the Board shall be appointed for terms of 3 years.

(e) Of the members initially appointed under this section, 1 shall be appointed for a term of 1 year, 2 shall be appointed for a term of 2 years, and 2 shall be appointed for a term of 3 years. The terms of the members first appointed shall begin on the date that a majority of the first members are sworn in, which shall become the anniversary date for all subsequent appointments.

HISTORY: 1981 Ed., § 2-3302.11; Mar. 25, 1986, D.C. Law 6-99, § 211, 33 DCR 729; Oct. 7, 1987, D.C. Law 7-31, § 3(e), 34 DCR 3789.

NOTES:

SECTION REFERENCES. --This section is referenced in § 1-523.01.

LEGISLATIVE HISTORY OF LAW 6-99. --See note to § 3-1201.01.

LEGISLATIVE HISTORY OF LAW 7-31. --See note to § 3-1202.01.

§ 3-1202.12. Board of Social Work [Formerly § 2-3302.12]

(a) There is established a Board of Social Work to consist of 5 members appointed by the Mayor with the advice and consent of the Council.

(b) The Board shall regulate the practice of social work, including categories of specialties within the social work profession.

(c) Of the members of the Board, 4 shall be social workers licensed in the District, representing each of the 4 licensing categories established by subchapter VIII of this chapter, and 1 shall be a consumer member.

(d) Except as provided in subsection (e) of this section, members of the Board shall be appointed for terms of 3 years.

(e) Of the members initially appointed under this section, 1 shall be appointed for a term of 1 year, 2 shall be appointed for a term of 2 years, and 2 shall be appointed for a term of 3 years. The terms of

the members first appointed shall begin on the date that a majority of the first members are sworn in, which shall become the anniversary date for all subsequent appointments.

HISTORY: 1981 Ed., § 2-3302.12; Mar. 25, 1986, D.C. Law 6-99, § 212, 33 DCR 729; Oct. 7, 1987, D.C. Law 7-31, § 3(f), 34 DCR 3789.

NOTES:

SECTION REFERENCES. --This section is referenced in § 1-523.01.

LEGISLATIVE HISTORY OF LAW 6-99. --See note to § 3-1201.01.

LEGISLATIVE HISTORY OF LAW 7-31. --See note to § 3-1202.01.

§ 3-1202.13. Board of Professional Counseling [Formerly § 2-3302.13]

(a) There is established a Board of Professional Counseling to consist of 5 members appointed by the Mayor.

(b) The Board shall regulate the practice of professional counseling.

(c) Members of the Board shall serve a 3-year term. Of the members first appointed to the Board, 1 member shall be appointed to a 1-year term, 2 members shall be appointed to a 2-year term, and 2 members shall be appointed to a 3-year term.

(d) Of the members of the Board, 3 shall be professional counselors licensed in the District, 1 shall be an educator engaged in teaching counseling, and 1 shall be a consumer member.

HISTORY: 1981 Ed., § 2-3302.13; D.C. Law 6-99, § 213, as added July 22, 1992, D.C. Law 9-126, § 2(d), 39 DCR 3824.

NOTES:

SECTION REFERENCES. --This section is referenced in § 1-523.01.

LEGISLATIVE HISTORY OF LAW 9-126. --Law 9-126, the "District of Columbia Health Occupations Revision Act of 1985 Professional Counselors Amendment Act of 1992," was introduced in Council and assigned Bill No. 9-197. The Bill was adopted on first and second readings on April 7, 1992, and May 6, 1992, respectively. Signed by the Mayor on May 28, 1992, it was assigned Act No. 9-210 and transmitted to both Houses of Congress for its review. D.C. Law 9-126 became effective on July 22, 1992.

§ 3-1202.14. Board of Respiratory Care [Formerly § 2-3302.14]

(a) There is established a Board of Respiratory Care to consist of 5 members appointed by the Mayor with the advice and consent of the Council.

(b) The Board shall regulate the practice of respiratory therapy.

(c) Of the members of the Board, 3 shall be respiratory therapists licensed in the District; 1 shall be a physician with knowledge and experience in the practice of respiratory care; and 1 shall be a consumer member.

(d) Except as provided in subsection (e) of this section, members of the Board shall be appointed for terms of 3 years.

(e) Of the members initially appointed under this section, 1 shall be appointed for a term of 1 year, 2 shall be appointed for a term of 2 years, and 2 shall be appointed for a term of 3 years. The terms of the members first appointed shall begin on the date that a majority of the first members are sworn in, which shall become the anniversary date for all subsequent appointments.

HISTORY: 1981 Ed., § 2-3302.14; D.C. Law 6-99, § 214, as added Mar. 14, 1995, D.C. Law 10-203, § 2(c), 41 DCR 7707.

NOTES:

SECTION REFERENCES. --This section is referenced in § 1-523.01.

LEGISLATIVE HISTORY OF LAW 10-203. --See note to § 3-1201.01.

§ 3-1202.15. Board of Massage Therapy [Formerly § 2-3302.15]

(a) There is established a Board of Massage Therapy to consist of 5 members appointed by the Mayor.

(b) The Board shall regulate the practice of massage therapy.

(c) Of the members of the Board, 4 shall be massage therapists licensed in the District and 1 shall be a consumer member.

(d) Except as provided in subsection (e) of this section, members of the Board shall be appointed for terms of 3 years.

(e) Of the members initially appointed under this section, 1 shall be appointed for the term of 1 year, 2 shall be appointed for a term of 2 years, and 2 shall be appointed for a term of 3 years. The terms of the members first appointed shall begin on the date that a majority of the first members are sworn in, which shall become the anniversary date for all subsequent appointments.

HISTORY: 1981 Ed., § 2-3302.15; D.C. Law 6-99, § 215, as added Mar. 14, 1995, D.C. Law 10-205, § 2(b), 41 DCR 7712.

NOTES:

SECTION REFERENCES. --This section is referenced in § 1-523.01.

LEGISLATIVE HISTORY OF LAW 10-205. --See note to § 3-1207.31.

§ 3-1202.16. Board of Chiropractic [Formerly § 2-3302.16]

(a) There is established a Board of Chiropractic to consist of 5 members appointed by the Mayor with the advice and consent of the Council.

(b) The Board shall regulate the practice of chiropractic.

(c) Of the members of the Board, 3 shall be doctors of chiropractic licensed to practice in the District, 1 shall be the Commissioner of Public Health or his or her designee, and 1 shall be a consumer member.

(d) Except as provided in subsection (e) of this section, members of the Board shall be appointed for terms of 3 years.

(e) The members of the Advisory Committee on Chiropractic abolished by the Chiropractic Licensing Amendment Act of 1994 shall continue to serve as members of the Board of Chiropractic established by this section until the expiration of their terms on the Advisory Committee or until successors are appointed, whichever occurs later, and may be reappointed.

HISTORY: 1981 Ed., § 2-3302.16; D.C. Law 6-99, § 216, as added Mar. 21, 1995, D.C. Law 10-231, § 2(d), 42 DCR 15; Apr. 18, 1996, D.C. Law 11-110, § 7(a), 43 DCR 530.

NOTES:

SECTION REFERENCES. --This section is referenced in § 1-523.01.

LEGISLATIVE HISTORY OF LAW 10-231. --See note to § 3-1201.01.

LEGISLATIVE HISTORY OF LAW 11-110. --See note to § 3-1201.02.

§ 3-1202.17. Board of Marriage and Family Therapy.

(a) There is established a Board of Marriage and Family Therapy, which shall consist of 5 members appointed by the Mayor with the advice and consent of the Council.

(b) The Board shall regulate the practice of marriage and family therapy.

(c) Of the members of the Board, 4 shall be marriage and family therapists licensed in the District and one shall be a consumer member with no direct affiliation with the practice of marriage and family therapy of another mental health profession. The professional members shall have:

(1) For at least 3 years preceding the appointment, been actively engaged in rendering professional services in marriage and family therapy as marriage and family therapists, the education and training of master's, doctoral, or post-doctoral students of marriage and family therapy, or marriage and family therapy research; and

(2) For the 2 years preceding the appointment, spent the majority of their time devoted to one of the activities described in paragraph (1) of this subsection.

(d) The Mayor shall designate one Board member to serve as chairperson during the term of his or her appointment to the Board. No person may serve as chairperson for more than 4 years.

(e) Except as provided in subsection (f) of this section, members of the Board shall be appointed for terms of 3 years.

(f) Of the members initially appointed under this section, 3 shall be appointed for a term of 3 years, and 2, including the chairperson, shall be appointed for a term of 4 years.

HISTORY: D.C. Law 6-99, § 217, as added Mar. 10, 2004, D.C. Law 15-88, § 2(d), 50 DCR 10999.

NOTES:

SECTION REFERENCES. --This section is referenced in § 1-523.01.

EFFECT OF AMENDMENTS. --D.C. Law 15-88 added this section.

LEGISLATIVE HISTORY OF LAW 15-88. --Law 15-88, the "Marriage and Family Therapy Amendment Act of 2003," was introduced in Council and assigned Bill No. 15-179. The Bill was adopted on first and second readings on Oct. 7, 2003, and Nov. 4, 2003, respectively. Signed by the Mayor on Nov. 25, 2003, it was assigned Act No. 15-256 and transmitted to Congress for its review. D.C. Law 15-88 became effective on Mar. 10, 2004.

3-1202.18. Board of Audiology and Speech-Language Pathology.

(a) There is established a Board of Audiology and Speech-Language Pathology, which shall consist of 7 members appointed by the Mayor.

(b) The Board shall regulate the practice of audiology and speech-language pathology.

(c) The Board shall administer the examination required for audiology and speech-language pathology licenses.

(d) Of the members of the Board, 2 shall be practicing audiologists, 2 shall be practicing speech-language pathologists, one shall be a practicing Otolaryngologist, and 2 shall be consumer members with no direct affiliation with either the practice of audiology or the practice of speech-language pathology or other health profession. The professional members shall:

(1) For audiology, at least 3 years preceding appointment, have been actively engaged as an audiologist in rendering professional services in audiology or in the education and training of masters, doctoral, or postdoctoral students of audiology in audiology research, and for the 2 years preceding the appointment, have spent the majority of their time devoted to one of the activities listed in this paragraph.

(2) For speech pathology, at least 3 years preceding the appointment, have been actively engaged as a speech-pathologist in rendering professional services in speech pathology or in the education and training of masters, doctoral, or postdoctoral students of speech pathology in speech-pathology research, and for the 2 years preceding the appointment, have spent the majority of their time devoted to one of the activities listed in this paragraph.

(3) For otolaryngology, at least 3 years preceding the appointment, have been actively engaged as an otolaryngologist in rendering professional services in otolaryngology or in the education and training of masters, doctoral, or postdoctoral students of otolaryngology in otolaryngology research, and for the 2 years preceding the appointment have spent the majority of their time devoted to one of the activities listed in this paragraph.

(e) Except as provided in subsection (g) of this section, members of the Board shall be appointed for terms of 4 years. No person may be appointed more than once to fill an unexpired term or more than 2 consecutive full terms.

(f) The initial appointees, with the exception of the representatives of the general public and the Otolaryngologist, shall be deemed to be and shall become licensed audiologists and speech-language pathologists immediately upon their qualification and appointment as members of the Board.

(g) Of the members initially appointed, 2 shall be appointed for 2 years, 2 shall be appointed for 3 years, and 3 members, including the chairperson, shall be appointed for 4 years.

(h) The Mayor shall designate one Board member to serve as chairperson during the term of his or her appointment to the Board. No person may serve as chairperson for more than 4 years.

Subchapter III. Administration

§ 3-1203.01. Administration [Formerly § 2-3303.1]

The boards established by this chapter shall be under the administrative control of the Mayor.

HISTORY: 1981 Ed., § 2-3303.1; Mar. 25, 1986, D.C. Law 6-99, § 301, 33 DCR 729.

NOTES:

LEGISLATIVE HISTORY OF LAW 6-99. --See note to § 3-1201.01.

§ 3-1203.02. Responsibilities of Mayor [Formerly § 2-3303.2]

The Mayor shall be responsible for:

(1) Planning, developing, and maintaining procedures to ensure that the boards receive administrative support, including staff and facilities, sufficient to enable them to perform their responsibilities;

(2) Processing and providing licenses as required and approved by the boards;

(3) Providing investigative and inspection services;

(4) Holding hearings on cases pursuant to guidelines established in § 3-1205.19 when requested to do so by the board, and appointing hearing officers to enable the boards to hold hearings;

(5) Furnishing expert services in noncompliance cases brought in an administrative or court proceeding;

(6) Providing budgetary and personnel services;

(7) Maintaining central files of records pertaining to licensure, inspections, investigations, and other matters requested by the boards;

(8) Furnishing facilities and staff for hearings and other proceedings;

(9) Providing information to the public concerning licensing requirements and procedures;

(10) Publishing and distributing procedural manuals concerning licensing and inspections and other materials prepared by the boards;

(11) Assisting, supplying, furnishing, and performing other administrative, clerical, and technical support the Mayor determines is necessary or appropriate;

(12) Issuing rules, as the Mayor may periodically determine to be necessary to protect the health

and welfare of the citizens of the District, for the temporary licensure for a fixed period of time not to exceed 90 days and under conditions to be prescribed by the Mayor by rule, of applicants for licensure to practice a health occupation in the District, except the Mayor may provide for the issuance of temporary licenses to applicants for licensure to practice social work and marriage and family therapy for a period not to exceed 1 year, and to applicants for licensure to practice as anesthesiologist assistants for a period not to exceed 2 years;

(13) Making necessary rules relating to the administrative procedures of the boards; and

(14) Issuing all rules necessary to implement the provisions of this chapter.

HISTORY: 1981 Ed., § 2-3303.2; Mar. 25, 1986, D.C. Law 6-99, § 302, 33 DCR 729; Apr. 8, 1992, D.C. Law 9-92, § 2, 39 DCR 1369; Oct. 1, 1992, D.C. Law 9-165, § 2, 39 DCR 5817; Mar. 10, 2004, D.C. Law 15-88, § 2(e), 50 DCR 10999; Mar. 16, 2005, D.C. Law 15-237, § 2(d), 51 DCR 10593.

NOTES:

EFFECT OF AMENDMENTS. --D.C. Law 15-88 inserted "and marriage and family therapy" in (12).

D.C. Law 15-237 added "and to applicants for licensure to practice as anesthesiologist assistants for a period not to exceed 2 years" in (12).

LEGISLATIVE HISTORY OF LAW 6-99. --See note to § 3-1201.01.

LEGISLATIVE HISTORY OF LAW 9-92. --Law 9-92, the "District of Columbia Health Occupations Revision Act of 1985 Temporary Licensure of Social Workers Temporary Amendment Act of 1992," was introduced in Council and assigned Bill No. 9-411. The Bill was adopted on first and second readings on January 7, 1992, and February 4, 1992, respectively. Signed by the Mayor on February 21, 1992, it was assigned Act No. 9-160 and transmitted to both Houses of Congress for its review. D.C. Law 9-92 became effective on April 8, 1992.

LEGISLATIVE HISTORY OF LAW 9-165. --Law 9-165, the "District of Columbia Health Occupations Revision Act of 1985 Temporary Licensure of Social Workers Amendment Act of 1992," was introduced in Council and assigned Bill No. 9-370. The Bill was adopted on first and second readings on June 2, 1992, and July 7, 1992, respectively. Signed by the Mayor on July 23, 1992, it was assigned Act No. 9-263 and transmitted to both Houses of Congress for its review. D.C. Law 9-165 became effective on October 1, 1992.

LEGISLATIVE HISTORY OF LAW 15-88. --Law 15-88, the "Marriage and Family Therapy Amendment Act of 2003," was introduced in Council and assigned Bill No. 15-179. The Bill was adopted on first and second readings on Oct. 7, 2003, and Nov. 4, 2003, respectively. Signed by the Mayor on Nov. 25, 2003, it was assigned Act No. 15-256 and transmitted to Congress for its review. D.C. Law 15-88 became effective on Mar. 10, 2004.

LEGISLATIVE HISTORY OF LAW 15-237. --Law 15-237, the "Anesthesiologist Assistant Licensure Amendment Act of 2004," was introduced in Council and assigned Bill No. 15-634. The

Bill was adopted on first and second readings on June 29, 2004, and October 5, 2004, respectively. Signed by the Mayor on November 1, 2004, it was assigned Act No. 15-577 and transmitted to Congress for its review. D.C. Law 15-237 became effective on Mar. 16, 2005.

EDITOR'S NOTES. --Section 302(12) of D.C. Law 15-237 provided that § 3-1203.02(12) was amended by striking the phrase "exceeding 1 year;" and inserting the phrase "exceeding one year, and to applicants for licensure to practice as anesthesiologist assistants for a period not to exceed 2 years;" in its place. LexisNexis interpreted this to mean that the actual text of the phrase being amended was "exceed 1 year."

SUBCHAPTER IV. GENERAL PROVISIONS RELATING TO HEALTH OCCUPATION BOARDS.

§ 3-1204.01. Qualifications of members [Formerly § 2-3304.1]

(a) The members of each board shall be residents of the District at the time of their appointments and while they are members of the board.

(b) (1) Each professional member of a board, in addition to the requirements of subsection (a) of this section, shall have been engaged in the practice of the health occupation regulated by the board for at least 3 years preceding appointment.

(2) The dietitian and nutritionist members initially appointed to the Board of Dietetics and Nutrition, the nonphysician acupuncturist member initially appointed to the Advisory Committee on Acupuncture, the anesthesiologist assistant member initially appointed to the Advisory Committee on Anesthesiologist Assistants, the physician assistant member initially appointed to the Advisory Committee on Physician Assistants, the respiratory care members initially appointed to the Board of Respiratory Care, the social worker members initially appointed to the Board of Social Work, the professional counselor members initially appointed to the Board of Professional Counseling, the naturopathic physician member initially appointed to the Advisory Committee on Naturopathic Medicine, marriage and family therapist members initially appointed to the Board of Marriage and Family Therapy, and the massage therapy members initially appointed to the Board of Massage Therapy shall be eligible for and shall file a timely application for licensure in the District. The advanced registered nurse members initially appointed to the Board of Nursing shall be licensed in the District as registered nurses, shall meet the qualifications of this chapter to practice their respective specialties, shall have practiced their respective specialties for at least 3 years preceding appointment, and shall file a timely application for certification to practice their respective specialties.

(c) Each consumer member of a board, in addition to the requirements of subsection (a) of this section, shall:

(1) Be at least 18 years old;

(2) Not be a health professional or in training to become a health professional;

(3) Not have a household member who is a health professional or is in training to become a health professional; and

(4) Not own, operate, or be employed in or have a household member who owns, operates, or is employed in a business which has as its primary purpose the sale of goods or services to health professionals or health-care facilities.

(d) Within the meaning of subsection (c) of this section, the term "household member" means a relative, by blood or marriage, or a ward of an individual who shares the individual's actual residence.

(e) The office of a member of a board or advisory committee shall be forfeited upon the member's failure to maintain the qualifications required by this chapter.

(f) Each professional member of a board or advisory committee shall disqualify himself or herself from acting on his or her own application for licensure or license renewal or on any other matter related to his or her practice of a health occupation.

HISTORY: 1981 Ed., § 2-3304.1; Mar. 25, 1986, D.C. Law 6-99, § 401, 33 DCR 729; July 22, 1992, D.C. Law 9-126, § 2(e), 39 DCR 3824; Mar. 14, 1995, D.C. Law 10-203, § 2(d), 41 DCR 7707; Mar. 14, 1995, D.C. Law 10-205, § 2(c), 41 DCR 7712; Apr. 18, 1996, D.C. Law 11-110, § 7(a), 43 DCR 530; Mar. 10, 2004, D.C. Law 15-88, § 2(f), 50 DCR 10999; July 8, 2004, D.C. Law 15-172, § 2(d), 51 DCR 4938; Mar. 16, 2005, D.C. Law 15-237, § 2(e), 51 DCR 10593.

NOTES:

EFFECT OF AMENDMENTS. --D.C. Law 15-88 inserted "marriage and family therapist members initially appointed to the Board of Marriage and Family Therapy" in (b)(2).

D.C. Law 15-172 inserted "the naturopathic physician member initially appointed to the Advisory Committee on Naturopathic Medicine" in the first sentence of (b)(2).

D.C. Law 15-237 inserted "the anesthesiologist assistant member initially appointed to the Advisory Committee on Anesthesiologist Assistants" in (b)(2).

LEGISLATIVE HISTORY OF LAW 6-99. --See note to § 3-1201.01.

LEGISLATIVE HISTORY OF LAW 9-126. --See note to § 3-1202.13.

LEGISLATIVE HISTORY OF LAW 10-203. --See note to § 3-1201.01.

LEGISLATIVE HISTORY OF LAW 10-205. --See note to § 3-1207.31.

LEGISLATIVE HISTORY OF LAW 11-110. --See note to § 3-1202.02.

LEGISLATIVE HISTORY OF LAW 15-88. --Law 15-88, the "Marriage and Family Therapy Amendment Act of 2003," was introduced in Council and assigned Bill No. 15-179. The Bill was adopted on first and second readings on Oct. 7, 2003, and Nov. 4, 2003, respectively. Signed by the Mayor on Nov. 25, 2003, it was assigned Act No. 15-256 and transmitted to Congress for its

review. D.C. Law 15-88 became effective on Mar. 10, 2004.

LEGISLATIVE HISTORY OF LAW 15-172. --Law 15-172, the "Practice of Naturopathic Medicine Licensing Amendment Act of 2004," was introduced in Council and assigned Bill No. 15-57. The Bill was adopted on first and second readings on Mar. 2, 2004, and Apr. 6, 2004, respectively. Signed by the Mayor on May 5, 2004, it was assigned Act No. 15-419 and transmitted to Congress for its review. D.C. Law 15-172 became effective on July 8, 2004.

LEGISLATIVE HISTORY OF LAW 15-237. --Law 15-237, the "Anesthesiologist Assistant Licensure Amendment Act of 2004," was introduced in Council and assigned Bill No. 15-634. The Bill was adopted on first and second readings on June 29, 2004, and October 5, 2004, respectively. Signed by the Mayor on November 1, 2004, it was assigned Act No. 15-577 and transmitted to Congress for its review. D.C. Law 15-237 became effective on Mar. 16, 2005.

§ 3-1204.02. Terms of members; filling of vacancies [Formerly § 2-3304.2]

(a) The terms of members of a board or advisory committee, after the initial terms, shall expire on the 3rd anniversary of the date the 1st members constituting a quorum take the oath of office.

(b) At the end of a term, a member shall continue to serve until a successor is appointed and sworn into office.

(c) A vacancy on a board or advisory committee shall be filled in the same manner as the original appointment was made.

(d) A member appointed to fill a vacancy shall serve only until the expiration of the term or until a successor is appointed and sworn into office.

HISTORY: 1981 Ed., § 2-3304.2; Mar. 25, 1986, D.C. Law 6-99, § 402, 33 DCR 729.

NOTES:

LEGISLATIVE HISTORY OF LAW 6-99. --See note to § 3-1201.01.

§ 3-1204.03. Limitation on consecutive terms [Formerly § 2-3304.3]

No member of a board or advisory committee shall be appointed to serve more than 3 full consecutive 3-year terms.

HISTORY: 1981 Ed., § 2-3304.3; Mar. 25, 1986, D.C. Law 6-99, § 403, 33 DCR 729.

NOTES:

LEGISLATIVE HISTORY OF LAW 6-99. --See note to § 3-1201.01.

§ 3-1204.04. Removal [Formerly § 2-3304.4]

(a) The Mayor may remove a member of a board or advisory committee for incompetence, misconduct, or neglect of duty, after due notice and a hearing.

(b) The failure of a member of a board or advisory committee to attend at least 1/2 of the regular, scheduled meetings of the board or advisory committee within a 12-month period shall constitute neglect of duty within the meaning of subsection (a) of this section.

HISTORY: 1981 Ed., § 2-3304.4; Mar. 25, 1986, D.C. Law 6-99, § 404, 33 DCR 729.

NOTES:

LEGISLATIVE HISTORY OF LAW 6-99. --See note to § 3-1201.01.

§ 3-1204.05. Officers; meetings; quorum [Formerly § 2-3304.5]

(a) From among the members of each board and advisory committee, the Mayor shall designate a chairperson.

(b) Each board and advisory committee shall determine the times and places of its meetings and shall publish notice of regular meetings at least 1 week in advance in the District of Columbia Register.

(c) A majority of the members of each board and advisory committee shall constitute a quorum.

HISTORY: 1981 Ed., § 2-3304.5; Mar. 25, 1986, D.C. Law 6-99, § 405, 33 DCR 729.

NOTES:

LEGISLATIVE HISTORY OF LAW 6-99. --See note to § 3-1201.01.

§ 3-1204.06. Compensation [Formerly § 2-3304.6]

Members of each board and advisory committee shall be entitled to receive compensation in accordance with § 1-611.08, and in addition shall be reimbursed for reasonable travel and other expenses incurred in the performance of their duties.

HISTORY: 1981 Ed., § 2-3304.6; Mar. 25, 1986, D.C. Law 6-99, § 406, 33 DCR 729.

NOTES:

LEGISLATIVE HISTORY OF LAW 6-99. --See note to § 3-1201.01.

§ 3-1204.07. Staff [Formerly § 2-3304.7]

For each board, the Mayor may set the compensation of personnel he or she deems advisable, subject to available appropriations, in accordance with Chapter 6 of Title 1.

HISTORY: 1981 Ed., § 2-3304.7; Mar. 25, 1986, D.C. Law 6-99, § 407, 33 DCR 729.

NOTES:

LEGISLATIVE HISTORY OF LAW 6-99. --See note to § 3-1201.01.

§ 3-1204.08. General powers and duties [Formerly § 2-3304.8]

Each board shall:

(1) Administer and enforce the provisions of this chapter, and rules and regulations issued pursuant to this chapter, related to the health occupation regulated by the board;

(2) Evaluate the qualifications and supervise the examinations of applicants for licenses, either personally or through the use of consultant services;

(3) Make recommendations to the Mayor, upon request by the Mayor or when the board determines it necessary, for standards and procedures to be used in determining the acceptability of foreign education and training programs as substantially equivalent to the requirements of this chapter;

(4) Issue licenses to qualified applicants;

(5) Issue subpoenas, examine witnesses, and administer oaths;

(6) Receive and review complaints of violations of this chapter or rules and regulations issued pursuant to this chapter;

(7) Request the Mayor, on its own initiative or on the basis of a complaint, to conduct investigations of allegations of practices violating the provisions of this chapter with respect to the health occupation regulated by the board; and

(8) Conduct hearings and keep records and minutes necessary to carry out its functions.

(9) Issue advisory opinions regarding compliance with acceptable standards of practice.

HISTORY: 1981 Ed., § 2-3304.8; Mar. 25, 1986, D.C. Law 6-99, § 408, 33 DCR 729; Mar. 23, 1995, D.C. Law 10-247, § 2(g), 42 DCR 457.

NOTES:

LEGISLATIVE HISTORY OF LAW 6-99. --See note to § 3-1201.01.

LEGISLATIVE HISTORY OF LAW 10-247. --See note to § 3-1201.01.

§ 3-1204.09. Fees [Formerly § 2-3304.9]

The Mayor is authorized to establish a fee schedule for all services related to the regulation of all health occupations under this chapter, in accordance with the requirements of District law.

HISTORY: 1981 Ed., § 2-3304.9; Mar. 25, 1986, D.C. Law 6-99, § 409, 33 DCR 729.

NOTES:

LEGISLATIVE HISTORY OF LAW 6-99. --See note to § 3-1201.01.

§ 3-1204.10. Disposition of funds [Formerly § 2-3304.10]

All fees, civil fines, and other funds collected pursuant to this chapter shall be deposited to the General Fund of the District.

HISTORY: 1981 Ed., § 2-3304.10; Mar. 25, 1986, D.C. Law 6-99, § 410, 33 DCR 729.

NOTES:

LEGISLATIVE HISTORY OF LAW 6-99. --See note to § 3-1201.01.

§ 3-1204.11. Annual report [Formerly § 2-3304.11]

Each board shall, before January 1 of each year, submit a report to the Mayor and the Council of its official acts during the preceding fiscal year.

HISTORY: 1981 Ed., § 2-3304.11; Mar. 25, 1986, D.C. Law 6-99, § 411, 33 DCR 729.

NOTES:

LEGISLATIVE HISTORY OF LAW 6-99. --See note to § 3-1201.01.

SUBCHAPTER V. LICENSING OF HEALTH PROFESSIONALS.

§ 3-1205.01. License required [Formerly § 2-3305.1]

A license issued pursuant to this chapter is required to practice medicine, acupuncture, chiropractic, registered nursing, practical nursing, dentistry, dental hygiene, dietetics, marriage and family therapy, massage therapy, naturopathic medicine, nutrition, nursing home administration, occupational therapy, optometry, pharmacy, physical therapy, podiatry, psychology, social work, professional counseling, and respiratory care or to practice as an anesthesiologist assistant, physician assistant, or occupational therapy assistant in the District, except as provided in this chapter. A certification issued pursuant to this chapter is required to practice advanced practice registered nursing.

HISTORY: 1981 Ed., § 2-3305.1; Mar. 25, 1986, D.C. Law 6-99, § 501, 33 DCR 729; July 22, 1992, D.C. Law 9-126, § 2(f), 39 DCR 3824; Mar. 14, 1995, D.C. Law 10-203, § 2(e), 41 DCR 7707; Mar. 14, 1995, D.C. Law 10-205, § 2(d), 41 DCR 7712; Mar. 23, 1995, D.C. Law 10-247, § 2(h), 42 DCR 457; Mar. 10, 2004, D.C. Law 15-88, § 2(g), 50 DCR 10999; July 8, 2004, D.C. Law 15-172, § 2(e), 51 DCR 4938; Mar. 16, 2005, D.C. Law 15-237, § 2(f), 51 DCR 10593.

NOTES:

SECTION REFERENCES. --This section is referenced in § 16-2301 and § 21-501.

EFFECT OF AMENDMENTS. --D.C. Law 15-88 inserted "marriage and family therapy."

D.C. Law 15-172 inserted "naturopathic medicine" in the first sentence.

D.C. Law 15-237 substituted "an anesthesiologist assistant, physician assistant, or occupational therapy assistant" for "a physician assistant or occupational therapy assistant."

LEGISLATIVE HISTORY OF LAW 6-99. --See note to § 3-1201.01.

LEGISLATIVE HISTORY OF LAW 9-126. --See note to § 3-1202.13.

LEGISLATIVE HISTORY OF LAW 10-203. --See note to § 3-1201.01.

LEGISLATIVE HISTORY OF LAW 10-205. --See note to § 3-1207.31.

LEGISLATIVE HISTORY OF LAW 10-247. --See note to § 3-1201.01

LEGISLATIVE HISTORY OF LAW 15-88. --Law 15-88, the "Marriage and Family Therapy Amendment Act of 2003," was introduced in Council and assigned Bill No. 15-179. The Bill was adopted on first and second readings on Oct. 7, 2003, and Nov. 4, 2003, respectively. Signed by the Mayor on Nov. 25, 2003, it was assigned Act No. 15-256 and transmitted to Congress for its review. D.C. Law 15-88 became effective on Mar. 10, 2004.

LEGISLATIVE HISTORY OF LAW 15-172. --Law 15-172, the "Practice of Naturopathic Medicine Licensing Amendment Act of 2004," was introduced in Council and assigned Bill No. 15-57. The Bill was adopted on first and second readings on Mar. 2, 2004, and Apr. 6, 2004, respectively. Signed by the Mayor on May 5, 2004, it was assigned Act No. 15-419 and transmitted to Congress for its review. D.C. Law 15-172 became effective on July 8, 2004.

LEGISLATIVE HISTORY OF LAW 15-237. --Law 15-237, the "Anesthesiologist Assistant Licensure Amendment Act of 2004," was introduced in Council and assigned Bill No. 15-634. The Bill was adopted on first and second readings on June 29, 2004, and October 5, 2004, respectively. Signed by the Mayor on November 1, 2004, it was assigned Act No. 15-577 and transmitted to Congress for its review. D.C. Law 15-237 became effective on Mar. 16, 2005.

ANALYSIS

Discipline

Findings

License

Notice sufficient

Standard of care

Unlicensed practice

DISCIPLINE.

Failure to enroll in a residency program could be understood to imply that a doctor was practicing medicine "beyond the scope" of a restricted license within the meaning D.C. Code § 3-1205.14(a)(21); moreover, D.C. Code § 3-1205.14(a)(18) authorizes discipline if a physician violates any of the conditions of an agreement between the licensee and the Board of Medicine to voluntarily limit the practice of the licensee made pursuant to D.C. Code § 3-1205.18. *Salama v. District of Columbia Bd. of Med., App. D.C., 578 A.2d 693 (1990)*.

The substantial evidence test requires an agency to (1) make written findings of basic facts on all material contested issues; (2) these findings, taken together, must rationally lead to conclusions of law sufficient to support the agency's decision; and (3) each basic finding must be supported by evidence sufficient to convince reasonable minds of its adequacy; in a disciplinary action, the Board of Medicine failed on the second ground as the governing statute did not preclude a doctor from leaving an ordered residency program, so long as doctor did not attempt to resume practice. *Salama v. District of Columbia Bd. of Med., App. D.C., 578 A.2d 693 (1990)*.

FINDINGS.

District of Columbia Board of Psychology's denial of petitioner's license to practice psychology was affirmed where petitioner had received a doctoral degree in guidance and counseling but the licensure requirements were revised to require that a doctoral degree in psychology, and not fields related to psychology, was required for applicants by D.C. Code § 3-1205.04(o); the Court of Appeals found that the Board's interpretation of the code was consistent with the language of the revised statute, their decision was not arbitrary or capricious, and the Board had not unconstitutionally delegated its rule-making authority to a private organization to determine what constitutes a doctoral degree in psychology. *Donahue v. District of Columbia Bd. of Psychology, App. D.C., 562 A.2d 116 (1989)*.

LICENSE.

Court of appeals remanded back to the medical board a case that was brought by a psychiatrist licensed in Michigan who had been denied a license to practice medicine in the District of Columbia without retaking the standardized licensing examination; the medical board had failed to explain its practices in waiving the examination requirements for applicants currently licensed in

another state and issuing a medical license by reciprocity or endorsement to an applicant who was licensed and in good standing under substantially equivalent requirements under D.C. Code § 3-1205.03 when the record revealed the board required strict equivalency on passing scores for those doctors who had taken the same standardized examination that the district uses but were less stringent with doctors who had passed a different state examination. *Roberts v. District of Columbia Bd. of Med.*, App. D.C., 577 A.2d 319 (1990).

NOTICE SUFFICIENT.

The District of Columbia Board of Medicine acted with proper jurisdiction in the revocation of a doctor's license despite an erroneous citation to a repealed statute in a revocation notice, where the same conduct was cause for discipline under both the repealed and the current statute, the same disciplinary sanctions were prescribed by both for the conduct, and no prejudice was shown. *Salama v. District of Columbia Bd. of Med.*, App. D.C., 578 A.2d 693 (1990).

STANDARD OF CARE.

Because the selection of foster parents and the supervision of the care they provide are not activities within the realm of common knowledge and every day experience, expert testimony was needed to establish the standard of care before the District could be found liable for either negligent selection or negligent supervision. *District of Columbia v. Hampton*, App. D.C., 666 A.2d 30 (1995).

UNLICENSED PRACTICE.

There was sufficient evidence to convict a licensed physician of aiding and abetting a licensed paramedical assistant in the physician's employ in the practice of a healing art without a license under former D.C. Code § 2-102, since the physician paid scant personal attention to a clinic he set up and staffed with physician assistants, was present in the clinic only a few hours each week, left a pad of pre-signed prescription pads for the assistant's use, and never saw a majority of the patients. *Jacobs v. United States*, App. D.C., 436 A.2d 1286 (1981).

CITED in *District of Columbia v. Wilson*, App. D.C., 721 A.2d 591 (1998).

§ 3-1205.02. Exemptions [Formerly § 2-3305.2]

The provisions of this chapter prohibiting the practice of a health occupation without a license shall not apply:

- (1) To an individual who administers treatment or provides advice in any case of emergency;
- (2) To an individual employed in the District by the federal government, while he or she is acting in the official discharge of the duties of employment;

(3) To an individual, licensed to practice a health occupation in a state, who is called from the state in professional consultation by or on behalf of a specific patient to visit, examine, treat, or advise the specific patient in the District, or to give a demonstration or clinic in the District, provided that the individual engages in the consultation, demonstration, or clinic in affiliation with a comparable health professional licensed pursuant to this chapter;

(4) To a health professional who is authorized to practice a health occupation in any state adjoining the District who treats patients in the District if:

(A) The health professional does not have an office or other regularly appointed place in the District to meet patients;

(B) The health professional registers with the appropriate board and pays the registration fee prescribed by the board prior to practicing in the District; and

(C) The state in which the individual is licensed allows individuals licensed by the District in that particular health profession to practice in that state under the conditions set forth in this subsection.

(D) Notwithstanding the provisions of subparagraphs (A), (B), and (C) of this paragraph, a health professional practicing in the District pursuant to this paragraph shall not see patients or clients in the office or other place of practice of a District licensee, or otherwise circumvent the provisions of this chapter.

HISTORY: 1981 Ed., § 2-3305.2; Mar. 25, 1986, D.C. Law 6-99, § 502, 33 DCR 729.

NOTES:

LEGISLATIVE HISTORY OF LAW 6-99. --See note to § 3-1201.01.

§ 3-1205.03. General qualifications of applicants [Formerly § 2-3305.3]

(a) An individual applying for a license under this chapter shall establish to the satisfaction of the board regulating the health occupation that the individual:

(1) Has not been convicted of an offense which bears directly on the fitness of the individual to be licensed;

(2) Is at least 18 years of age;

(3) Has successfully completed the additional requirements set forth in § 3-1205.04 and subchapters VI, VII, VIII and VIII-A of this chapter, as applicable;

(4) Has passed an examination, administered by the board or recognized by the Mayor pursuant to § 3-1205.06, to practice the health occupation; and

(5) Meets any other requirements established by the Mayor by rule to assure that the applicant has had the proper training, experience, and qualifications to practice the health occupation.

(b) The board may grant a license to an applicant whose education and training in the health occupation has been successfully completed in a foreign school, college, university, or training program if the applicant otherwise qualifies for licensure and if the board determines, in accordance with rules issued by the Mayor, that the education and training are substantially equivalent to the requirements of this chapter in assuring that the applicant has the proper training, experience, and qualifications to practice the health occupation.

(c) The board may deny a license to an applicant whose license to practice a health occupation was revoked or suspended in another state if the basis of the license revocation or suspension would have caused a similar result in the District, or if the applicant is the subject of pending disciplinary action regarding his or her right to practice in another state.

(d) The references in § 3-1205.04 and subchapters VI, VII, VIII and VIII-A of this chapter to named professional organizations and governmental entities for purposes of accreditation or the administration of national examinations shall be considered to refer to successor organizations or entities upon a determination by the Mayor that the successor is substantially equivalent in standards and purposes as the organization or entity named in this chapter.

HISTORY: 1981 Ed., § 2-3305.3; Mar. 25, 1986, D.C. Law 6-99, § 503, 33 DCR 729; Mar. 10, 2004, D.C. Law 15-88, § 2(h), 50 DCR 10999.

NOTES:

SECTION REFERENCES. --This section is referenced in § 3-1205.09a.

EFFECT OF AMENDMENTS. --D.C. Law 15-88, substituted "VIII and VIII-A" for "and VIII" in (a)(3) and (d).

LEGISLATIVE HISTORY OF LAW 6-99. --See note to § 3-1201.01.

LEGISLATIVE HISTORY OF LAW 15-88. --See note to § 3-1205.01

CITED in *Greenlee v. Board of Med.*, 813 F. Supp. 48 (D.D.C. 1993).

§ 3-1205.04. Additional qualifications of applicants [Formerly § 2-3305.4]

(a) An individual applying for a license to practice acupuncture under this chapter shall establish to the satisfaction of the Board of Medicine that the individual:

(1) If he or she is a licensed physician, has successfully completed at least 100 hours of instruction in the practice of acupuncture at a school or college accredited by the National Accreditation Commission for Schools and Colleges of Acupuncture and Oriental Medicine, or other training

approved by the Board; or

(2) If he or she is not a licensed physician, has successfully completed an educational program in the practice of acupuncture of at least 3 academic years at the post-baccalaureate level at a school or college accredited by the National Accreditation Commission for Schools and Colleges of Acupuncture and Oriental Medicine, or other training approved by the Board.

(a-1) (1) An individual applying for a license to practice as an anesthesiologist assistant under this chapter shall establish to the satisfaction of the Board of Medicine that the individual has:

(A) Earned a degree or certification from an anesthesiologist assistant program accredited by the Commission for the Accreditation of Allied Health Educational Programs, or by the commission's successor;

(B) Successfully completed the Commission for the Accreditation of Allied Health Educational Programs National Certification Exam for Anesthesiologist Assistants, or an examination administered by its successor; and

(C) Successfully completed and has current certification for the Advanced Cardiac Life Support program as administered by the American Heart Association or its successor organization.

(2) An application for licensure as an anesthesiologist assistant may be filed by an individual who has taken the national certification examination required under paragraph (1)(B) of this subsection but not yet received the results.

(b) An individual applying for a license to practice chiropractic under this chapter shall establish to the satisfaction of the Board of Chiropractic that the individual:

(1) Is a graduate of an educational program in the practice of chiropractic of at least 4 academic years at a college of chiropractic accredited by the Council on Chiropractic Education or the Straight Chiropractic Academic Standards Association; and

(2) Has satisfied any clinical experience established by rule.

(c) An individual applying for a license to practice dental hygiene under this chapter shall establish to the satisfaction of the Board of Dentistry that the individual is a graduate of an educational program in the practice of dental hygiene of at least 2 academic years which is approved by the Board.

(d) An individual applying for a license to practice dentistry under this chapter shall establish to the satisfaction of the Board of Dentistry that the individual is a graduate of a school of dentistry accredited by the Commission on Dental Accreditation.

(d-1) An individual applying for a license to practice massage therapy under this chapter shall establish to the satisfaction of the Board of Massage Therapy that the individual has successfully completed a minimum of 500 hours of training in massage therapy.

(e) An individual applying for a license to practice medicine under this chapter shall establish to the satisfaction of the Board of Medicine that the individual is a graduate of an accredited school of medicine and has completed at least 1 year of residency in a hospital or other health-care facility licensed by the District or by any state.

(e-1) (1) An individual applying for a license to practice naturopathic medicine under this chapter shall:

(A) Establish to the satisfaction of the Board of Medicine that the individual has earned a degree of doctor of naturopathic medicine from a college or university which at the time of the awarding of the degree was accredited by or a candidate for accreditation with:

(i) The Council of Naturopathic Medical Education ("CNME"), so long as the CNME maintains recognition from the United States Department of Education; or

(ii) Any other accrediting agency recognized by the United States Department of Education;

(B) Have successfully passed the Naturopathic Physicians Licensing Examination ("NPLEX") basic science examination and clinical science examination sections administered by the North American Board of Naturopathic Examiners, or other examination approved by the Board of Medicine or the Mayor; and

(C) Provide proof of a mailing address demonstrating that the applicant either is a District resident or has an office or location of practice involved in the practice of naturopathic medicine in the District. Post office boxes are not sufficient proof of residency to demonstrate that an applicant either is a District resident or has an office or location of practice in the District for the purposes of this subparagraph.

(2) The Board of Medicine shall not waive the educational requirements for licensure to practice naturopathic medicine for persons registered to practice naturopathy or naturopathic healing.

(f) (1) An individual applying for a license to practice nursing home administration under this chapter shall establish to the satisfaction of the Board of Nursing Home Administration that the individual:

(A) Has earned a baccalaureate degree from an accredited 4-year institution of higher education with a specialty in the courses or program of study applicable to the practice of nursing home administration; and

(B) Except as provided in paragraph (2) of this subsection, has worked for at least 1 year in a nursing home licensed in the District under the supervision of a licensed nursing home administrator.

(2) The requirement of paragraph (1)(B) of this subsection shall not apply to an applicant who has earned a master's degree in nursing home administration or other appropriate specialty from an

accredited institution of higher education.

(g) (1) An individual applying for a license to practice occupational therapy under this chapter shall establish to the satisfaction of the Board of Occupational Therapy that the individual:

(A) Has successfully completed an educational program in the practice of occupational therapy at an institution accredited by the Committee on Allied Health Education of the American Medical Association in collaboration with the American Occupational Therapy Association; and

(B) Has successfully completed a period of at least 6 months of supervised work experience at an accredited educational institution or program approved by an accredited educational institution.

(2) (A) An individual applying for a license to practice as an occupational therapy assistant under this chapter shall establish to the satisfaction of the Board of Occupational Therapy that the individual has successfully completed an educational program in occupational therapy, at the level of occupational therapy assistant, which is approved by the American Occupational Therapy Association; and

(B) Has successfully completed a period of at least 2 months of supervised work experience at an accredited educational institution or program approved by an accredited educational institution.

(3) (A) The Board of Occupational Therapy shall waive the examination requirement of this chapter for any applicant for licensure as an occupational therapist or occupational therapy assistant who was certified prior to April 6, 1978, as an occupational therapist registered ("O.T.R.") or a certified occupational therapy assistant ("C.O.T.A."), respectively, by the American Occupational Therapy Association. The Board may waive the examination requirement for any applicant so certified after April 6, 1978, if the Board determines that the requirements for certification were substantially equivalent at the time of the certification to the requirements of this chapter.

(B) The Board of Occupational Therapy shall waive the education, experience, and examination requirements of this chapter for any applicant who presents evidence satisfactory to the Board that he or she has engaged in the practice of occupational therapy, or as an occupational therapy assistant, on and prior to April 6, 1978.

(C) The waivers provided by this paragraph shall be granted only upon request by an applicant within 12 months of March 25, 1986.

(h) An individual applying for a license to practice optometry under this chapter shall establish to the satisfaction of the Board of Optometry that the individual is a graduate of a school of optometry approved by the Board.

(i) An individual applying for a license to practice pharmacy under this chapter shall establish to the satisfaction of the Board of Pharmacy that the individual:

(1) Has earned a degree in pharmacy from a college or school of pharmacy accredited by the American Council of Pharmaceutical Education; and

(2) Has worked as a pharmacy intern in a pharmacy for the period of time required by the Mayor or has gained other equivalent experience the Mayor may permit by rule.

(j) An individual applying for a license to practice physical therapy under this chapter shall establish to the satisfaction of the Board of Physical Therapy that the individual has successfully completed an educational program in the practice of physical therapy which is accredited by an agency recognized for that purpose by the United States Department of Education, or which is approved by the Board.

(k) An individual applying for a license to practice as a physician assistant under this chapter shall establish to the satisfaction of the Board of Medicine that the individual has successfully completed a physician assistant educational program accredited by the Committee on Allied Health Education and Accreditation.

(l) An individual applying for a license to practice podiatry under this chapter shall establish to the satisfaction of the Board of Podiatry that the individual is a graduate of a podiatry college recognized by the American Podiatric Medical Association and approved by the Board.

(m) An individual applying for a license to practice practical nursing under this chapter shall establish to the satisfaction of the Board of Nursing that the individual has successfully completed an educational program in practical nursing which is approved by the Board.

(n) An individual applying for a license to practice registered nursing under this chapter shall establish to the satisfaction of the Board of Nursing that the individual has successfully completed an educational program in registered nursing approved by the Board or by a state board of nursing with standards substantially equivalent to the standards of the District.

(o) An individual applying for a license to practice psychology under this chapter shall establish to the satisfaction of the Board of Psychology that the individual has:

(1) (A) Earned a doctoral degree in psychology from an accredited college or university; or

(B) Earned a doctoral degree that the Board determines is related to psychology, provided that the application is received by the Board within 2 years from March 25, 1986; and

(i) The applicant commenced the doctoral program after March 24, 1978, but before March 25, 1986; or

(ii) The doctoral degree was conferred on the applicant after March 24, 1983, but before March 25, 1986; and

(2) Completed at least 2 years of postdoctoral experience acceptable to the Board.

(p) An individual applying for a license to practice respiratory therapy under this subchapter shall establish to the satisfaction of the Board of Respiratory Therapy that the individual has successfully

completed a respiratory care educational program accredited by the American Medical Association's Committee on Allied Health Education and Accreditation ("CAHEA") in collaboration with the Joint Review Committee for Respiratory Therapy Education ("JRCRTE") or their successor organizations.

HISTORY: 1981 Ed., § 2-3305.4; Mar. 25, 1986, D.C. Law 6-99, § 504, 33 DCR 729; Mar. 14, 1995, D.C. Law 10-203, § 2(f), 41 DCR 7707; Mar. 14, 1995, D.C. Law 10-205, § 2(e), 41 DCR 7712; Mar. 21, 1995, D.C. Law 10-231, § 2(e), 42 DCR 15; Mar. 23, 1995, D.C. Law 10-247, § 2(i)-(k), 42 DCR 457; July 8, 2004, D.C. Law 15-172, § 2(f), 51 DCR 4938; Mar. 16, 2005, D.C. Law 15-237, § 2(g), 51 DCR 10593.

NOTES:

SECTION REFERENCES. --This section is referenced in § 3-1205.03, § 3-1205.09a, and § 3-1209.03.

EFFECT OF AMENDMENTS. --D.C. Law 15-172 added (e-1).
D.C. Law 15-237 added (a-1).

LEGISLATIVE HISTORY OF LAW 6-99. --See note to § 3-1201.01.

LEGISLATIVE HISTORY OF LAW 10-203. --See note to § 3-1201.01.

LEGISLATIVE HISTORY OF LAW 10-205. --See note to § 3-1207.31.

LEGISLATIVE HISTORY OF LAW 10-231. --See note to § 3-1201.01.

LEGISLATIVE HISTORY OF LAW 10-247. --See note to § 3-1201.01.

LEGISLATIVE HISTORY OF LAW 15-172. --See note to § 3-1205.01.

LEGISLATIVE HISTORY OF LAW 15-237. --See note to § 3-1205.01.

CITED in *Donahue v. District of Columbia Bd. of Psychology*, App. D.C., 562 A.2d 116 (1989); *Greenlee v. Board of Med.*, 813 F. Supp. 48 (D.D.C. 1993).

§ 3-1205.05. Application for license [Formerly § 2-3305.5]

(a) An applicant for a license shall:

(1) Submit an application to the board regulating the health occupation on the form required by the board; and

(2) Pay the applicable fees established by the Mayor.

(b) The social security number of each applicant for a license issued pursuant to this chapter shall be recorded on the application. If a number other than the social security number is used on the face of the license, the issuing agency or entity shall keep the applicant's social security number on file and the applicant shall be so advised.

HISTORY: 1981 Ed., § 2-3305.5; Mar. 25, 1986, D.C. Law 6-99, § 505, 33 DCR 729; Apr. 3, 2001, D.C. Law 13-269, § 103, 48 DCR 1270.

NOTES:

EFFECT OF AMENDMENTS. --D.C. Law 13-269 added (b).

EMERGENCY ACT AMENDMENTS. --For temporary amendment of section, see § 103 of the Child Support and Welfare Reform Compliance Congressional Review Emergency Amendment Act of 2001 (D.C. Act 14-5, February 13, 2001, 48 DCR 2440).

LEGISLATIVE HISTORY OF LAW 6-99. --See note to § 3-1201.01. 13-269.

LEGISLATIVE HISTORY OF LAW 13-269 --Law 13-269, the "Child Support and Welfare Reform Compliance Amendment Act of 2000," was introduced in Council and assigned Bill No. 13-254. The Bill was adopted on first and second readings on November 8, 2000 and December 5, 2000, respectively. Signed by the Mayor on January 8, 2000, it was assigned Act No. 13-559 and transmitted to both Houses of Congress for its review. D.C. Law 13-269 became effective April 3, 2001.

§ 3-1205.06. Examinations [Formerly § 2-3305.6]

(a) An applicant who otherwise qualifies for a license is entitled to be examined as provided by this chapter.

(b) (1) Each board that administers examinations shall give examinations to applicants at least twice a year at times and places to be determined by the Board.

(2) When the Mayor, pursuant to subsection (e)(2) of this section, determines that a national examination is acceptable, then the frequency, time, and place that the national examination is given shall be considered acceptable and in accordance with this chapter.

(c) Each board shall notify each qualified applicant of the time and place of examination.

(d) Except as otherwise provided by this chapter, each board shall determine the subjects, scope, form, and passing score for examinations to assess the ability of the applicant to practice effectively the health occupation regulated by the board.

(e) Each board, in its discretion, may waive the examination requirements:

(1) For any applicant who meets the requirements of § 3-1205.07 for licensure by reciprocity or

endorsement; or

(2) For any person who has been certified by a national examining board if the Mayor determines by rule that the examination was as effective for the testing of professional competence as that required in the District.

HISTORY: 1981 Ed., § 2-3305.6; Mar. 25, 1986, D.C. Law 6-99, § 506, 33 DCR 729; Mar. 23, 1995, D.C. Law 10-247, § 2(1), 42 DCR 457.

NOTES:

SECTION REFERENCES. --This section is referenced in § 3-1205.03 and § 3-1205.09a.

LEGISLATIVE HISTORY OF LAW 6-99. --See note to § 3-1201.01.

LEGISLATIVE HISTORY OF LAW 10-247. --See note to § 3-1201.01.

ANALYSIS

Single sitting examination.

SINGLE SITTING EXAMINATION.

A requirement of a single sitting for pre-1985 FLEX (Federation Licensing Examination) examinees is consistent with this section in that it falls within the Board of Medicine's discretion to establish standards for FLEX examinees from other states substantially equivalent to standards required of District FLEX examinees. *Tinner v. District of Columbia Dep't of Consumer & Regulatory Affairs*, App. D.C., 703 A.2d 833 (1997).

§ 3-1205.07. Reciprocity and endorsement [Formerly § 2-3305.7]

Each board shall issue a license by reciprocity or endorsement to an applicant:

(1) Who is licensed or certified and in good standing under the laws of another state with requirements which, in the opinion of the Board, were substantially equivalent at the time of licensure to the requirements of this chapter, and which state admits health professionals licensed by the District in a like manner; or

(2) Who is certified or accredited by a recognized national accrediting association, acceptable to the Board, as a qualified professional according to standards that were the substantial equivalent at the time of the certification or accreditation to the standards for that profession as set forth in this chapter and who has continually remained in good standing with the certifying or accrediting association from the date of certification or accrediting until the date of licensing; and

(3) Who pays the applicable fees established by the Mayor.

HISTORY: 1981 Ed., § 2-3305.7; Mar. 25, 1986, D.C. Law 6-99, § 507, 33 DCR 729; Mar. 23, 1995, D.C. Law 10-247, § 2(m), 42 DCR 457; Apr. 29, 1998, D.C. Law 12-86, § 403, 45 DCR 1172.

NOTES:

SECTION REFERENCES. --This section is referenced in § 3-1205.06.

LEGISLATIVE HISTORY OF LAW 6-99. --See note to § 3-1201.01.

LEGISLATIVE HISTORY OF LAW 10-247. --See note to § 3-1201.01.

LEGISLATIVE HISTORY OF LAW 12-86. --Law 12-86, the "Omnibus Regulatory Reform Amendment Act of 1998," was introduced in Council and assigned Bill No. 12-458. The Bill was adopted on first and second readings on December 19, 1997, and January 6, 1998, respectively. Signed by the Mayor on January 21, 1998, it was assigned Act No. 12-256 and transmitted to both Houses of Congress for its review. D.C. Law 12-86 became effective on April 29, 1998.

ANALYSIS

Equivalence

Experience of practitioner.

Strict equivalency

EQUIVALENCE.

Chiropractor was not entitled to certification by reciprocity because he failed to establish at the administrative level that Florida's licensing standards were "substantially equivalent" at the date of the licensure to the District of Columbia's requirements. *Singer v. District of Columbia Bd. of Medicine*, App. D.C., 631 A.2d 1232 (1993).

EXPERIENCE OF PRACTITIONER.

The Board of Medicine's reliance solely upon her Federation-certified FLEX score and its refusal to consider her current qualifications, including four years of practice at a hospital, did not violate applicant's due process rights by creating an irrebuttable presumption of incompetence. *Roberts v. District of Columbia Bd. of Med.*, App. D.C., 577 A.2d 319 (1990).

This section reflects a legislative judgment that, apart from current licensure and good standing in another state, the relevant considerations for a license by endorsement and reciprocity are

circumstances at the time of original licensure and not intervening experience or accomplishment, perhaps because the latter, as an objective measurement of qualification, are too difficult to assess. *Roberts v. District of Columbia Bd. of Med.*, App. D.C., 577 A.2d 319 (1990).

This section conveys the legislature's intent that, notwithstanding current licensure and good standing in another state or territory, the relevant considerations for a license by waiver of examination or reciprocity are circumstances at the time of original licensure and not intervening experience or accomplishment. *Tinner v. District of Columbia Dep't of Consumer & Regulatory Affairs*, App. D.C., 703 A.2d 833 (1997).

STRICT EQUIVALENCY.

While the Board of Medicine does insist upon strict equivalency as to the examination requirement when judging applicants from states employing FLEX, given the broad discretion granted the board in administering the waiver and endorsement provisions, such policy does not exceed its statutory authority. *Roberts v. District of Columbia Bd. of Med.*, App. D.C., 577 A.2d 319 (1990).

CITED in *Singer v. District of Columbia Bd. of Med.*, App. D.C., 631 A.2d 1232 (1993).

§ 3-1205.08. Issuance of license [Formerly § 2-3305.8]

Each board shall issue a license to an applicant who meets the requirements of this chapter and rules and regulations issued pursuant to this chapter to practice the health occupation regulated by the board.

HISTORY: 1981 Ed., § 2-3305.8; Mar. 25, 1986, D.C. Law 6-99, § 508, 33 DCR 729.

NOTES:

LEGISLATIVE HISTORY OF LAW 6-99. --See note to § 3-1201.01.

§ 3-1205.09. Scope of license [Formerly § 2-3305.9]

(a) (1) A person licensed under this chapter to practice a health occupation is authorized to practice that occupation in the District while the license is effective.

(2) A person certified to practice advanced registered nursing is authorized to practice the specialty for which he or she has been certified by the Board of Nursing.

(b) An individual who fails to renew a license to practice a health occupation shall be considered to be unlicensed and subject to the penalties set forth in this chapter and other applicable laws of the District, if he or she continues to practice the health occupation.

HISTORY: 1981 Ed., § 2-3305.9; D.C. Law 6-99, § 509, 33 DCR 729.

NOTES:

LEGISLATIVE HISTORY OF LAW 6-99. --See note to § 3-1201.01.

§ 3-1205.09a. Licenses for foreign doctors of eminence and authority [Formerly § 2-3305.9a]

(a) Notwithstanding any other provision of this subchapter, the Board shall grant a limited license to practice specialized medicine with a university, hospital or medical center in the District of Columbia to an applicant licensed as a physician in a foreign country or state who by virtue of the recognized and conceded eminence and authority in the profession of medicine or medical research in the international community, if this applicant:

(1) Is recommended to the Board by:

(A) The dean of an accredited school of medicine in the District of Columbia;

(B) The Director of the National Institute of Health; or

(C) The Director of an accredited and licensed hospital in the District of Columbia;

(2) Is to receive an appointment at the institution making the recommendation under paragraph (1) of this subsection; and

(3) Meets the requirements of subsection (d) of this section.

(b) The Board shall not issue to any entity under paragraph (1) of this section more than 1 such license in any single year.

(c) Any license issued under this section shall be issued jointly in the name of the applicant and the sponsoring entity under subsection (a)(1) of this section.

(d) In determining whether an applicant is a recognized and conceded eminence and authority in the profession, the Board shall consider, but not be limited to, whether the applicant meets the following criteria:

(1) Is a bona fide graduate in good standing who has successfully completed medical education at a foreign medical school which is recognized or accredited by the foreign country, the Liaison Committee on Medical Education of the Association of American Medical Colleges, or other organization satisfactory to the Board;

(2) Holds a valid foreign medical license or registration certificate, in good standing, issued by the United States or a foreign country on the basis of a foreign examination;

(3) Practiced medicine for at least 10 years in patient care, excluding the 2 years of postgraduate

clinical training, 5 years of which occurred immediately preceding the date application is made to the Board;

(4) Successfully completed no less than 2 years of post graduate clinical training in a recognized medical specialty or subspecialty either in the United States or other foreign country, or in lieu of each year of required graduate medical training, documents a practice as a full time university medical school faculty member at an accredited institution;

(5) Meets the Federal Professional Visa requirements for HI Visa or holds a federally issued HI Visa;

(6) Has been the recipient of professional honors and awards, and professional recognition in the international medical community, for achievements, contributions, or advancements in the field of medicine, or medical research as evidenced by (i) publications in recognized scientific, medical, or medical research journals, including American peer review journals, (ii) being the recipient or nominee for international or national awards for distinguished contributions to the advancement of medicine or medical research, (iii) acknowledgement of expertise from recognized American authorities in the applicant's field of medical specialty, or (iv) other professional accomplishments as determined meritorious in the sole discretion of the Board;

(7) Submits documentation from the university, hospital or medical center from which the candidate is to receive an academic appointment at such institution or has been accepted for practice, pending receipt of a license, with privileges at a university medical school, local hospital, or medical institution making the recommendation under subsection (a)(1) of this section;

(8) Submits 3 letters of recommendation from District of Columbia physicians who are licensed in the areas of medical practice for which the applicant is applying for licensure who shall attest to the candidate's qualifications, character, and ethical behavior;

(9) Submits 5 letters from renowned American specialists in the candidate's discipline who attest to his eminence and qualifications;

(10) Has never been convicted of a felony; and

(11) Agrees to perform a maximum of 15 hours per month of community service for patient care, teaching, or training as may be required by the Board.

(e) As an exception to the general education and examination requirements of §§ 3-1205.03, 3-1205.04, and 3-1205.06, the Board shall waive those requirements when an applicant under this section shall furnish proof satisfactory to the Board of successful completion or satisfaction of the requirements of subsections (a) and (b) of this section, and shall provide documentation sufficient to support the application, including, but not limited to, a diploma or certified transcripts of the applicant's medical or, if applicable, premedical education and certified verification of licensure or registration to practice medicine in a foreign country.

(1) An applicant under this section shall arrange to have certified transcripts of all medical and

premedical, if applicable, education sent directly from the educational institution to the Board.

(2) The Board may waive the educational transcript requirement of this section on a showing of extraordinary hardship if the applicant is able to establish by substitute documentation that the applicant possesses the requisite education and degrees.

(3) If a document required by this section is in a language other than English, an applicant shall arrange for its translation into English by a translation service for the Board, and shall submit a notarized translation signed by the translator attesting to its accuracy.

(4) All applicants shall pay an applicant fee of \$ 500 to the Board.

(f) No license granted under this section shall issue to any candidate until the Board reviews the qualifications for eminence and makes a final decision. The Board shall have the sole authority and responsibility to interpret the qualifications for eminence and for licensure under these provisions, and may qualify, restrict, or otherwise limit a license granted under this section by controlling the type of medical areas of practice and patient care as the applicant has received credentials and acceptance for practice from an institution under subsection (a)(1) of this section.

(g) All applicants who have complied with these requirements, and have otherwise complied with the provisions of this subchapter, shall receive from the Board within 90 days after the application is complete by the candidate's submission of all requirements imposed under subsection (b) of this section, a license entitling them to the right to practice in the District of Columbia. Each such license shall be duly recorded in the office of the Board, in a record to be properly kept for that purpose which shall be open to public inspection, and a certified copy of the record shall be received as evidence in all courts in the District of Columbia in the trial of any case.

(1) It shall be the duty of all persons now or hereafter licensed to be registered with the Board and, thereafter, to register in like manner at such intervals and by such methods as the Board shall determine by regulations, but in no case shall such renewal period be longer than any other licensed physician. The form and method of such registration shall be determined by the Board.

(2) Each person so registering with the Board shall pay, for each biennial registration, a fee of \$ 1,000, which shall accompany the application for such registration.

(3) Upon receiving a proper application for such registration accompanied by the fee, if any, the Board shall issue a license to the applicant; provided, however, such license shall automatically expire when the holder's relationship with any institution under subsection (a)(1) of this section is terminated.

(h) The holder of the limited license practicing medicine or surgery beyond the areas of the medical specialty or practice as laid down in said license shall be guilty of a misdemeanor, and upon conviction shall be fined not less than \$ 10,000 for each and every offense; and the Board is empowered to revoke such limited license, for cause, after due notice.

(i) Any person granted a limited license under this section who subsequently desires to obtain a

license without restriction shall be required to meet all of the requirements of such license as set forth in this section.

HISTORY: 1981 Ed., § 2-3305.9a; D.C. Law 6-99, § 509a, as added May 16, 1995, D.C. Law 11-14, § 2, 42 DCR 1388.

NOTES:

LEGISLATIVE HISTORY OF LAW 11-14. --Law 11-14, the "Foreign Physicians of Conceded Eminence University, Hospital, and Medical Centers Practices Amendment Act of 1995," was introduced in Council and assigned Bill No. 11-39. The Bill was adopted on first and second readings on January 17, 1995, and February 7, 1995, respectively. Signed by the Mayor on March 9, 1995, it was assigned Act No. 11-26 and transmitted to both Houses of Congress for its review. D.C. Law 11-14 became effective on May 16, 1995.

§ 3-1205.10. Term and renewal of licenses [Formerly § 2-3305.10]

(a) A license expires 1 year from the date of its first issuance or renewal unless renewed by the board that issued it as provided in this section, except that the Mayor, by rule, may provide for a period of licensure of not more than 3 years.

(b) The Mayor may establish by rule continuing education requirements as a condition for renewal of licenses under this section.

(c) At least 30 days before the license expires, or a greater period as established by the Mayor by rule, each board shall send to the licensee, by first class mail to the last known address of the licensee, a renewal notice that states:

(1) The date on which the current license expires;

(2) The date by which the renewal application must be received by the board for renewal to be issued and mailed before the license expires; and

(3) The amount of the renewal fee.

(d) Before the license expires, the licensee may renew it for an additional term, if the licensee:

(1) Submits a timely application to the board;

(2) Is otherwise entitled to be licensed;

(3) Pays the renewal fee established by the Mayor; and

(4) Submits to the board satisfactory evidence of compliance with any continuing education requirements established by the board for license renewal.

(e) Each board shall renew the license of each licensee who meets the requirements of this section.

HISTORY: 1981 Ed., § 2-3305.10; Mar. 25, 1986, D.C. Law 6-99, § 510, 33 DCR 729.

NOTES:

SECTION REFERENCES. --This section is referenced in § 3-1206.32.

LEGISLATIVE HISTORY OF LAW 6-99. --See note to § 3-1201.01

§ 3-1205.11. Inactive status [Formerly § 2-3305.11]

(a) Upon application by a licensee and payment of the inactive status fee established by the Mayor, each board shall place a licensee on inactive status.

(b) While on inactive status, the individual shall not be subject to the renewal fee and shall not practice, attempt to practice, or offer to practice the health occupation in the District.

(c) Each board shall issue a license to an individual who is on inactive status and who desires to resume the practice of a health occupation if the individual:

(1) Pays the fee established by the Mayor;

(2) Complies with the continuing education requirements in effect when the licensee seeks to reactivate the license; and

(3) Complies with the current requirements for renewal of licenses.

HISTORY: 1981 Ed., § 2-3305.11; Mar. 25, 1986, D.C. Law 6-99, § 511, 33 DCR 729.

NOTES:

LEGISLATIVE HISTORY OF LAW 6-99. --See note to § 3-1201.01.

§ 3-1205.12. Reinstatement of expired licenses [Formerly § 2-3305.12]

(a) If a health professional fails for any reason to renew the license issued under this subchapter, the board regulating the health occupation shall reinstate the license if the health professional:

(1) Applies to the board for reinstatement of the license within 5 years after the license expires;

(2) Complies with current requirements for renewal of a license as set forth in this subchapter;

(3) Pays a reinstatement fee established by the Mayor; and

(4) Submits to the board satisfactory evidence of compliance with the qualifications and requirements established under this subchapter for license reinstatements.

(b) The board shall not reinstate the license of a health professional who fails to apply for reinstatement of a license within 5 years after the license expires. The health professional may become licensed by meeting the requirements then in existence for obtaining an initial license under this subchapter.

HISTORY: 1981 Ed., § 2-3305.12; Mar. 25, 1986, D.C. Law 6-99, § 512, 33 DCR 729.

NOTES:

LEGISLATIVE HISTORY OF LAW 6-99. --See note to § 3-1201.01.

§ 3-1205.13. Display of licenses; change of address [Formerly § 2-3305.13]

(a) Each licensee shall display the license conspicuously in any and all places of business or employment of the licensee.

(b) Each licensee shall notify the board of any change of address of the place of residence or place of business or employment within 30 days after the change of address.

(c) Each licensee shall be subject to the penalties provided by this chapter for failure to comply with the requirements of this section.

HISTORY: 1981 Ed., § 2-3305.13; Mar. 25, 1986, D.C. Law 6-99, § 513, 33 DCR 729.

NOTES:

LEGISLATIVE HISTORY OF LAW 6-99. --See note to § 3-1201.01.

§ 3-1205.14. Revocation, suspension, or denial of license or privilege; civil penalty; reprimand [Formerly § 2-3305.14]

(a) Each board, subject to the right of a hearing as provided by this subchapter, on an affirmative vote of a majority of its members then serving, may take 1 or more of the disciplinary actions provided in subsection (c) of this section against any applicant, licensee, or person permitted by this subchapter to practice the health occupation regulated by the board in the District who:

(1) Fraudulently or deceptively obtains or attempts to obtain a license for an applicant or licensee or for another person;

(2) Fraudulently or deceptively uses a license;

(3) Is disciplined by a licensing or disciplinary authority or convicted or disciplined by a court of any jurisdiction for conduct that would be grounds for disciplinary action under this section;

(4) Has been convicted in any jurisdiction of any crime involving moral turpitude, if the offense bears directly on the fitness of the individual to be licensed;

(5) Is professionally or mentally incompetent or physically incapable;

(6) Is addicted to, or habitually abuses, any narcotic or controlled substance as defined by Unit A of Chapter 9 of Title 48;

(7) Provides, or attempts to provide, professional services while under the influence of alcohol or while using any narcotic or controlled substance as defined by Unit A of Chapter 9 of Title 48, or other drug in excess of therapeutic amounts or without valid medical indication;

(8) Willfully makes or files a false report or record in the practice of a health occupation;

(9) Willfully fails to file or record any medical report as required by law, impedes or obstructs the filing or recording of the report, or induces another to fail to file or record the report;

(10) On proper request in accordance with law, fails to provide details of a patient's medical record to a hospital or another health professional licensed under this chapter or under the laws of another jurisdiction;

(11) Willfully makes a misrepresentation in treatment;

(12) Willfully practices a health occupation with an unauthorized person or aids an unauthorized person in the practice of a health occupation;

(13) Submits false statements to collect fees for which services are not provided or submits statements to collect fees for services which are not medically necessary;

(14) Pays or agrees to pay anything of value to, or to split or divide fees for professional services with, any person for bringing or referring a patient;

(15) Fails to pay a civil fine imposed by a board, other administrative officer, or court;

(16) Willfully breaches a statutory, regulatory, or ethical requirement of confidentiality with respect to a person who is a patient or client of the health professional, unless ordered by a court;

(17) Refuses to provide service to a person in contravention of Chapter 14 of Title 2;

(18) Violates any of the conditions of an agreement between the licensee and the board to voluntarily limit the practice of the licensee made pursuant to § 3-1205.18;

- (19) Prescribes, dispenses, or administers drugs when not authorized to do so;
- (20) Practices without a protocol when required by subchapter VI of this chapter;
- (21) Performs, offers, or attempts to perform services beyond the scope of those authorized by the license held by the health professional;
- (22) Maintains an unsanitary office or performs professional services under unsanitary conditions;
- (23) Engages in sexual harassment of a patient or client;
- (24) Violates any provision of this chapter or rules and regulations issued pursuant to this chapter;
- (25) Violates any District of Columbia or federal law, regulation, or rule related to the practice of a health profession or drugs;
- (26) Fails to conform to standards of acceptable conduct and prevailing practice within a health profession;
- (27) Violates an order of the board or the Mayor, or violates a consent decree or negotiated settlement entered into with a board or the Mayor;
- (28) Demonstrates a willful or careless disregard for the health, welfare, or safety of a patient, regardless of whether the patient sustains actual injury as a result; or
- (29) Fails to pay the applicable fees established by the Mayor.

(b) (1) A board may require a health professional to submit to a mental or physical examination whenever it has probable cause to believe the health professional is impaired due to the reasons specified in subsection (a)(5), (6), and (7) of this section. The examination shall be conducted by 1 or more health professionals designated by the board, and he, she, or they shall report their findings concerning the nature and extent of the impairment, if any, to the board and to the health professional who was examined.

(2) Notwithstanding the findings of the examination commissioned by the board, the health professional may submit, in any proceedings before a board or other adjudicatory body, the findings of an examination conducted by 1 or more health professionals of his or her choice to rebut the findings of the examination commissioned by the board.

(3) Willful failure or refusal to submit to an examination requested by a board shall be considered as affirmative evidence that the health professional is in violation of subsection (a)(5), (6), or (7) of this section, and the health professional shall not then be entitled to submit the findings of another examination in disciplinary or adjudicatory proceedings related to the violation.

(c) Upon determination by the board that an applicant, licensee, or person permitted by this subchapter to practice in the District has committed any of the acts described in subsection (a) of

this section, the board may:

- (1) Deny a license to any applicant;
- (2) Revoke or suspend the license of any licensee;
- (3) Revoke or suspend the privilege to practice in the District of any person permitted by this subchapter to practice in the District;
- (4) Reprimand any licensee or person permitted by this subchapter to practice in the District;
- (5) Impose a civil fine not to exceed \$ 5,000 for each violation by any applicant, licensee, or person permitted by this subchapter to practice in the District;
- (6) Require a course of remediation, approved by the board, which may include:
 - (A) Therapy or treatment;
 - (B) Retraining; and
 - (C) Reexamination, in the discretion of and in the manner prescribed by the board, after the completion of the course of remediation;
- (7) Require a period of probation; or
- (8) Issue a cease and desist order pursuant to § 3-1205.16.

(d) Nothing in this subchapter shall preclude prosecution for a criminal violation of this chapter regardless of whether the same violation has been or is the subject of 1 or more of the disciplinary actions provided by this subchapter. Criminal prosecution may proceed prior to, simultaneously with, or subsequent to administrative enforcement action.

(e) A person licensed to practice a health occupation in the District of Columbia is subject to the disciplinary authority of the board although engaged in practice elsewhere. Subsection (a) of this section shall not be construed to limit the disciplinary authority of the board only to conduct or activities engaged in outside of the District that result in the imposition of discipline by a licensing or disciplinary authority where the conduct occurred.

HISTORY: 1981 Ed., § 2-3305.14; Mar. 25, 1986, D.C. Law 6-99, § 514, 33 DCR 729; Mar. 23, 1995, D.C. Law 10-247, § 2(n), 42 DCR 457.

NOTES:

SECTION REFERENCES. --This section is referenced in § 3-1251.09.

LEGISLATIVE HISTORY OF LAW 6-99. --See note to § 3-1201.01.

LEGISLATIVE HISTORY OF LAW 10-247. --See note to § 3-1201.01.

ANALYSIS

Construction

Actionable tort for breach

Adequacy of notice.

Due process

Evidence

Former licensees

Fraud

Jurisdiction

Malpractice

Notice

Prior discipline

Revocation upheld

Standard of proof

Sufficiency of evidence

CONSTRUCTION.

Nothing in D.C. Code § 3-1201.01 et seq., (the Revision Act) or its legislative history indicated that the term "licensee" was intended to refer only to someone who was licensed at the time a final decision or order was issued, and agreement with the petitioner's argument that the omission of the word "former" from the Revision Act was an indication that the District of Columbia Board of Medicine had no authority over a former licensee, would have lead to the unreasonable result of the Board's being without authority to impose discipline on former and current licensees, so that petitioner's argument was rejected as going too far. *Davidson v. District of Columbia Bd. of Med.*, App. D.C., 562 A.2d 109 (1989).

ACTIONABLE TORT FOR BREACH.

Public policy in the District in favor of confidentiality of the physician-patient relationship is consistent with breach of a physician-patient relationship as an actionable tort. *Vassiliades v. Garfinckel's, Brooks Bros.*, App. D.C., 492 A.2d 580 (1985).

ADEQUACY OF NOTICE.

Having received adequate notice of charges under repealed § 2-1326, a physician received adequate notice of violations under § 3-1205.14 and, therefore, discipline based on such violations was proper. *Salama v. District of Columbia Bd. of Med.*, App. D.C., 578 A.2d 693 (1990).

The Board of Medicine had jurisdiction to discipline a physician, notwithstanding that the revocation notice referred to repealed § 2-1326, rather than § 3-1205.14, where the final order suspending the physician's license referred to the correct statute. *Mannan v. District of Columbia Bd. of Med.*, App. D.C., 558 A.2d 329 (1989).

Where the Board of Medicine's notice referred to repealed §§ 2-1326 and 2-1327, but the final decision cited this section in addition to the repealed statutes, there was no error as there was no "material difference" between the old and new statutory provisions or any prejudice resulting from this error. *Davidson v. District of Columbia Bd. of Med.*, App. D.C., 562 A.2d 109 (1989).

DUE PROCESS.

Denial by the District of Columbia Nurses' Examining Board of a nurse's application for reinstatement under the authority of former D.C. Code § 2-407, after her license was revoked based on conduct which occurred in Maryland, ran afoul of the due process clause as the nurse was deprived of her constitutional right to a hearing on her application. *Woods v. District of Columbia Nurses' Examining Bd.*, App. D.C., 436 A.2d 369 (Oct. 9, 1981).

EVIDENCE.

Where a physician claimed that assistants were responsible for billing, in order to establish the willful filing of false medical records under D.C. Code § 3-1205.14(a)(8), the Board of Medicine must find, at minimum, that the physician's lack of supervision over assistants rose to the level of culpable fault or omission, and that the physician was consciously indifferent to the consequences of failing to monitor billing matters. *Mannan v. District of Columbia Bd. of Med.*, App. D.C., 558 A.2d 329 (1989).

Evidence of concession of negligence was properly admitted in physician competency hearing since the concession was made in a malpractice action, was originally made in writing by the physician's attorney, was orally affirmed by the physician in a conference with the trial judge, and was submitted to the civil jury without objection. *Sherman v. Commission on Licensure to Practice Healing Art*, App. D.C., 407 A.2d 595 (1979).

Guidelines were improperly admitted since they had not been adopted or promulgated by either the Commission on Licensure to Practice the Healing Art or by the Council of the District of Columbia; to rely upon their violation as per se evidence of a physician's responsibility for a patient's death, or of the physician's failure to use proper sterilization techniques, was to treat the guidelines of a private group of professionals as having the force of public law, and was not harmless error. *Sherman v. Commission on Licensure to Practice Healing Art*, App. D.C., 407 A.2d 595 (1979).

There was sufficient evidence to find that the petitioner knew or should have known of the denial of petitioner's licensure application in Florida prior to filing an application in the District of Columbia because there was uncontradicted evidence that petitioner was present when the application was denied and written notice, whether actually received or not, would only have confirmed what petitioner already knew, therefore, petitioner failed to demonstrate that an erroneous finding of service with the Florida order would have materially affected the decision of this matter. *Davidson v. District of Columbia Bd. of Med.*, App. D.C., 562 A.2d 109 (1989).

FORMER LICENSEES.

This section permits the discipline of former licensees, in addition to current licensees. *Davidson v. District of Columbia Bd. of Med.*, App. D.C., 562 A.2d 109 (1989).

FRAUD.

Where a dentist submitted claims for essentially the same services in three separate claims over a two-month period to two different insurance companies, evidence was sufficient to support the Board of Dentistry's conclusion that the dentist had filed a false statement under D.C. Code § 3-1205.14(a)(14). *Gropp v. District of Columbia Bd. of Dentistry*, App. D.C., 606 A.2d 1010 (1992).

JURISDICTION.

Petitioner's contention that the District of Columbia Board of Medicine lacked jurisdiction because its notice of intent to revoke petitioner's license erroneously cited repealed statutes, D.C. Code §§ 2-1326 (d)(1), 2-1327 failed because petitioner failed to demonstrate that there was any material difference between the old and new statutory provisions or any prejudice resulting from the error of citing the old statutes and, in its final decision, the Board cited the provisions of the revised version of the statutes in question in addition to the repealed statutes. *Davidson v. District of Columbia Bd. of Med.*, App. D.C., 562 A.2d 109 (1989).

MALPRACTICE.

A doctor, in testifying as an expert witness, renders an opinion based on the application of scientific principles to the diagnosis and treatment of physical diseases, which is in the nature of giving a second opinion; thus, a doctor who testified falsely as an expert witness that he was board-certified in thoracic surgery and provided counsel with a curriculum vitae containing other false information about his academic credentials, willfully made a false report or record in the practice of medicine. *Joseph v. District of Columbia Bd. of Med.*, App. D.C., 587 A.2d 1085 (1991).

NOTICE.

Petitioner's assertion of inadequate notice of the factual basis of charges because the charges were based on the purported receipt of a certified letter rather than on actual knowledge of the order underlying the notice failed because the notice informed the petitioner of the grounds for the charges. *Davidson v. District of Columbia Bd. of Med.*, App. D.C., 562 A.2d 109 (1989).

Since formal notice to physician under former D.C. Code § 2-123(d) specifically charged the

physician with 'willfully' practicing improper abortion procedures, Board on Licensure to Practice the Healing Art could not find him guilty of "carelessness" without new notice and a chance to respond to that charge. *Sherman v. Commission on Licensure to Practice Healing Art*, App. D.C., 407 A.2d 595 (1979).

PRIOR DISCIPLINE.

Summary suspension of dentist's registration to dispense controlled substances was properly treated as prior "discipline" within the meaning of subdivision (a)(3) of this section, notwithstanding subsequent dismissal of proceeding to permanently revoke that registration. *Williamson v. District of Columbia Bd. of Dentistry*, App. D.C., 647 A.2d 389 (1994).

REVOCACTION UPHELD.

Charges against dentist for controlled substances violations were supported by substantial evidence, and five-year revocation of his dentistry license would therefore be affirmed. *Williamson v. District of Columbia Bd. of Dentistry*, App. D.C., 647 A.2d 389 (1994).

Where there was ample evidence that a dentist committed fraud and he admitted, with respect to one of the specifications, that he forged a patient's signature, there was a sufficient basis for a two-year revocation of his license. *Gropp v. District of Columbia Bd. of Dentistry*, App. D.C., 606 A.2d 1010 (1992).

STANDARD OF PROOF.

Medical license could be revoked upon a finding by a preponderance of the evidence that the physician was guilty of misconduct; the due process clause of the Fifth Amendment, U.S. Const. amend. V, does not require a higher degree of proof, and the preponderance of the evidence test adequately protected the physician's property interest in his license. *Sherman v. Commission on Licensure to Practice Healing Art*, App. D.C., 407 A.2d 595 (1979).

SUFFICIENCY OF EVIDENCE.

A finding that a physician willfully filed false medical reports under D.C. Code 3-1205.14(a)(8) was not supported by substantial evidence because the documentary evidence of a Maryland criminal proceeding, upon which the board based its finding, did not establish a willful violation of law. *Mannan v. District of Columbia Bd. of Med.*, App. D.C., 558 A.2d 329 (1989).

APPLIED in *Joseph v. District of Columbia Bd. of Med.*, App. D.C., 587 A.2d 1085 (1991); *Udebiuwa v. D.C. Bd. of Med.*, 818 A.2d 160 (2003).

CITED in *Salama v. District of Columbia Bd. of Med.*, App. D.C., 578 A.2d 693 (1990).

§ 3-1205.15. Summary action [Formerly § 2-3305.15]

(a) If the Mayor determines, after investigation, that the conduct of a licensee presents an imminent danger to the health and safety of the residents of the District, the Mayor may summarily suspend or restrict, without a hearing, the license to practice a health occupation.

(b) The Mayor, at the time of the summary suspension or restriction of a license, shall provide the licensee with written notice stating the action that is being taken, the basis for the action, and the right of the licensee to request a hearing.

(c) A licensee shall have the right to request a hearing within 72 hours after service of notice of the summary suspension or restriction of license. The Mayor shall hold a hearing within 72 hours of receipt of a timely request, and shall issue a decision within 72 hours after the hearing.

(d) Every decision and order adverse to a licensee shall be in writing and shall be accompanied by findings of fact and conclusions of law. The findings shall be supported by, and in accordance with, reliable, probative, and substantial evidence. The Mayor shall provide a copy of the decision and order and accompanying findings of fact and conclusions of law to each party to a case or to his or her attorney of record.

(e) Any person aggrieved by a final summary action may file an appeal in accordance with subchapter I of Chapter 5 of Title 2.

HISTORY: 1981 Ed., § 2-3305.15; Mar. 25, 1986, D.C. Law 6-99, § 515, 33 DCR 729.

NOTES:

SECTION REFERENCES. --This section is referenced in § 3-1251.09.

LEGISLATIVE HISTORY OF LAW 6-99. --See note to § 3-1201.01.

§ 3-1205.16. Cease and desist orders [Formerly § 2-3305.16]

(a) When a board or the Mayor, after investigation but prior to a hearing, has cause to believe that any person is violating any provision of this chapter and the violation has caused or may cause immediate and irreparable harm to the public, the board or the Mayor may issue an order requiring the alleged violator to cease and desist immediately from the violation. The order shall be served by certified mail or delivery in person.

(b) (1) The alleged violator may, within 15 days of the service of the order, submit a written request to the board or the Mayor to hold a hearing on the alleged violation.

(2) Upon receipt of a timely request, the board or the Mayor shall conduct a hearing and render a decision pursuant to § 3-1205.19.

(c) (1) The alleged violator may, within 10 days of the service of an order, submit a written request to the board or the Mayor for an expedited hearing on the alleged violation, in which case he or she shall waive his or her right to the 15-day notice required by § 3-1205.19(d).

(2) Upon receipt of a timely request for an expedited hearing, the board or the Mayor shall conduct a hearing within 10 days of the date of receiving the request and shall deliver to the alleged violator at his or her last known address a written notice of the hearing by any means guaranteed to be received at least 5 days before the hearing date.

(3) The board or the Mayor shall issue a decision within 30 days after an expedited hearing.

(d) If a request for a hearing is not made, the order of the board or the Mayor to cease and desist is final.

(e) If, after a hearing, the board determines that the alleged violator is not in violation of this chapter, the board or the Mayor shall revoke the order to cease and desist.

(f) If any person fails to comply with a lawful order of a board or the Mayor issued pursuant to this section, the board or the Mayor may petition the court to issue an order compelling compliance or take any other action authorized by this chapter.

HISTORY: 1981 Ed., § 2-3305.16; Mar. 25, 1986, D.C. Law 6-99, § 516, 33 DCR 729.

NOTES:

SECTION REFERENCES. --This section is referenced in § 3-1205.14.

LEGISLATIVE HISTORY OF LAW 6-99. --See note to § 3-1201.01.

§ 3-1205.16. Cease and desist orders [Formerly § 2-3305.16]

(a) When a board or the Mayor, after investigation but prior to a hearing, has cause to believe that any person is violating any provision of this chapter and the violation has caused or may cause immediate and irreparable harm to the public, the board or the Mayor may issue an order requiring the alleged violator to cease and desist immediately from the violation. The order shall be served by certified mail or delivery in person.

(b) (1) The alleged violator may, within 15 days of the service of the order, submit a written request to the board or the Mayor to hold a hearing on the alleged violation.

(2) Upon receipt of a timely request, the board or the Mayor shall conduct a hearing and render a decision pursuant to § 3-1205.19.

(c) (1) The alleged violator may, within 10 days of the service of an order, submit a written request to the board or the Mayor for an expedited hearing on the alleged violation, in which case he or she shall waive his or her right to the 15-day notice required by § 3-1205.19(d).

(2) Upon receipt of a timely request for an expedited hearing, the board or the Mayor shall

conduct a hearing within 10 days of the date of receiving the request and shall deliver to the alleged violator at his or her last known address a written notice of the hearing by any means guaranteed to be received at least 5 days before the hearing date.

(3) The board or the Mayor shall issue a decision within 30 days after an expedited hearing.

(d) If a request for a hearing is not made, the order of the board or the Mayor to cease and desist is final.

(e) If, after a hearing, the board determines that the alleged violator is not in violation of this chapter, the board or the Mayor shall revoke the order to cease and desist.

(f) If any person fails to comply with a lawful order of a board or the Mayor issued pursuant to this section, the board or the Mayor may petition the court to issue an order compelling compliance or take any other action authorized by this chapter.

HISTORY: 1981 Ed., § 2-3305.16; Mar. 25, 1986, D.C. Law 6-99, § 516, 33 DCR 729.

NOTES:

SECTION REFERENCES. --This section is referenced in § 3-1205.14.

LEGISLATIVE HISTORY OF LAW 6-99. --See note to § 3-1201.01.

§ 3-1205.17. Voluntary surrender of license [Formerly § 2-3305.17]

(a) Any health professional who is the subject of an investigation into, or a pending proceeding involving, allegations involving misconduct may voluntarily surrender his or her license or privilege to practice in the District, but only by delivering to the board regulating the health occupation an affidavit stating that the health professional desires to surrender the license or privilege and that the action is freely and voluntarily taken, and not the result of duress or coercion.

(b) Upon receipt of the required affidavit, the board shall enter an order revoking or suspending the license of the health professional or the privilege to practice.

(c) The voluntary surrender of a license shall not preclude the imposition of civil or criminal penalties against the licensee.

HISTORY: 1981 Ed., § 2-3305.17; Mar. 25, 1986, D.C. Law 6-99, § 517, 33 DCR 729.

NOTES:

LEGISLATIVE HISTORY OF LAW 6-99. --See note to § 3-1201.01.

CITED in Davidson v. District of Columbia Bd. of Med., App. D.C., 562 A.2d 109 (1989).

§ 3-1205.18. Voluntary limitation or surrender of license by impaired health professional [Formerly § 2-3305.18]

(a) (1) Any license issued under this chapter may be voluntarily limited by the licensee either:

(A) Permanently;

(B) For an indefinite period of time to be restored at the discretion of the board regulating the health occupation; or

(C) For a definite period of time under an agreement between the licensee and the board.

(2) During the period of time that the license has been limited, the licensee shall not engage in the practices or activities to which the voluntary limitation of practice relates.

(3) As a condition for accepting the voluntary limitation of practice, the board may require the licensee to do 1 or more of the following:

(A) Accept care, counseling, or treatment by physicians or other health professionals acceptable to the board;

(B) Participate in a program of education prescribed by the board; and

(C) Practice under the direction of a health professional acceptable to the board for a specified period of time.

(b) (1) Any license issued under this chapter may be voluntarily surrendered to the board by the licensee either:

(A) Permanently;

(B) For an indefinite period of time to be restored at the discretion of the board regulating the health occupation; or

(C) For a definite period of time under an agreement between the licensee and the board.

(2) During the period of time that the license has been surrendered, the individual surrendering the license shall not practice, attempt to practice, or offer to practice the health occupation for which the license is required, shall be considered as unlicensed, and shall not be required to pay the fees for the license.

(c) All records, communications, and proceedings of the board related to the voluntary limitation or surrender of a license under this section shall be confidential.

HISTORY: 1981 Ed., § 2-3305.18; Mar. 25, 1986, D.C. Law 6-99, § 518, 33 DCR 729.

NOTES:

SECTION REFERENCES. --This section is referenced in § 3-1205.14 and § 3-1251.09.

LEGISLATIVE HISTORY OF LAW 6-99. --See note to § 3-1201.01.

§ 3-1205.19. Hearings [Formerly § 2-3305.19]

(a) Before a board denies an applicant a license, revokes or suspends a license or privilege to practice, reprimands a licensee, imposes a civil fine, requires a course of remediation or a period of probation, or denies an application for reinstatement, it shall give the individual against whom the action is contemplated an opportunity for a hearing before the board except where the denial of the license is based solely on an applicant's failure to meet minimum age requirements, hold a required degree, pass a required examination, pay the applicable fees established by the Mayor, or where there are no material facts at issue.

(b) A board, at its discretion, may request the applicant or licensee to attend a settlement conference prior to holding a hearing under this section, and may enter into negotiated settlement agreements and consent decrees to carry out its functions.

(c) Except to the extent that this chapter specifically provides otherwise, a board shall give notice and hold the hearing in accordance with subchapter I of Chapter 5 of Title 2.

(d) The hearing notice to be given to the individual shall be sent by certified mail to the last known address of the individual at least 15 days before the hearing.

(e) The individual may be represented at the hearing by counsel.

(f) (1) A board may administer oaths and require the attendance and testimony of witnesses and the production of books, papers, and other evidence in connection with any proceeding under this section.

(2) A board shall require the attendance of witnesses and the production of books, papers, and other evidence reasonably requested by the person against whom an action is contemplated.

(3) In case of contumacy by or refusal to obey a subpoena issued by the board to any person, a board may refer the matter to the Superior Court of the District of Columbia, which may by order require the person to appear and give testimony or produce books, papers, or other evidence bearing on the hearing. Refusal to obey such an order shall constitute contempt of court.

(g) If, after due notice, the individual against whom the action is contemplated fails or refuses to appear, a board may nevertheless hear and determine the matter.

(h) A board shall issue its final decision in writing within 90 days after conducting a hearing.

(i) A board may delegate its authority under this chapter to hold hearings and issue final decisions to a panel of 3 or more members of the board in accordance with rules promulgated by the Mayor. Final decisions of a hearing panel shall be considered final decisions of the board for purposes of appeal to the District of Columbia Court of Appeals.

HISTORY: 1981 Ed., § 2-3305.19; Mar. 25, 1986, D.C. Law 6-99, § 519, 33 DCR 729; Mar. 23, 1995, D.C. Law 10-247, § 2(o), 42 DCR 457.

NOTES:

SECTION REFERENCES. --This section is referenced in § 3-1203.02 and § 3-1205.16.

LEGISLATIVE HISTORY OF LAW 6-99. --See note to § 3-1201.01.

LEGISLATIVE HISTORY OF LAW 10-247. --See note to § 3-1201.01.

ANALYSIS

Delay

DELAY.

In a disciplinary proceeding by the District of Columbia Board of Medicine, delays in contravention of § 3-1205.19(h), while regrettable, did not merit reversal under § 2-510, particularly given the governmental interests at stake in professional disciplinary proceedings and the preferred remedy of an order compelling agency action. *Udebiuwa v. D.C. Bd. of Med.*, 818 A.2d 160 (2003).

CITED in *Mannan v. District of Columbia Bd. of Med.*, App. D.C., 558 A.2d 329 (1989); *Salama v. District of Columbia Bd. of Med.*, App. D.C., 578 A.2d 693 (1990).

§ 3-1205.20. Judicial and administrative review of actions of board [Formerly § 2-3305.20]

Any person aggrieved by a final decision of a board or the Mayor may appeal the decision to the District of Columbia Court of Appeals pursuant to § 2-510.

HISTORY: 1981 Ed., § 2-3305.20; Mar. 25, 1986, D.C. Law 6-99, § 520, 33 DCR 729.

NOTES:

LEGISLATIVE HISTORY OF LAW 6-99. --See note to § 3-1201.01.

§ 3-1205.21. Reinstatement of suspended or revoked license [Formerly § 2-3305.21]

(a) Except as provided in subsection (b) of this section, a board may reinstate the license or

privilege of an individual whose license or privilege has been suspended or revoked by the board only in accordance with:

- (1) The terms and conditions of the order of suspension or revocation; or
- (2) A final judgment or order in any proceeding for review.

(b) (1) If an order of suspension or revocation was based on the conviction of a crime which bears directly on the fitness of the individual to be licensed, and the conviction subsequently is overturned at any stage of an appeal or other postconviction proceeding, the suspension or revocation shall end when the conviction is overturned.

(2) After the process of review is completed, the clerk of the court issuing the final disposition of the case shall notify the board or the Mayor of that disposition.

HISTORY: 1981 Ed., § 2-3305.21; Mar. 25, 1986, D.C. Law 6-99, § 521, 33 DCR 729.

NOTES:

LEGISLATIVE HISTORY OF LAW 6-99. --See note to § 3-1201.01.

§ 3-1205.22. Criminal background check

(a) No license or registration shall be issued to a health professional before a criminal background check has been conducted for that person. The applicant for a license or registration shall pay the fee established by the Department of Health for the criminal background check.

(b) The criminal background check shall be obtained by the Department of Health from the U.S. Department of Justice, or from a private agency determined by the Department of Health. The results of the criminal background check shall be forwarded directly to the appropriate health licensing board.

SUBCHAPTER VI. ADVANCED REGISTERED NURSING; SCOPE OF PRACTICE; REQUIREMENT OF PROTOCOL; COLLABORATION.

§ 3-1206.01. General authorization.

(a) The advanced practice registered nurse may perform actions of medical diagnosis, treatment, prescription, and other functions authorized by this subchapter.

(b) Repealed.

CREDIT(S)

(Mar. 25, 1986, D.C. Law 6-99, § 601, 33 DCR 729; Mar. 23, 1995, D.C. Law 10-247, § 2(p), 42 DCR 457.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 2-3306.1.

Legislative History of Laws

For legislative history of D.C. Law 6-99, see Historical and Statutory Notes following § 3-1201.01.

For legislative history of D.C. Law 10-247, see Historical and Statutory Notes following § 3-1201.01.

§ 3-1206.02. Requirements of protocols. [Repealed]

CREDIT(S)

(Mar. 25, 1986, D.C. Law 6-99, § 602, 33 DCR 729; Mar. 23, 1995, D.C. Law 10-247, § 2(q), 42 DCR 457.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 2-3306.2.

Legislative History of Laws

For legislative history of D.C. Law 10-247, see Historical and Statutory Notes following § 3-1201.01.

§ 3-1206.03. Collaboration.

(a) Generally, advanced practice registered nurses shall carry out acts of advanced registered nursing in collaboration with a licensed health care provider.

(b), (c) Repealed.

(d) Notwithstanding the provisions of this section, hospitals, facilities, and agencies, in requiring specific levels of collaboration and licensed health care providers in agreeing to the levels of collaboration, shall apply reasonable, nondiscriminatory standards, free of anticompetitive intent or purpose, in accordance with Chapter 14 of Title 2, Chapter 45 of Title 28, and § 44-507.

CREDIT(S)

(Mar. 25, 1986, D.C. Law 6-99, § 603, 33 DCR 729; Mar. 23, 1995, D.C. Law 10-247, § 2(r), 42 DCR 457.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 2-3306.3.

Legislative History of Laws

For legislative history of D.C. Law 6-99, see Historical and Statutory Notes following § 3-1201.01.

For legislative history of D.C. Law 10-247, see Historical and Statutory Notes following § 3-1201.01.

§ 3-1206.04. Authorized acts.

An advanced practice registered nurse may:

- (1) Initiate, monitor, and alter drug therapies;
- (2) Initiate appropriate therapies or treatments;
- (3) Make referrals for appropriate therapies or treatments; and
- (4) Perform additional functions within his or her specialty determined in accordance with rules and regulations promulgated by the board.

CREDIT(S)

(Mar. 25, 1986, D.C. Law 6-99, § 604, 33 DCR 729; Mar. 23, 1995, D.C. Law 10-247, § 2(s), 42 DCR 457.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 2-3306.4.

Legislative History of Laws

For legislative history of D.C. Law 6-99, see Historical and Statutory Notes following § 3-1201.01.

For legislative history of D.C. Law 10-247, see Historical and Statutory Notes following § 3-1201.01.

§ 3-1206.05. Nurse-anesthesia. [Repealed]

§ 3-1206.07. Nurse-practitioner practice. [Repealed]

CREDIT(S)

(Mar. 25, 1986, D.C. Law 6-99, § 607, 33 DCR 729; Mar. 23, 1995, D.C. Law 10-247, § 2(v), 42 DCR 457.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 2-3306.7.

Legislative History of Laws

For legislative history of D.C. Law 10-247, see Historical and Statutory Notes following § 3-1201.01.

§ 3-1206.08. Qualifications, certification.

(a) In addition to the general qualifications for licensure set forth in subchapter V of this chapter and any requirements which the Mayor may establish by rule, an advanced practice registered nurse shall:

- (1) Be a registered nurse holding a current, valid license pursuant to subchapter V of this chapter, and be in good standing with the Board, with no action pending or in effect against the license which could adversely affect the legal right to practice;
- (2) Be in good ethical standing with the profession;
- (3) Successfully complete a post-basic education program applicable to the area of practice which is acceptable to the Board or accredited by a national accrediting body which is relevant to the advanced practice registered nurses' area of practice; and
- (4) Pass the examination required by the Mayor.

(b) In addition to the general qualifications for licensure set forth in subchapter V of this chapter, and any requirements which the Mayor may establish by rule, a nurse-midwife shall:

(1) Be a registered nurse holding a current valid license pursuant to subchapter V of this chapter, and be in good standing with the Board, with no action pending or in effect against the license which could adversely affect the legal right to practice;

(2) Be in good ethical standing within the profession;

(3) Be a graduate of a nurse-midwifery educational program approved by the American College of Nurse-Midwives;

(4) Have undertaken the care of not less than 20 women in each of the antepartum, intrapartum, and early postpartum periods, but the same women need not be seen through all 3 periods, and have observed an additional 20 women in the intrapartum periods before qualifying as a candidate for certification by the Board; and

(5) Pass the national certification examination of the American College of Nurse-Midwives and any additional examination required by the Board.

(c) In addition to the general qualifications for licensure set forth in subchapter V of this chapter, and any requirements which the Mayor may establish by rule, a nurse-practitioner shall:

(1) Be a registered nurse holding a current valid license pursuant to subchapter V of this chapter, and be in good standing with the Board, with no action pending or in effect against the license which could adversely affect the legal right to practice;

(2) Be in good ethical standing within the profession;

(3) Have successfully completed a post-basic education program applicable to the area of practice which is acceptable to the Board or accredited by a national accrediting body and which is relevant to the nurse-practitioner's area of practice; and

(4) Pass the examination required by the Mayor.

CREDIT(S)

(Mar. 25, 1986, D.C. Law 6-99, § 608, 33 DCR 729; Mar. 23, 1995, D.C. Law 10-247, § 2(w), 42 DCR 457; Apr. 18, 1996, D.C. Law 11-110, § 69, 43 DCR 530.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 2-3306.8.

Legislative History of Laws

For legislative history of D.C. Law 6-99, see Historical and Statutory Notes following § 3-1201.01.

For legislative history of D.C. Law 10-247, see Historical and Statutory Notes following § 3-1201.01.

For legislative history of D.C. Law 11-110, see Historical and Statutory Notes following § 3-1201.02.

SUBCHAPTER VI-A. NATUROPATHIC MEDICINE; SCOPE OF PRACTICE; REQUIRED DISCLOSURES.

§ 3-1206.21. Scope of practice.

(a) In connection with the system of health care defined in § 3-1201.02(7A), an individual licensed to practice naturopathic medicine under this subchapter may:

(1) Administer or provide for preventive and therapeutic purposes natural medicines by their appropriate route of administration, natural therapies, topical medicines, counseling, hypnotherapy, dietary therapy, naturopathic physical medicine, therapeutic devices, and barrier devices for contraception. For the purposes of this paragraph, the term "naturopathic physical medicine" means the use of the physical agents of air, water, heat, cold, sound, and light, and the physical modalities of electrotherapy, biofeedback, diathermy, ultraviolet light, ultrasound, hydrotherapy, and exercise, and includes naturopathic manipulation and mobilization therapy; and

(2) Review and interpret the results of diagnostic procedures commonly used by physicians in general practice, including physical and orificial examinations, electrocardiograms, diagnostic imaging techniques, phlebotomy, clinical laboratory tests and examinations, and physiological function tests.

(b) An individual licensed to practice naturopathic medicine under this chapter shall not:

(1) Prescribe, dispense, or administer any controlled substances, except those natural medicines authorized by this chapter;

(2) Perform surgical procedures, except for minor office procedures, as defined by rule;

(3) Use for therapeutic purposes, any device regulated by the United States Food and Drug Administration ("FDA") that has not been approved by the FDA.

(4) Participate in naturopathic childbirth, unless the naturopathic physician:

(A) Passes a specialty examination in obstetrics or natural childbirth approved by the Advisory Committee on Naturopathic Medicine, Board of Medicine, or the Mayor, such as the American

College of Nurse Midwives Written Examination or an equivalent national examination;

(B) Has a minimum of 100 hours of course work, internship, or preceptorship in obstetrics of natural childbirth approved by the Advisory Committee on Naturopathic Medicine;

(C) Files with the Department of Health and maintains a written collaboration agreement with a licensed obstetrician who is qualified to perform obstetrical surgery; and

(D) Has assisted in a minimum of 50 supervised births, including prenatal and postnatal care, under the direct supervision of a licensed naturopathic, medical, or osteopathic physician with specialty training in obstetrics or natural childbirth, at least 25 of which document the naturopathic physician as the primary birth attendant.

(c) Nothing in this section shall be construed to prohibit the use, practice, or administration of nutritional supplements, iridology, herbs, vitamins, foods, food extracts, homeopathic preparations, natural therapies and remedies, and such physical forces as heat, cold, touch, and light, as permitted by law, by persons not licensed to practice naturopathic medicine under this chapter.

(d) An individual licensed to practice naturopathic medicine under this chapter may use the titles "Doctor of Naturopathic Medicine", "Naturopathic Physician", "Licensed Naturopath", "Naturopathic Doctor", "Doctor of Naturopathy", "Naturopath", or the initials "ND" or an "NMD".

CREDIT(S)

(Mar. 25, 1986, D.C. Law 6-99, § 621, as added July 8, 2004, D.C. Law 15- 172, § 2(g), 51 DCR 4938.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-172, see notes following § 3-1201.02.

§ 3-1206.22. Required disclosures.

Unless also licensed by the Board of Medicine to practice medicine in the District, practitioners of naturopathic medicine shall:

- (1) Provide to the client or patient, before providing services, a written notice in a language the client or patient understands that the practitioner is not licensed to practice medicine; and
- (2) Obtain written acknowledgment from the client or patient that the client or patient has been provided the notice required in paragraph (1) of this section.

CREDIT(S)

(Mar. 25, 1986, D.C. Law 6-99, § 622, as added July 8, 2004, D.C. Law 15- 172, § 2(g), 51 DCR 4938.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-172, see notes following § 3-1201.02.

SUBCHAPTER VI-B. ANESTHESIOLOGIST ASSISTANTS; SCOPE OF PRACTICE; LICENSE RENEWAL;

§ 3-1206.31. Scope of practice.

(a) An anesthesiologist assistant shall be licensed by the Board of Medicine before administering anesthesia within the District of Columbia.

(b) An individual licensed to practice as an anesthesiologist assistant, as that practice is defined in § 3-1201.02(2A), shall have the authority to:

- (1) Obtain a comprehensive patient history, perform relevant elements of a physical examination, and present the history to the supervising anesthesiologist;
- (2) Pretest and calibrate anesthesia delivery systems and obtain and interpret information from the systems and monitors, in consultation with an anesthesiologist;
- (3) Assist the supervising anesthesiologist with the implementation of medically accepted monitoring techniques;
- (4) Establish basic and advanced airway interventions, including intubation of the trachea and performing ventilatory support;
- (5) Administer intermittent vasoactive drugs and start and adjust vasoactive infusions;
- (6) Administer anesthetic drugs, adjuvant drugs, and accessory drugs, including narcotics;
- (7) Assist the supervising anesthesiologist with the performance of epidural anesthetic procedures, spinal anesthetic procedures, and other regional anesthetic techniques;
- (8) Administer blood, blood products, and supportive fluids;
- (9) Provide assistance to a cardiopulmonary resuscitation team in response to a life-threatening situation;
- (10) Monitor, transport, and transfer care to appropriate anesthesia or recovery personnel;

(11) Participate in administrative, research, and clinical teaching activities, as authorized by the supervising anesthesiologist; and

(12) Perform such other tasks that an anesthesiologist assistant has been trained and is proficient to perform.

(c) Anesthesiologist assistants shall not:

(1) Prescribe any medications or controlled substances;

(2) Practice or attempt to practice unless under the supervision of an anesthesiologist who is immediately available for consultation, assistance, and intervention;

(3) Practice or attempt to administer anesthesia during the induction or emergence phase without the personal participation of the supervising anesthesiologist; or

(4) Administer any drugs, medicines, devices, or therapies the supervising anesthesiologist is not qualified or authorized to prescribe;

(d)(1) The supervising anesthesiologist shall be immediately available to participate directly in the care of the patient whom the anesthesiologist assistant and the anesthesiologist are jointly treating, and shall at all times accept and be responsible for the oversight of the health care services rendered by the anesthesiologist assistant.

(2) A supervising anesthesiologist shall be present during the induction and the emergence phases of a patient to whom anesthesia has been administered.

(3) A supervising anesthesiologist may supervise up to 3 anesthesiologist assistants at any one time during normal circumstances, and up to 4 anesthesiologist assistants at any one time during emergency circumstances, consistent with federal rules for reimbursement for anesthesia services.

(4) No faculty member of an anesthesiologist assistants program shall concurrently supervise more than 2 anesthesiologist assistant students who are delivering anesthesia.

(e) For the purposes of this section, the term:

(1) "Anesthesiologist" means a physician who has completed a residency in anesthesiology approved by the American Board of Anesthesiology or the American Osteopathic Board of Anesthesiology and who is currently licensed to practice medicine in the District of Columbia.

(2) "Immediately available" means the supervising anesthesiologist is:

(A) Present in the building or facility in which anesthesia services are being provided by an

anesthesiologist assistant; and

(B) Able to directly provide assistance to the anesthesiologist assistant in providing anesthesia services to the patient in accordance with the prevailing standards of:

(i) Acceptable medical practice;

(ii) The American Society of Anesthesiologists' guidelines for best practice of anesthesia in a care team model; and

(iii) Any additional requirements established by the Board of Medicine through a formal rulemaking process.

(3) "Supervision" means directing and accepting responsibility for the anesthesia services rendered by an anesthesiologist assistant in a manner approved by the Board of Medicine.

CREDIT(S)

(Mar. 25, 1986, D.C. Law 6-99, § 631, as added Mar. 16, 2005, D.C. Law 15-237, § 2(h), 51 DCR 10593.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

Law 15-237, the "Anesthesiologist Assistant Licensure Amendment Act of 2004", was introduced in Council and assigned Bill No. 15-634, which was referred to the Committee Human Services. The Bill was adopted on first and second readings on September 21, 2004, and October 5, 2004, respectively. Signed by the Mayor on November 1, 2004, it was assigned Act No. 15-577 and transmitted to both Houses of Congress for its review. D.C. Law 15-237 became effective on March 16, 2005.

3-1206.32. License renewal.

The Board of Medicine shall renew the license of an anesthesiologist assistant who, in addition to meeting the requirements of § 3-1205.10, has submitted to the Board, along with the application for renewal, documentation of current certification as an Anesthesiologist Assistant--Certified ("AA-C") by the Commission for the Accreditation of Allied Health Education Programs, or its successor, including completion of the necessary continuing medical education credits required to maintain AA-C status.

CREDIT(S)

(Mar. 25, 1986, D.C. Law 6-99, § 632, as added Mar. 16, 2005, D.C. Law 15-237, § 2(h), 51 DCR

10593.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-237, see notes following § 3-1206.31.

§ 3-1206.33. Transition.

For a period of 2 years following March 16, 2005, all references in this chapter to anesthesiologist assistants shall be deemed to refer to persons meeting the requirements for licensure in the District, regardless of whether they are licensed in fact.

CREDIT(S)

(Mar. 25, 1986, D.C. Law 6-99, § 633, as added Mar. 16, 2005, D.C. Law 15-237, § 2(h), 51 DCR 10593.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-237, see notes following § 3-1206.31.

3-1206.33. Transition.

For a period of 2 years following March 16, 2005, all references in this chapter to anesthesiologist assistants shall be deemed to refer to persons meeting the requirements for licensure in the District, regardless of whether they are licensed in fact.

CREDIT(S)

(Mar. 25, 1986, D.C. Law 6-99, § 633, as added Mar. 16, 2005, D.C. Law 15-237, § 2(h), 51 DCR 10593.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-237, see notes following § 3-1206.31.

§ 3-1206.34. Council hearing.

Three years from March 16, 2005, the Council committee having jurisdiction over the Department

of Health shall hold a public hearing on the appropriateness of the requirements for anesthesiologist assistants imposed by the Act.

CREDIT(S)

(Mar. 25, 1986, D.C. Law 6-99, § 634, as added Mar. 16, 2005, D.C. Law 15-237, § 2(h), 51 DCR 10593.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-237, see notes following § 3-1206.31.

References in Text

The "Act", referred to in text, refers to Law 15-15-237.

SUBCHAPTER VI-C. SURGICAL ASSISTANTS; SCOPE OF PRACTICE; LICENSE RENEWAL; TRANSITION

§ 3-1206.41. Scope of practice

(a) A surgical assistant shall be licensed by the Board of Medicine before practicing as a surgical assistant within the District of Columbia.

(b) An individual licensed to practice as a surgical assistant, as that practice is defined in § 3-1201.02(20) shall have the authority to:

- (1) Provide local infiltration or the topical application of a local anesthetic and hemostatic agents at the operative site;
- (2) Incise tissues;
- (3) Ligate and approximate tissues with sutures and clamps;
- (4) Apply tourniquets, casts, immobilizers, and surgical dressings;
- (5) Check the placement and operation of equipment;
- (6) Assist in moving and positioning the patient;
- (7) Assist the surgeon in draping the patient;
- (8) Prepare a patient by cleaning, shaving, and sterilizing the incision area;
- (9) Retract tissue and expose the operating field area during operative procedures;
- (10) Place suture ligatures and clamp, tie, and clip blood vessels to control bleeding during surgical entry;
- (11) Use cautery for hemostasis under direct supervision;

- (12) Assist in closure of skin and subcutaneous tissue;
- (13) Assist in the cleanup of the surgical suite; and
- (14) Check and restock the surgical suite.

(c) A surgical assistant shall not:

- (1) Perform any surgical procedure independently;
- (2) Have prescriptive authority; or
- (3) Write any progress notes or orders on hospitalized patients, except operative notes.

(d) A supervising surgeon shall perform the critical portions of a surgical procedure and shall remain immediately available in the surgical suite for delegated acts that the surgical assistant performs or to respond to any emergency. Telecommunication shall not suffice as a means for directing delegated acts.

(e) For the purposes of this section, the term:

(1) "Supervising surgeon" means a surgeon licensed by the Board who delegates to a licensed surgical assistant surgical assisting and oversees and accepts responsibility for the surgical assisting. § 3-1206.42. License renewal

The Board of Medicine shall renew the license of a surgical assistant who, in addition to meeting the requirements of § 3-1205.04(q), has submitted to the Board, along with the application for renewal, documentation of current certification as a surgical assistant by:

- (1) The National Surgical Assistant Association; or
- (2) The American Board of Surgical Assistants.

§ 3-1206.43. Transition

For a period of 2 years following March 6, 2007, all references in this chapter to surgical assistants shall be deemed to refer to persons meeting the requirements for licensure in the District, regardless of whether they are licensed in fact.

SUBCHAPTER VII. QUALIFICATIONS FOR LICENSURE TO PRACTICE DIETETICS AND NUTRITION; WAIVER OF EXAMINATION

§ 3-1207.01. Qualifications for licensure [Formerly § 2-3307.1]

(a) In addition to the general qualifications for licensure set forth in subchapter V of this chapter, and any requirements which the Mayor may establish by rule, a dietitian shall:

(1) Hold a baccalaureate or higher degree with a major in human nutrition, foods and nutrition, dietetics, food systems management, or an equivalent major course of study, approved by the Board, from a school, college, or university that was approved by the appropriate accrediting body recognized by the Council on Postsecondary Accreditation or the United States Department of Education at the time the degree was conferred; and

(2) Successfully complete the certification examination of the Commission on Dietetic

Registration of the American Dietetic Association.

(b) Licensure to practice dietetics pursuant to this chapter shall also entitle the licensee to use the title of nutritionist.

(c) In addition to the general qualifications for licensure set forth in subchapter V of this chapter, and any requirements which the Mayor may establish by rule, a nutritionist shall:

(1) Hold a baccalaureate or higher degree with a major in human nutrition, food and nutrition, dietetics, food systems management, or an equivalent major course of study, approved by the Board, from a school, college, or university that was approved by the appropriate accrediting body recognized by the Council on Postsecondary Accreditation or the United States Department of Education at the time the degree was conferred, or shall have completed other training, approved by the Board, which is substantially equivalent to the curricula of accredited institutions; and

(2) Successfully complete the examination developed and required by the Mayor and administered by the Board.

(d) The Mayor, by rule, shall establish requirements for the completion of a planned, continuous, preprofessional program of supervised experience as a condition for licensure as a dietitian or nutritionist.

(e) The Mayor shall, within 12 months of March 25, 1986, develop, and update as necessary, an examination to assess an applicant's knowledge and understanding of the principles of nutrition and ability to apply the principles effectively and for the benefit of patients or clients in the practice of nutrition.

HISTORY: 1981 Ed., § 2-3307.1; Mar. 25, 1986, D.C. Law 6-99, § 701, 33 DCR 729; Feb. 24, 1987, D.C. Law 6-192, § 8, 33 DCR 7836.

NOTES:

SECTION REFERENCES. --This section is referenced in § 3-1207.02.

LEGISLATIVE HISTORY OF LAW 6-99. --See note to § 3-1201.01.

LEGISLATIVE HISTORY OF LAW 6-192. --Law 6-192, the "Technical Amendments Act of 1986," was introduced in Council and assigned Bill No. 6-544. The Bill was adopted on first and second readings on November 5, 1986, and November 18, 1986, respectively. Signed by the Mayor on December 10, 1986, it was assigned Act No. 6-246 and transmitted to both Houses of Congress for its review.

§ 3-1207.02. Waiver of examination [Formerly § 2-3307.2]

The board shall waive the examination requirement of § 3-1207.01(a)(2) and (c)(2) for any

applicant for licensure as a dietitian or nutritionist who presents evidence satisfactory to the Board that the applicant meets the qualifications required by § 3-1207.01(a)(1) or § 3-1207.01(c)(1) and has been employed in the practice of dietetics or nutrition on a full-time or substantially full-time basis for at least 3 of the last 5 years immediately preceding March 25, 1986, provided that application for the waiver is made within 24 months of March 25, 1986.

HISTORY: 1981 Ed., § 2-3307.2; Mar. 25, 1986, D.C. Law 6-99, § 702, 33 DCR 729; July 25, 1987, D.C. Law 7-20, § 2(a), 34 DCR 3814; Mar. 11, 1988, D.C. Law 7-87, § 2(a), 35 DCR 162.

NOTES:

LEGISLATIVE HISTORY OF LAW 6-99. --See note to § 3-1201.01.

LEGISLATIVE HISTORY OF LAW 7-20. --Law 7-20, the "District of Columbia Health Occupations Revision Act of 1985 Temporary Amendment Act of 1987," was introduced in Council and assigned Bill No. 7-210. The Bill was adopted on first and second readings on May 5, 1987 and May 19, 1987, respectively. Signed by the Mayor on June 1, 1987, it was assigned Act No. 7-34 and transmitted to both Houses of Congress for its review.

LEGISLATIVE HISTORY OF LAW 7-87. --Law 7-87, the "District of Columbia Health Occupations Revision Act of 1985 Amendment Act of 1987," was introduced in Council and assigned Bill No. 7-211. The Bill was adopted on first and second readings on November 24, 1987 and December 8, 1987, respectively. Signed by the Mayor on December 22, 1987, it was assigned Act No. 7-125 and transmitted to both Houses of Congress for its review.

**SUBCHAPTER VII-A. QUALIFICATIONS FOR LICENSURE TO PRACTICE
PROFESSIONAL COUNSELING.**

§ 3-1207.10. Qualifications for licensure [Formerly § 2-3307.10]

The Board of Professional Counseling shall license as a professional counselor a person who, in addition to meeting the requirements of subchapter V of this chapter, has satisfactorily completed the examination process, has completed 60 hours of postgraduate education in counseling or a related subject from an accredited college or university, and has completed 2 years of supervised counseling experience.

HISTORY: 1981 Ed., § 2-3307.10; D.C. Law 6-99, § 710, as added July 22, 1992, D.C. Law 9-126, § 2(g), 39 DCR 3824.

NOTES:

LEGISLATIVE HISTORY OF LAW 9-126. --See note to § 3-1202.13.

§ 3-1207.11. Transition of professional counselors [Formerly § 2-3307.11]

For a period of 2 years following July 22, 1992, all reference to a professional counselor shall be deemed to refer to a person meeting the requirements for licensure in the District, regardless of whether that person is licensed.

HISTORY: 1981 Ed., § 2-3307.11; D.C. Law 6-99, § 711, as added July 22, 1992, D.C. Law 9-126, § 2(g), 39 DCR 3824.

NOTES:

LEGISLATIVE HISTORY OF LAW 9-126. --See note to § 3-1202.13.

§ 3-1207.12. Waiver of licensure requirements [Formerly § 2-3307.12]

(a) The Board of Professional Counseling shall waive the 60 hours of postgraduate education and examination requirements for any applicant for licensure as a professional counselor who can demonstrate, to the satisfaction of the Board, that he or she holds a bachelor's degree in counseling or a related subject from an accredited college or university and has been performing the functions of a professional counselor, as defined by this subchapter, on a full-time or substantially full-time basis continually for at least 24 months immediately preceding July 22, 1992, and is qualified to do so on the basis of pertinent education, training, experience, and demonstrated current competence, provided that the application for licensure is made within 24 months of July 22, 1992.

(b) The Board of Professional Counseling shall waive the examination requirement for any applicant who meets the educational requirements for licensure as a professional counselor if the person has practiced as a professional counselor or as a professional counselor administrator within a 3-year period immediately preceding July 22, 1992, and is qualified to do so on the basis of pertinent experience and demonstrated current competence, provided that the application for licensure is made within 12 months of July 22, 1992.

(c) Applicants licensed under the waiver provisions of this section shall be eligible for license renewal on the same terms as all other licensed professional counselors.

HISTORY: 1981 Ed., § 2-3307.12; D.C. Law 6-99, § 712, as added July 22, 1992, D.C. Law 9-126, § 2(g), 39 DCR 3824.

NOTES:

LEGISLATIVE HISTORY OF LAW 9-126. --See note to § 3-1202.13.

SUBCHAPTER VII-B. WAIVER OF LICENSURE REQUIREMENTS FOR PROSPERITY CARE RESPIRATORY

§ 3-1207.21. Waiver of licensure requirements -- Demonstration of performance [Formerly § 2-3307.21]

The Board of Respiratory Care shall waive the educational and examination requirements for any applicant for licensure as a respiratory therapist who can demonstrate, to the satisfaction of the Board, that he or she has been performing the functions of a respiratory therapist, as defined in this chapter, on a full-time or substantially full-time basis continually at least 12 months immediately preceding March 14, 1995, and is qualified to do so on the basis of pertinent education, training, experience and demonstrated current competence, provided that the application for the license is

made within 12 months of October 17, 2002.

HISTORY: 1981 Ed., § 2-3307.21; D.C. Law 6-99, § 720, as added Mar. 14, 1995, D.C. Law 10-203, § 2(h), 41 DCR 7707; Apr. 18, 1996, D.C. Law 11-110, § 7(c), 43 DCR 530; Oct. 17, 2002, D.C. Law 14-197, § 2(a), 49 DCR 7642.

NOTES:

EFFECT OF AMENDMENTS. --D.C. Law 14-197 substituted "within 12 months of October 17, 2002" for "within 24 months of March 14, 1995."

TEMPORARY LEGISLATION. --Section 2(a) of D.C. Law 14-142 amended this section to read as follows:

"The Board of Respiratory Care shall waive the educational and examination requirements for any applicant for licensure as a respiratory therapist who can demonstrate, to the satisfaction of the Board, that he or she has been performing the functions of a respiratory therapist, as defined in this chapter, on a full-time or substantially full-time basis continually at least 12 months immediately preceding March 14, 1995, and is qualified to do so on the basis of pertinent education, training, experience and demonstrated current competence, provided that the application for the license is made within 12 months of the effective date of the Education and Examination Exemption for Respiratory Care Practitioners Emergency Amendment Act of 2002."

Section 4(b) of D.C. Law 14-142 provides that the act shall expire after 225 days of its having taken effect or upon the effective date of the Education and Examination Exemption for Respiratory Care Practitioners Amendment Act of 2002, whichever occurs first.

EMERGENCY ACT AMENDMENTS. --For temporary amendment of section, see § 2(a) of the Education and Examination Exemption for Respiratory Care Practitioners Emergency Amendment Act of 2002 (D.C. Act 14-280, February 25, 2002, 49 DCR 2293).

LEGISLATIVE HISTORY OF LAW 10-203. --See note to § 3-1201.01.

LEGISLATIVE HISTORY OF LAW 11-110. --See note to § 3-1201.02.

LEGISLATIVE HISTORY OF LAW 14-142. --Law 14-142, the "Education and Examination Exemption for Respiratory Care Practitioners Temporary Amendment Act of 2002," was introduced in Council and assigned Bill No. 14-323. The Bill was adopted on first and second readings on February 5, 2002, and March 5, 2002, respectively. Signed by the Mayor on March 25, 2002, it was assigned Act No. 14-319 and transmitted to both Houses of Congress for its review. D.C. Law 14-142 became effective on May 21, 2002 and expired on October 17, 2002.

LEGISLATIVE HISTORY OF LAW 14-197. --Law 14-197, the "Education and Examination Exemption for Respiratory Care Practitioners Amendment Act of 2002," was introduced in Council and assigned Bill No. 14-324. The Bill was adopted on first and second readings on June 18, 2002 and July 2, 2002, respectively. Signed by the Mayor on July 17, 2002, it was assigned Act No. 14-430 and transmitted to Congress for its review. D.C. Law 14-197 became effective on October 17, 2002.

The Board of Respiratory Care shall waive the educational and examination requirements for any applicant for licensure as a respiratory therapist who can demonstrate, to the satisfaction of the Board, that he or she has been performing the functions of a respiratory therapist, as defined in this chapter, on a full-time or substantially full-time basis continually at least 12 months immediately preceding March 14, 1995, and is qualified to do so on the basis of pertinent education, training, experience and demonstrated current competence, provided that the application for the license is made within 12 months of October 17, 2002.

HISTORY: 1981 Ed., § 2-3307.21; D.C. Law 6-99, § 720, as added Mar. 14, 1995, D.C. Law 10-203, § 2(h), 41 DCR 7707; Apr. 18, 1996, D.C. Law 11-110, § 7(c), 43 DCR 530; Oct. 17, 2002, D.C. Law 14-197, § 2(a), 49 DCR 7642.

NOTES:

EFFECT OF AMENDMENTS. --D.C. Law 14-197 substituted "within 12 months of October 17, 2002" for "within 24 months of March 14, 1995."

TEMPORARY LEGISLATION. --Section 2(a) of D.C. Law 14-142 amended this section to read as follows:

"The Board of Respiratory Care shall waive the educational and examination requirements for any applicant for licensure as a respiratory therapist who can demonstrate, to the satisfaction of the Board, that he or she has been performing the functions of a respiratory therapist, as defined in this chapter, on a full-time or substantially full-time basis continually at least 12 months immediately preceding March 14, 1995, and is qualified to do so on the basis of pertinent education, training, experience and demonstrated current competence, provided that the application for the license is made within 12 months of the effective date of the Education and Examination Exemption for Respiratory Care Practitioners Emergency Amendment Act of 2002."

Section 4(b) of D.C. Law 14-142 provides that the act shall expire after 225 days of its having taken effect or upon the effective date of the Education and Examination Exemption for Respiratory Care Practitioners Amendment Act of 2002, whichever occurs first.

EMERGENCY ACT AMENDMENTS. --For temporary amendment of section, see § 2(a) of the Education and Examination Exemption for Respiratory Care Practitioners Emergency Amendment Act of 2002 (D.C. Act 14-280, February 25, 2002, 49 DCR 2293).

LEGISLATIVE HISTORY OF LAW 10-203. --See note to § 3-1201.01.

LEGISLATIVE HISTORY OF LAW 11-110. --See note to § 3-1201.02.

LEGISLATIVE HISTORY OF LAW 14-142. --Law 14-142, the "Education and Examination Exemption for Respiratory Care Practitioners Temporary Amendment Act of 2002," was introduced in Council and assigned Bill No. 14-323. The Bill was adopted on first and second readings on February 5, 2002, and March 5, 2002, respectively. Signed by the Mayor on March 25, 2002, it was assigned Act No. 14-319 and transmitted to both Houses of Congress for its review. D.C. Law 14-142 became effective on May 21, 2002 and expired on October 17, 2002.

LEGISLATIVE HISTORY OF LAW 14-197. --Law 14-197, the "Education and Examination Exemption for Respiratory Care Practitioners Amendment Act of 2002," was introduced in Council and assigned Bill No. 14-324. The Bill was adopted on first and second readings on June 18, 2002 and July 2, 2002, respectively. Signed by the Mayor on July 17, 2002, it was assigned Act No. 14-430 and transmitted to Congress for its review. D.C. Law 14-197 became effective on October 17, 2002.

§ 3-1207.22. Waiver of licensure requirements -- Meeting educational requirements [Formerly § 2-3307.22]

The Board of Respiratory Care shall waive the examination requirement for any applicant who meets the educational requirements for licensure as a respiratory therapist, whether full time or not, within a 3-year period immediately preceding March 14, 1995, and is qualified to do so on the basis of pertinent experience, and demonstrated current competence, provided that application for the license is made within 12 months of October 17, 2002.

HISTORY: 1981 Ed., § 2-3307.22; D.C. Law 6-99, § 721, as added Mar. 14, 1995, D.C. Law 10-203, § 2(h), 41 DCR 7707; Apr. 18, 1996, D.C. Law 11-110, § 7(d), 43 DCR 530; Oct. 17, 2002, D.C. Law 14-197, § 2(b), 49 DCR 7642.

NOTES:

EFFECT OF AMENDMENTS. --D.C. Law 14-197 substituted "within 12 months of October 17, 2002" for "within 24 months of March 14, 1995."

TEMPORARY LEGISLATION. --Section 2(b) of D.C. Law 14-142 amended this section to read as follows:

"The Board of Respiratory Care shall waive the examination requirement for any applicant who meets the educational requirements for licensure as a respiratory therapist, whether full time or not, within a 3-year period immediately preceding March 14, 1995, and is qualified to do so on the basis of pertinent experience, and demonstrated current competence, provided that application for the license is made within 12 months of the effective date of the Education and Examination Exemption for Respiratory Care Practitioners Emergency Amendment Act of 2002."

Section 4(b) of D.C. Law 14-142 provides that the act shall expire after 225 days of its having taken effect or upon the effective date of the Education and Examination Exemption for Respiratory Care Practitioners Amendment Act of 2002, whichever occurs first.

EMERGENCY LEGISLATION. --For temporary amendment of this section, see § 2(b) of the Education and Examination Exemption for Respiratory Care Practitioners Emergency Amendment Act of 2002 (D.C. Act 14-280, February 25, 2002, 49 DCR 2293).

LEGISLATIVE HISTORY OF LAW 10-203. --See note to § 3-1201.01.

LEGISLATIVE HISTORY OF LAW 11-110. --See note to § 3-1201.02.

LEGISLATIVE HISTORY OF LAW 14-142. --See note to § 3-1207.21.

LEGISLATIVE HISTORY OF LAW 14-197. --See note to § 3-1207.21.

EDITOR'S NOTES. --The words "of the effective date" were apparently inadvertently omitted from the text of D.C. Law 14-197 where the date "October 17, 2002" has been supplied by LexisNexis.

§ 3-1207.23. Eligibility for license renewal [Formerly § 2-3307.23]

Applicants licensed under the waiver provisions of this subchapter shall be eligible for license renewal on the same terms as all other licensed respiratory care practitioners.

HISTORY: 1981 Ed., § 2-3307.23; D.C. Law 6-99, § 722, as added Mar. 14, 1995, D.C. Law 10-203, § 2(h), 41 DCR 7707.

NOTES:

LEGISLATIVE HISTORY OF LAW 10-203. --See note to § 3-1201.01.

SUBCHAPTER VII-C. WAIVER OF LICENSURE REQUIREMENTS FOR MASSAGE THERAPIST

§ 3-1207.31. Waiver of licensure requirements -- Demonstration of performance [Formerly § 2-3307.31]

The Board of Massage Therapy shall waive the educational and examination requirements for any applicant for licensure as a massage therapist who can demonstrate, to the satisfaction of the Board, that he or she has been performing the functions of a massage therapist, as defined in this chapter, on a full-time or substantially full-time basis continually at least 12 months immediately preceding March 14, 1995, and is qualified to do so on the basis of pertinent education, training, experience and demonstrated current competence, provided that the application for the license is made within 24 months of March 14, 1995.

HISTORY: 1981 Ed., § 2-3307.31; D.C. Law 6-99, § 730, as added Mar. 14, 1995, D.C. Law 10-205, § 2(f), 41 DCR 7712; Apr. 18, 1996, D.C. Law 11-110, § 7(e), 43 DCR 53

§ 3-1207.32. Waiver of licensure requirements -- Meeting educational requirements [Formerly § 2-3307.32]

The Board of Massage Therapy shall waive the examination requirement for any applicant who meets the educational requirements for licensure as a massage therapist, has practiced as a massage therapist, whether full time or not, within a 3-year period immediately preceding March 14, 1995, and is qualified to do so on the basis of pertinent experience, and demonstrated current competence, provided that application for the license is made within 24 months of March 14, 1995.

HISTORY: 1981 Ed., § 2-3307.32; D.C. Law 6-99, § 731, as added Mar. 14, 1995, D.C. Law 10-205, § 2(f), 41 DCR 7712; Apr. 18, 1996, D.C. Law 11-110, § 7(f), 43 DCR 530.

**SUBCHAPTER VII-D. PHARMACEUTICAL DETAILERS; SCOPE OF PRACTICE;
ICATIIONS FOR LICENSURE; WAIVER OF LICENSURE**

§ 3-1207.41. Scope of practice

(a) An individual shall be licensed by the Board of Pharmacy before engaging in the practice of pharmaceutical detailing in the District of Columbia.

(b) A pharmaceutical detailer shall not:

(1) Engage in any deceptive or misleading marketing of a pharmaceutical product, including the knowing concealment, suppression, omission, misleading representation, or misstatement of any material fact;

(2) Use a title or designation that might lead a licensed health professional, or an employee or representative of a licensed health professional, to believe that the pharmaceutical detailer is licensed to practice medicine, nursing, dentistry, optometry, pharmacy, or other similar health occupation, in the District of Columbia, unless the pharmaceutical detailer currently holds such a license; or

(3) Attend patient examinations without the consent of the patient.

§ 3-1207.42. Qualifications for licensure

In addition to the general qualifications for licensure set forth in this chapter, an individual applying for a license to practice pharmaceutical detailing shall:

(1) Establish, to the satisfaction of the Board of Pharmacy, that he or she is a graduate of a recognized institution of higher education;

(2) Pay the required licensure fee; and

(3) Submit to the Board of Pharmacy a notarized statement that he or she understands and agrees to abide by the requirements for the practice of pharmaceutical detailing, including the code of ethics, as established by the Board pursuant to § 3-1202.08 and in accordance with this subchapter.

§ 3-1207.43. Waiver of licensure requirements

The Board of Pharmacy shall waive the educational requirements for an applicant for licensure as a pharmaceutical detailer who can demonstrate, to the satisfaction of the Board, that he or she has been performing the functions of a pharmaceutical detailer, as defined in this subchapter, on a full-time, or substantially full-time, basis for at least 12 months immediately preceding March 26, 2008.

§ 3-1207.44. Continuing education

The Mayor shall establish by rule continuing-education requirements as a condition for renewal of the license to practice pharmaceutical detailing.

§ 3-1207.45. Penalties

In addition to the penalties set forth in this chapter, a person who practices pharmaceutical detailing without a license shall be subject to a fine of up to \$ 10,000.

§ 3-1207.33. Eligibility for license renewal [Formerly § 2-3307.33]

Applicants licensed under the waiver provisions of this subchapter shall be eligible for license renewal on the same terms as all other licensed massage therapists.

HISTORY: 1981 Ed., § 2-3307.33; D.C. Law 6-99, § 732, as added Mar. 14, 1995, D.C. Law 10-205, § 2(f), 41 DCR 7712.

SUBCHAPTER VIII. CATEGORIES AND QUALIFICATION OF SOCIAL

§ 3-1208.01. Licensed social work associate [Formerly § 2-3308.1]

(a) The Board of Social Work shall license as a social work associate a person who, in addition to meeting the requirements of subchapter V of this chapter, has a baccalaureate degree ("B.S.W.") from a social work program accredited by the Council of Social Work Education, and has satisfactorily completed the examination process at the associate level.

(b) A licensed social work associate ("L.S.W.A.") may perform case work, group work, and community organization services under the supervision of a social worker licensed under § 3-1208.03 or § 3-1208.04.

HISTORY: 1981 Ed., § 2-3308.1; Mar. 25, 1986, D.C. Law 6-99, § 801, 33 DCR 729.

NOTES:

LEGISLATIVE HISTORY OF LAW 6-99. --See note to § 3-1201.01.

§ 3-1208.02. Licensed graduate social worker [Formerly § 2-3308.2]

(a) The Board of Social Work shall license as a graduate social worker a person who, in addition to meeting the requirements of subchapter V of this chapter, has a master's degree or a doctorate from a social work program accredited by the Council on Social Work Education, and has satisfactorily completed the examination process at the graduate level.

(b) A licensed graduate social worker ("L.G.S.W.") may perform any function described

as the practice of social work in this chapter, other than psychotherapy, under the supervision of a social worker licensed under § 3-1208.03 or § 3-1208.04, and may perform psychotherapy under the supervision of a social worker licensed under § 3-1208.04.

HISTORY: 1981 Ed., § 2-3308.2; Mar. 25, 1986, D.C. Law 6-99, § 802, 33 DCR 729.

NOTES:

LEGISLATIVE HISTORY OF LAW 6-99. --See note to § 3-1201.01.

§ 3-1208.03. Licensed independent social worker [Formerly § 2-3308.3]

(a) The Board of Social Work shall license as an independent social worker a person who, in addition to meeting the requirements of subchapter V of this chapter, has a master's degree or a doctorate from a social work program accredited by the Council on Social Work Education, has satisfactorily completed the examination process at the independent level, and has at least 3,000 hours post-master's or postdoctoral experience under the supervision of a licensed independent social worker over a period of not less than 2 or more than 4 years.

(b) A licensed independent social worker ("L.I.S.W.") may perform any function described as the practice of social work in this chapter, other than the diagnosis or treatment (including psychotherapy) of psychosocial problems, in an autonomous, self-regulated fashion, in an agency setting or independently, and may direct other persons in the performance of these functions.

HISTORY: 1981 Ed., § 2-3308.3; Mar. 25, 1986, D.C. Law 6-99, § 803, 33 DCR 729.

NOTES:

SECTION REFERENCES. --This section is referenced in § 3-1208.01 and § 3-1208.02.

LEGISLATIVE HISTORY OF LAW 6-99. --See note to § 3-1201.01.

§ 3-1208.04. Licensed independent clinical social worker [Formerly § 2-3308.4]

(a) The Board of Social Work shall license as an independent clinical social worker a person who, in addition to meeting the requirements of subchapter V of this chapter, has a master's degree or a doctorate from a social work program accredited by the Council on Social Work Education, has satisfactorily completed the examination process at the independent clinical level, and has at least 3,000 hours of post-master's or postdoctoral experience participating in the diagnosis and treatment of individuals, families, and groups with psychosocial problems, under the supervision of a licensed independent clinical social worker over a period of not less than 2 years or more than 4 years; under special circumstances approved by the Board, supervision by a licensed psychiatrist or psychologist may be substituted for up to 1500 hours of this requirement.

(b) A licensed independent clinical social worker ("L.I.C.S.W.") may perform any function described as the practice of social work in this chapter, in an autonomous, self-regulated fashion, in an agency setting or independently, and may supervise other persons in the performance of these functions. A licensed independent clinical social worker shall not engage in the practice of medicine and shall refer patients or clients with apparent medical problems to an appropriate and qualified medical practitioner.

HISTORY: 1981 Ed., § 2-3308.4; Mar. 25, 1986, D.C. Law 6-99, § 804, 33 DCR 729.

NOTES:

SECTION REFERENCES. --This section is referenced in § 3-1208.01, § 3-1208.02, and § 31-3101.

LEGISLATIVE HISTORY OF LAW 6-99. --See note to § 3-1201.01.

§ 3-1208.05. Transition [Formerly § 2-3308.5]

For a period of 2 years following March 25, 1986, all references in this subchapter to supervision by licensed social workers shall be deemed to refer to supervision by persons meeting the requirements for licensure in the District, regardless of whether they are licensed in fact.

HISTORY: 1981 Ed., § 2-3308.5; Mar. 25, 1986, D.C. Law 6-99, § 805, 33 DCR 729.

NOTES:

LEGISLATIVE HISTORY OF LAW 6-99. --See note to § 3-1201.01.

§ 3-1208.06. Waiver of requirements [Formerly § 2-3308.6]

(a) The Board of Social Work shall waive the educational and examination requirements for any applicant for licensure as a social worker who can demonstrate, to the satisfaction of the Board, that he or she has been performing the functions of a social worker, as defined in this chapter, on a full-time or substantially full-time basis continually at least 12 months immediately preceding March 25, 1986, and is qualified to do so on the basis of pertinent education, training, experience, and demonstrated current competence, provided that application for the license is made within 24 months of March 25, 1986.

(b) The Board of Social Work shall waive the examination requirement for any applicant who meets the educational requirements for licensure as a social worker, has practiced as a social worker or as a social work administrator, whether full time or not, within a 3-year period immediately preceding March 25, 1986, and is qualified to do so on the basis of pertinent experience, and demonstrated current competence, provided that application for the license is made within 24 months of March 25, 1986.

(c) Applicants licensed under the waiver provisions of this section shall be eligible for license renewal on the same terms as all other licensed social workers.

HISTORY: 1981 Ed., § 2-3308.6; Mar. 25, 1986, D.C. Law 6-99, § 806, 33 DCR 729; July 25, 1987, D.C. Law 7-20, § 2(b), 34 DCR 3814; Mar. 11, 1988, D.C. Law 7-87, § 2(b), 35 DCR 162.

NOTES:

LEGISLATIVE HISTORY OF LAW 6-99. --See note to § 3-1201.01.

LEGISLATIVE HISTORY OF LAW 7-20. --See note to § 3-1207.02.

LEGISLATIVE HISTORY OF LAW 7-87. --See note to § 3-1207.02.

**SUBCHAPTER III-A. QUALIFICATIONS FOR LICENSURE TO PRACTICE
ND FAMILY THERAPY.**

§ 3-1208.31. Qualifications for licensure

(a) The Board of Marriage and Family Therapy shall license as a marriage and family therapist a person who, in addition to meeting the requirements of subchapter V of this chapter and any requirements the Mayor may establish by rule, has:

(1) Satisfactorily completed the examination process;

(2) A Master's degree or a Doctoral degree in marriage and family therapy from a recognized educational institution, or a graduate degree in an allied field from a recognized educational institution and has successfully completed graduate level course work which is equivalent to a Masters' degree in marriage and family therapy, as determined by the Board; and

(3) Successfully completed 2 calendar years of work experience in marriage and family therapy under qualified supervision following receipt of a qualifying degree.

(b) For the purposes of subsection (a) of this section, qualifying degrees shall meet the following requirements:

(1) A graduate degree which consists of at least 60 semester hours or 90 quarter credits in marriage and family therapy from a program accredited by the Commission on Accreditation for Marriage and Family Therapy Education, or a graduate degree from a regionally accredited educational institution and an equivalent course of study as approved by the Board; and

(2) The course of study for any graduate degree shall include a minimum of 39 semester credits in the following areas:

(A) Marriage and family studies -- 9 semester credit minimum. Studies in this area shall include:

(i) Theoretical foundations, history, philosophy, etiology and contemporary conceptual directions of marriage and family therapy or marriage and family counseling;

(ii) Family systems theories and other relevant theories and their application in working with a wide variety of family structures, including families in transition, nontraditional families and blended families, and a diverse range of presenting issues; and

(iii) Preventative approaches, including premarital counseling, parent skill training and relationship enhancement, for working with couples, families, individuals, subsystems and other systems;

(B) Marriage and family therapy -- 9 semester credit minimum. Studies in this area shall include:

(i) The practice of marriage and family therapy related to theory, and a comprehensive survey and substantive understanding of the major models of marriage and family therapy or marriage and family counseling; and

(ii) Interviewing and assessment skills for working with couples, families, individuals, subsystems and other systems, and skills in the appropriate implementation of systematic interventions across a variety of presenting clinical issues, including socioeconomic disadvantage, abuse, and addiction;

(C) Human development -- 9 semester credit minimum. Studies in this area shall include:

(i) Individual development and transitions across the life span;

(ii) Family, marital and couple life cycle development and family relationships, family of origin and intergenerational influences, cultural influences, ethnicity, race, socioeconomic status, religious beliefs, gender, sexual orientation, social and equity issues, and disability;

(iii) Human sexual development, function and dysfunction, impacts on individuals, couples, and families, and strategies for intervention and resolution; and

(iv) Issues of violence, abuse, and substance use in a relational context, and strategies for intervention and resolution;

(D) Psychological and mental health competency -- 6 semester credit minimum. Studies in this area shall include:

(i) Psychopathology, including etiology, assessment, evaluation, and treatment of mental disorders, use of the current diagnostic and statistical manual of mental disorders,

differential diagnosis, and multiaxial diagnosis;

(ii) Standard mental health diagnostic assessment methods and instruments, including standardized tests; and

(iii) Psychotropic medications and the role of referral to and cooperation with other mental health practitioners in treatment planning, and case management skills for working with individuals, couples, and families;

(E) Professional ethics and identity -- 3 semester credit minimum. Studies in this area shall include:

(i) Professional identity, including professional socialization, professional organizations, training standards, credentialing bodies, licensure, certification, practice settings, and collaboration with other disciplines;

(ii) Ethical and legal issues related to the practice of marriage and family therapy, legal responsibilities of marriage and family therapy and marriage and family counseling practice and research, business aspects, reimbursement, record keeping, family law, confidentiality issues, and the relevant codes of ethics, including the code of ethics specified by the Board; and

(iii) The interface between therapist responsibility and the professional, social, and political context of treatment; and

(F) Research -- 3 semester credit minimum. Studies in this area shall include:

(i) Research in marriage and family therapy or marriage and family counseling and its application to working with couples and families; and

(ii) Research methodology, quantitative and qualitative methods, statistics, data analysis, ethics, and legal considerations of conducting research, and evaluation of research.

(c) To be eligible for licensure as a marriage and family therapist, a person must complete 2 years of post-graduate, clinical work experience in marriage and family therapy and supervision in accordance with the following established membership standards:

(1) Supervised clinical experience must follow receipt of the first qualifying graduate degree and the practicum required as part of the course of study;

(2) Supervision must be provided by supervisors approved by the American Association for Marriage and Family Therapy or supervisors of acceptance to the Board; and

(3) Successful completion of at least 1000 hours of face-to-face contact with couples

and families for the purpose of assessment and intervention, and 200 hours of supervision of marriage and family therapy, at least 100 of which are individual supervision.

HISTORY: D.C. Law 6-99, § 831, as added Mar. 10, 2004, D.C. Law 15-88, § 2(i), 50 DCR 10999.

NOTES:

EFFECT OF AMENDMENTS. --D.C. Law 15-88 added this section.

LEGISLATIVE HISTORY OF LAW 15-88. --Law 15-88, the "Marriage and Family Therapy Amendment Act of 2003," was introduced in Council and assigned Bill No. 15-179. The Bill was adopted on first and second readings on Oct. 7, 2003, and Nov. 4, 2003, respectively. Signed by the Mayor on Nov. 25, 2003, it was assigned Act No. 15-256 and transmitted to Congress for its review. D.C. Law 15-88 became effective on Mar. 10, 2004.

§ 3-1208.32. Transition of licensed marriage and family therapists.

For a period of 2 years following March 10, 2004, all reference to a licensed marriage and family therapist shall be deemed to refer to a person meeting the requirements for licensure in the District, regardless of whether that person is licensed.

HISTORY: D.C. Law 6-99, § 831.02, as added Mar. 10, 2004, D.C. Law 15-88, § 2(i), 50 DCR 10999.

NOTES:

EFFECT OF AMENDMENTS. --D.C. Law 15-88 added this section.

LEGISLATIVE HISTORY OF LAW 15-88. --See note to § 3-1208.31.

VIII-B. QUALIFICATION FOR LICENSURE TO PRACTICE AUDIOLOGY AND SPEECH THERAPY.

§3-1208-41. Qualifications for Licensure.

SUBCHAPTER IX. RELATED OCCUPATIONS; REGISTRATION REQUIREMENTS; PROHIBITED ACTIONS.

§ 3-1209.01. Naturopathy [Formerly § 2-3309.1]

(a) Any person who practices or offers to practice naturopathy or naturopathic healing in the District and is not licensed to practice naturopathic medicine in the District shall register with the Mayor on forms prescribed by the Mayor, reregister at intervals the Mayor may require by rule, and pay the registration fee established by the Mayor.

(a-1) (1) To be eligible to register to practice naturopathy or naturopathic healing, a

person shall submit, along with the registration forms required by subsection (a) of this section:

(A) A list of the person's credentials, including education, training, experience, and other qualifications, which shall be kept on file at the Department of Health; and

(B) Proof of a mailing address demonstrating that the person either is a District resident or has an office or location of practice involved in the practice of naturopathy or naturopathic healing in the District.

(2) Post office boxes are not sufficient proof of residency to demonstrate that a person either is a District resident or has an office or location of practice in the District for the purposes of paragraph (1) of this subsection.

(3) All persons registered to practice naturopathy or naturopathic healing in the District on July 8, 2004 may keep their current registrations until they expire, at which time they will be required to submit proof demonstrating that they are either District residents or have offices or locations of practice in the District in order to renew their current registrations.

(b) A person registered to practice naturopathy or naturopathic healing may counsel individuals and treat human conditions through the use of naturally occurring substances in accordance with the requirements of this chapter.

(c) Unless also licensed by the Board of Medicine to practice medicine or naturopathic medicine in the District, practitioners of naturopathy or naturopathic healing shall:

(1) Provide to a client or patient, before providing services to the client or patient, a written notice, in a language the client or patient understands, that:

(A) Contains the following statement: "This notice is provided you pursuant to District of Columbia law. I am a registered naturopath, but I am not a licensed medical doctor and therefore do not prevent, diagnose, and treat physical and mental diseases or disorders, and cannot safeguard the life and health of any woman and infant through pregnancy and parturition, nor am I a licensed naturopathic physician."; and

(B) States:

(i) That it is unlawful for a practitioner of naturopathy or naturopathic healing to perform any of the functions listed in subsection (e) of this section, which shall be itemized in the notice;

(ii) The nature of the services to be provided;

(iii) The theory of treatment upon which the services are based; and

(iv) The practitioner's education, training, experience, and other qualifications regarding the services to be provided;

(2) Obtain written acknowledgment from the client or patient that the client or patient has been provided the notice required in paragraph (1) of this subsection.

(3) Post a notice identical to that described in paragraph (1) of this subsection in a prominent place, in printing size to be easily readable, in each office or location of practice.

(d) Practitioners of naturopathy or naturopathic healing who are registered under this section may use the titles "Naturopath" or "Registered Naturopath".

(e) Unless also licensed by the Board of Medicine to practice medicine or naturopathic medicine in the District, it shall be unlawful for a practitioner of naturopathy or naturopathic healing to:

(1) By use of title or description of services, imply, advertise, or falsely lead any person to believe that the practitioner:

(A) Practices medicine as defined in § 3-1201.02(7);

(B) Practices naturopathic medicine as defined in § 3-1201.02(7A); or

(C) Is a "Doctor of Naturopathic Medicine", "Naturopathic Physician", "Licensed Naturopath", "Naturopathic Doctor", "Doctor of Naturopathy", or an "ND" or "NMD".

(2) Use X-rays, perform any surgical procedure, inject any substance into another person by needle, or perform any invasive procedure on another person;

(3) Deliver infants;

(4) Prescribe for or provide to another person any drug, substance, or device regulated by the laws of the District or federal governments or available by prescription only; or

(5) File birth or death certificates or sign claims or authorization for payment of workers' compensation benefits, Medicare or Medicaid benefits, or benefits provided for health care through other publicly assisted programs.

(e-1) (1) Nothing in subsection (e) of this section shall be construed as prohibiting a registered naturopath who has been awarded an academic degree conferring upon them the title of "Naturopathic Doctor" or "Doctor of Naturopathy" or "ND" from:

(A) Listing the degree awarded among the educational credentials required to be disclosed in subsections (a-1)(1)(B) and (c)(1)(B)(iv) of this section;

(B) Displaying the diploma awarded in an office or location of practice;

(C) Advertising that they hold such a degree, so long as the listing of the degree in the advertisement is immediately followed by the phrase: "(This degree for "Naturopathic Doctor", "Doctor of Naturopathy", or "ND" does not meet the requirements for licensure as a "Naturopathic Doctor", "Doctor of Naturopathy", or "ND" in the District of Columbia.)"; or

(D) Informing clients or patients that they hold such a degree, so long as the naturopath or naturopathic healer also informs the client or patient that the degree possessed does not meet the requirements for licensure as a "Naturopathic Doctor," "Doctor of Naturopathy", or "ND" in the District.

(2) For the purposes of this subsection, the term "listing the degree" means stating the degree awarded and the school from which it was obtained.

(f) The Mayor may by rules set forth the standards of education and experience required to qualify for registration as a naturopath, and, in doing so, may adopt the standards of a national professional association of naturopaths.

HISTORY: 1981 Ed., § 2-3309.1; Mar. 25, 1986, D.C. Law 6-99, § 901, 33 DCR 729; Mar. 23, 1995, D.C. Law 10-247, § 2(x), 42 DCR 457; July 8, 2004, D.C. Law 15-172, § 2(h), 51 DCR 4938; April 13, 2005, D.C. Law 15-354, § 11, 52 DCR 2638.

NOTES:

SECTION REFERENCES. --This section is referenced in § 3-1210.03.

EFFECT OF AMENDMENTS. --Law 15-172 inserted "and is not licensed to practice naturopathic medicine in the District" in (a); added (a-1); rewrote (c); substituted "who are registered under this section may use the titles "Naturopath" or "Registered Naturopath"" for "may use the title "Doctor of Naturopathy" in (d); added "Unless also licensed by the Board of Medicine to practice medicine or naturopathic medicine in the District" at the beginning of the introductory paragraph of (e); rewrote (e)(1); and added (e-1).

D.C. Law 15-354 added "or" to the end of (e)(1)(B) and (e-1)(1)(C).

LEGISLATIVE HISTORY OF LAW 6-99. --See note to § 3-1201.01.

LEGISLATIVE HISTORY OF LAW 10-247. --See note to § 3-1201.01.

LEGISLATIVE HISTORY OF LAW 15-172. --Law 15-172, the "Practice of Naturopathic Medicine Licensing Amendment Act of 2004," was introduced in Council and assigned Bill No. 15-57. The Bill was adopted on first and second readings on Mar. 2, 2004, and Apr. 6, 2004, respectively. Signed by the Mayor on May 5, 2004, it was assigned Act No. 15-419 and transmitted to Congress for its review. D.C. Law 15-172 became effective on July 8, 2004.

LEGISLATIVE HISTORY OF LAW 15-354. --Law 15-354, the "Technical Amendments Act of 2005," was introduced in Council and assigned Bill No. 15-1130. The Bill was adopted on first and second readings on Dec. 7, 2004, and Dec. 21, 2004, respectively. Signed by the Mayor on Feb. 9, 2005, it was assigned Act No. 15-770 and transmitted to both Houses of Congress for its review. D.C. Law 15-354 became effective on April 13, 2005.

EDITOR'S NOTES. --D.C. Law 15-354, § 11, stated that it was amending subsections (e)(B) and (e-1)(C); LexisNexis interpreted the act section as amending (e)(1)(B) and (e-1)(1)(C).

§ 3-1209.02. Dance and recreation therapy [Formerly § 2-3309.2]

(a) Any person who practices or offers to practice dance therapy or recreation therapy in the District shall register with the Mayor on forms prescribed by the Mayor, reregister at intervals the Mayor may require by rule, and pay the registration fee established by the Mayor.

(b) A person registered to practice dance therapy or recreation therapy may employ the theories and techniques of the profession, in accordance with appropriate ethical requirements, to aid in the restoration and rehabilitation of mental and physical functions.

(c) The Mayor shall, by rule, set forth standards of education and experience required to qualify for registration as a dance therapist or recreation therapist and, in doing so, may adopt the standards of the recognized national professional associations of dance therapists or recreation therapists.

HISTORY: 1981 Ed., § 2-3309.2; Mar. 25, 1986, D.C. Law 6-99, § 902, 33 DCR 729.

NOTES:

LEGISLATIVE HISTORY OF LAW 6-99. --See note to § 3-1201.01.

§ 3-1209.03. Registered acupuncture therapist [Formerly § 2-3309.3]

(a) For the purposes of this section, "registered acupuncture therapist" means a person who has successfully completed a program in acupuncture therapy approved by the Advisory Committee on Acupuncture and the Board of Medicine for the specific purpose of treating drug and alcohol abuse in a clinical setting and who does not otherwise possess the credentials or qualifications for the practice of acupuncture as required by § 3-1205.04.

(b) A person who is engaged as an acupuncture therapist in the District shall register with the Mayor, renew the registration as required by rule, and pay the required registration fee established by the Mayor.

(c) Any person registered to practice as an acupuncture therapist shall practice under the direct collaboration of a person licensed to practice acupuncture or a physician licensed to practice acupuncture.

(d) The Mayor, in accordance with the provisions of subchapter I of Chapter 5 of Title 2, shall issue rules setting forth the standards of education and experience required to qualify for registration as an acupuncture therapist.

HISTORY: 1981 Ed., § 2-3309.3; D.C. Law 6-99, § 903, as added Mar. 20, 1992, D.C. Law 9-77, § 2, 39 DCR 669.

NOTES:

LEGISLATIVE HISTORY OF LAW 9-77. --Law 9-77, the "Health Occupations Revision Act of 1985 Acupuncture Practice Amendment Act of 1992," was introduced in Council and assigned Bill No. 9-18. The Bill was adopted on first and second readings on December 3, 1991, and January 7, 1992, respectively. Signed by the Mayor on January 28, 1992, it was assigned Act No. 9-134 and transmitted to both Houses of Congress for its review. D.C. Law 9-77 became effective on March 20, 1992.

§ 3-1209.04. Addiction counselor [Formerly § 2-3309.4]

(a) For the purposes of this section, the term "addiction counselor" means a person who possesses and utilizes a unique knowledge and skill base to assist (i) substance abusers; (ii) a person or group affected by a problem related to substance abuse; or (iii) the public for whom the prevention of substance abuse is a primary concern. This knowledge and skill base may be attained through a combination of specialized training, education, supervised work experience, and life experience.

(b) A person who is engaged as an addiction counselor in the District shall register with the Mayor, renew the registration as required by rule, and pay the required registration fee established by the Mayor.

(c) A person registered to practice as an addiction counselor may assist substance abusers, persons affected by problems related to substance abuse, and the public.

(d) The Mayor, in accordance with the provisions of subchapter I of Chapter 5 of Title 2, shall issue rules setting forth the required standards for education and experience needed to qualify as a registered addiction counselor. The Mayor may adopt the standards of a recognized professional association of addiction counselors.

HISTORY: 1981 Ed., § 2-3309.4; D.C. Law 6-99, § 904, as added July 22, 1992, D.C. Law 9-126, § 2(h), 39 DCR 3824.

NOTES:

LEGISLATIVE HISTORY OF LAW 9-126. --See note to § 3-1202.13.

SUBCHAPTER X. PROHIBITED ACTS; PENALTIES; INJUNCTIONS.

§ 3-1210.01. Practicing without license [Formerly § 2-3310.1]

No person shall practice, attempt to practice, or offer to practice a health occupation licensed or regulated under this chapter in the District unless currently licensed, or exempted from licensing, under this chapter.

HISTORY: 1981 Ed., § 2-3310.1; Mar. 25, 1986, D.C. Law 6-99, § 1001, 33 DCR 729.

NOTES:

LEGISLATIVE HISTORY OF LAW 6-99. --See note to § 3-1201.01.

§ 3-1210.02. Misrepresentation [Formerly § 2-3310.2]

Unless authorized to practice a health occupation under this chapter, a person shall not represent to the public by title, description of services, methods, or procedures, or otherwise that the person is authorized to practice the health occupation in the District.

HISTORY: 1981 Ed., § 2-3310.2; Mar. 25, 1986, D.C. Law 6-99, § 1002, 33 DCR 729.

NOTES:

LEGISLATIVE HISTORY OF LAW 6-99. --See note to § 3-1201.01.

ANALYSIS

Medical administrator

MEDICAL ADMINISTRATOR.

A medical administrator's correspondence, which did not amount to an endorsement of attached medical findings and recommendations, and which was directed to the Board of Medicine and not to "the public," did not constitute a representation that the author was licensed to practice medicine in the District. *Morris v. District of Columbia Bd. of Medicine*, App. D.C., 701 A.2d 364 (1997).

§ 3-1210.03. Certain representations prohibited [Formerly § 2-3310.3]

(a) Unless authorized to practice acupuncture under this chapter, a person shall not use or imply the use of the words or terms "acupuncture," "acupuncturist," or any similar title or description of services with the intent to represent that the person practices acupuncture.

(b) Unless authorized to practice as an advanced practice registered nurse under this chapter, a person shall not use or imply the use of the words or terms "advanced practice registered nurse", "A.P.R.N.", "certified registered nurse anesthetist", "C.R.N.A.",

"certified nurse midwife", "C.N.M.", "clinical nurse specialist", "C.N.S.", "nurse practitioner", "N.P.", or any similar title or description of services with the intent to represent that the person practices advanced registered nursing.

(c) Unless authorized to practice chiropractic under this chapter, a person shall not use or imply the use of the words or terms "chiropractic," "chiropractor," "Doctor of Chiropractic," "D.C.", or any similar title or description of services with the intent to represent that the person practices chiropractic.

(d) Unless authorized to practice dentistry under this chapter, a person shall not use or imply the use of the words or terms "dentistry," "dentist," "D.D.S.", "D.M.D.", "endodontist," "oral surgeon," "maxillofacial surgeon," "oral pathologist," "orthodontist," "pedodontist," "periodontist," "prosthodontist," "public health dentist," or any similar title or description of services with the intent to represent that the person practices dentistry.

(e) Unless authorized to practice dentistry or dental hygiene under this chapter, a person shall not use or imply the use of the words or terms "dental hygiene," "dental hygienist," or similar title or description of services with the intent to represent that the person practices dental hygiene.

(f) Unless authorized to practice dietetics or nutrition under this chapter, a person shall not use or imply the use of the words or terms "dietitian/nutritionist," "licensed dietitian," "licensed nutritionist," "dietitian," "nutritionist," "L.D.N.", "L.D.", "L.N.", or any similar title or description of services with the intent to represent that the person practices dietetics or nutrition.

(g) Unless authorized to practice medicine under this chapter, a person shall not use or imply the use of the words or terms "physician," "surgeon," "medical doctor," "doctor of osteopathy," "M.D.", "anesthesiologist," "cardiologist," "dermatologist," "endocrinologist," "gastroenterologist," "general practitioner," "gynecologist," "hematologist," "internist," "laryngologist," "nephrologist," "neurologist," "obstetrician," "oncologist," "ophthalmologist," "orthopedic surgeon," "orthopedist," "osteopath," "otologist," "otolaryngologist," "otorhinolaryngologist," "pathologist," "pediatrician," "primary care physician," "proctologist," "psychiatrist," "radiologist," "rheumatologist," "rhinologist," "urologist," or any similar title or description of services with the intent to represent that the person practices medicine.

(h) Unless authorized to practice nursing home administration under this chapter, a person shall not use the words or terms "nursing home administration," "nursing home administrator," "N.H.A.", or any similar title or description of services with the intent to represent that the person practices nursing home administration.

(i) Unless authorized to practice occupational therapy under this chapter, a person shall not use the words or terms "occupational therapy," "occupational therapist," "licensed occupational therapist," "O.T.", "O.T.R.", "L.O.T.", or any similar title or description of services with the intent to represent that the person practices occupational therapy.

(j) Unless authorized to practice as an occupational therapy assistant under this chapter, a person shall not use the words or terms "occupational therapy assistant," "licensed occupational therapy assistant," "certified occupational therapy assistant," "O.T.A.", "L.O.T.A.", "C.O.T.A.", or any similar title or description of services with the intent to represent that the person practices as an occupational assistant.

(k) Unless authorized to practice optometry under this chapter, a person shall not use the words or terms "optometry," "optometrist," "Doctor of Optometry," "contactologist," "O.D.", or any similar title or description of services with the intent to represent that the person practices optometry.

(l) Unless authorized to practice pharmacy under this chapter, a person shall not use the words or terms "pharmacy," "pharmacist," "druggist," "registered pharmacist," "R.Ph.", "Ph.G.", or any similar title or description of services with the intent to represent that the person practices pharmacy.

(m) Unless authorized to practice physical therapy under this chapter, a person shall not use the words or terms "physical therapy," "physical therapist," "physiotherapist," "physical therapy technician," "P.T.", "L.P.T.", "R.P.T.", "P.T.T.", or any similar title or description of services with the intent to represent that the person practices physical therapy.

(n) Unless authorized to practice as a physician assistant under this chapter, a person shall not use or imply the use of the words or terms "physician assistant," "P.A.", "surgeon's assistant," or any similar title or description of services with the intent to represent that the person practices as a physician assistant.

(o) Unless authorized to practice podiatry under this chapter, a person shall not use the words or terms "podiatry," "podiatrist," "podiatric," "foot specialist," "foot correctionist," "foot expert," "practipedist," "podologist," "D.P.M.", or any similar title or description of services with the intent to represent that the person practices podiatry.

(p) Unless authorized to practice practical nursing under this chapter, a person shall not use the words or terms "practical nurse," "licensed practical nurse," "L.P.N.", or any similar title or description of services with the intent to represent that the person practices practical nursing.

(q) Unless authorized to practice psychology under this chapter, a person shall not use the words or terms "psychology," "psychologist," or similar title or description of services with the intent to represent that the person practices psychology.

(r) Unless authorized to practice registered nursing under this chapter, a person shall not use the words or terms "registered nurse," "certified nurse," "graduate nurse," "trained nurse," "R.N.", or any similar title or description of services with the intent to represent that the person practices registered nursing.

(s) Unless authorized to practice social work under this chapter, a person shall not use the words or terms "social worker," "clinical social worker," "graduate social worker," "independent social worker," "licensed independent social worker," "L.I.S.W.," "licensed independent clinical social worker," "L.I.C.S.W.," or any similar title or description of services with the intent to represent that the person practices social work.

(t) Unless authorized to practice professional counseling pursuant to this chapter, a person shall not use the phrase "licensed professional counselor", or any similar title or description of services with the intent to represent that the person practices professional counseling. Nothing in this subsection shall restrict the use of the generic terms "counseling" or "counselor".

(u) Unless authorized to practice respiratory care pursuant to this chapter, a person shall not use the phrase "licensed respiratory care practitioner" or any similar title or description of services with the intent to represent that the person is a respiratory care practitioner.

(v) Unless authorized to practice massage therapy under this chapter, a person shall not use or imply the use of the words or terms "massage therapy", "therapeutic massage", "myotherapy", "bodyrub", or similar title or description of services, or the initials "LMT", with the intent to represent that the person practices massage.

(w) Unless authorized to practice marriage and family therapy under this chapter, a person shall not use or imply the use of the words or terms "marriage and family therapist" or "MFT," or any similar title or description of services, with the intent to represent that the person practices marriage and family therapy.

(x) Unless authorized to practice naturopathic medicine under this chapter, a person shall not use the words or terms "Doctor of Naturopathic Medicine," "Naturopathic Physician," "Licensed Naturopath," "Naturopathic Doctor," "Doctor of Naturopathy," "ND," or "NMD," or any similar title or description of services, with the intent to represent that the person practices naturopathic medicine. Nothing in this subsection shall be construed as prohibiting a person registered to practice naturopathy or naturopathic healing under § 3-1209.01 from using the terms "Naturopath" or "Registered Naturopath."

(y) Unless authorized to practice as an anesthesiologist assistant under this chapter, a person shall not use or imply the use of the words or terms "anesthesiologist assistant," or "A.A.," or any similar title or description of services with the intent to represent that the person practices as an anesthesiologist assistant.

HISTORY: 1981 Ed., § 2-3310.3; Mar. 25, 1986, D.C. Law 6-99, § 1003, 33 DCR 729; July 22, 1992, D.C. Law 9-126, § 2(i), 39 DCR 3824; Mar. 14, 1995, D.C. Law 10-203, § 2(g), 41 DCR 7707; Mar. 14, 1995, D.C. Law 10-205, § 2(g), 41 DCR 7712; Mar. 23, 1995, D.C. Law 10-247, § 2(y), 42 DCR 457; Apr. 18, 1996, D.C. Law 11-110, § 7(g), 43 DCR 530; Mar. 10, 2004, D.C. Law 15-88, § 2(j), 50 DCR 10999; July 8, 2004, D.C.

Law 15-172, § 2(i), 51 DCR 4938; Mar. 16, 2005, D.C. Law 15-237, § 2(i), 51 DCR 10593.

NOTES:

EFFECT OF AMENDMENTS. --D.C. Law 15-88 added (w).

Law 15-172 added (x)

D.C. Law 15-237 added (y).

LEGISLATIVE HISTORY OF LAW 6-99. --See note to § 3-1201.01.

LEGISLATIVE HISTORY OF LAW 9-126. --See note to § 3-1202.13.

LEGISLATIVE HISTORY OF LAW 10-203. --See note to § 3-1201.01.

LEGISLATIVE HISTORY OF LAW 10-205. --See note to § 3-1207.31.

LEGISLATIVE HISTORY OF LAW 10-247. --See note to § 3-1201.01.

LEGISLATIVE HISTORY OF LAW 11-110. --See note to § 3-1202.02.

LEGISLATIVE HISTORY OF LAW 15-88. --Law 15-88, the "Marriage and Family Therapy Amendment Act of 2003," was introduced in Council and assigned Bill No. 15-179. The Bill was adopted on first and second readings on Oct. 7, 2003, and Nov. 4, 2003, respectively. Signed by the Mayor on Nov. 25, 2003, it was assigned Act No. 15-256 and transmitted to Congress for its review. D.C. Law 15-88 became effective on Mar. 10, 2004.

LEGISLATIVE HISTORY OF LAW 15-172. --Law 15-172, the "Practice of Naturopathic Medicine Licensing Amendment Act of 2004," was introduced in Council and assigned Bill No. 15-57. The Bill was adopted on first and second readings on Mar. 2, 2004, and Apr. 6, 2004, respectively. Signed by the Mayor on May 5, 2004, it was assigned Act No. 15-419 and transmitted to Congress for its review. D.C. Law 15-172 became effective on July 8, 2004.

LEGISLATIVE HISTORY OF LAW 15-237. --Law 15-237, the "Anesthesiologist Assistant Licensure Amendment Act of 2004," was introduced in Council and assigned Bill No. 15-634. The Bill was adopted on first and second readings on June 29, 2004, and October 5, 2004, respectively. Signed by the Mayor on November 1, 2004, it was assigned Act No. 15-577 and transmitted to Congress for its review. D.C. Law 15-237 became effective on Mar. 16, 2005.

ANALYSIS

Medical administrator

MEDICAL ADMINISTRATOR.

A medical administrator's correspondence, which did not amount to an endorsement of

the attached medical findings and recommendations, and which was directed to the Board of Medicine and not to "the public," did not constitute a representation that the author was licensed to practice medicine in the District. *Morris v. District of Columbia Bd. of Medicine*, App. D.C., 701 A.2d 364 (1997).

§ 3-1210.04. Filing false document or evidence; false statements [Formerly § 2-3310.4]

(a) No person shall file or attempt to file with any board or the Mayor any statement, diploma, certificate, credential, or other evidence if the person knows, or should know, that it is false or misleading.

(b) No person shall knowingly make a false statement that is in fact material under oath or affirmation administered by any board or hearing officer.

HISTORY: 1981 Ed., § 2-3310.4; Mar. 25, 1986, D.C. Law 6-99, § 1004, 33 DCR 729.

NOTES:

LEGISLATIVE HISTORY OF LAW 6-99. --See note to § 3-1201.01.

§ 3-1210.05. Fraudulent sale, obtaining, or furnishing of documents [Formerly § 2-3310.5]

No person shall sell or fraudulently obtain or furnish any diploma, license, certificate or registration, record, or other document required by this chapter, by any board, or by the Mayor.

HISTORY: 1981 Ed., § 2-3310.5; Mar. 25, 1986, D.C. Law 6-99, § 1005, 33 DCR 729.

NOTES:

LEGISLATIVE HISTORY OF LAW 6-99. --See note to § 3-1201.01.

§ 3-1210.06. Restrictions relating to pharmacies [Formerly § 2-3310.6]

(a) Nothing in this chapter regulating the practice of pharmacy shall be construed as altering or affecting in any way District or federal laws requiring a written prescription for controlled substances or other dangerous drugs.

(b) (1) No pharmacist shall supervise more than 1 pharmacy intern at a time without prior approval of the Board of Pharmacy.

(2) No one other than a licensed pharmacist shall receive an oral prescription for Schedule II controlled substances.

(3) It shall be unlawful for a pharmacy intern to compound or dispense any drug by prescription in the District except while in the presence of and under the immediate

supervision of a pharmacist.

(4) Any person engaging in the practice of pharmacy as a pharmacy intern shall register with the Mayor and shall comply with the applicable provisions of this chapter and subpart C of subchapter IV of Chapter 28 of Title 47.

HISTORY: 1981 Ed., § 2-3310.6; Mar. 25, 1986, D.C. Law 6-99, § 1006, 33 DCR 729.

NOTES:

LEGISLATIVE HISTORY OF LAW 6-99. --See note to § 3-1201.01.

LEGISLATIVE HISTORY OF LAW 9-258. --Law 9-258, the "Patient Counseling Temporary Amendment Act of 1992," was introduced in Council and assigned Bill No. 9-736. The Bill was adopted on first and second readings on December 15, 1992, and January 5, 1993, respectively. Signed by the Mayor on January 14, 1993, it was assigned Act No. 9-406 and transmitted to both Houses of Congress for its review. D.C. Law 9-258 became effective on March 25, 1993.

LEGISLATIVE HISTORY OF LAW 10-84. --Law 10-84, the "Patient Counseling Temporary Amendment Act of 1993," was introduced in Council and assigned Bill No. 10-456. The Bill was adopted on first and second readings on November 2, 1993, and December 7, 1993, respectively. Signed by the Mayor on December 16, 1993, it was assigned Act No. 10-158 and transmitted to both Houses of Congress for its review. D.C. Law 10-84 became effective on March 19, 1994.

§ 3-1210.06a. Pharmacist consultation with medical assistance recipient or caregivers; records [Formerly § 2-3310.6a]

(a) A pharmacist who provides prescription services to medical assistance recipients shall offer to discuss with each medical assistance recipient or caregiver who presents a prescription order for outpatient drugs any matter which, in the exercise of the pharmacist's professional judgment, the pharmacist deems significant, which may include the following:

- (1) The name and description of the medication;
- (2) The dosage form, dosage, route of administration, and duration of drug therapy;
- (3) Special directions, precautions for preparation, administration, and use by the patient;
- (4) Common severe side or adverse effects or interactions and therapeutic contraindications that may be encountered, including their avoidance, and the action required if they occur;
- (5) Techniques for self-monitoring drug therapy;

(6) Proper storage;

(7) Prescription refill information; and

(8) Action to be taken in the event of a missed dose.

(b) The offer to discuss may be made in the manner determined by the professional judgment of the pharmacist, which may include any 1 or a combination of the following:

(1) A face-to-face communication with the pharmacist or the pharmacist's designee;

(2) A sign posted in such a manner that it can be seen by patients;

(3) A notation affixed to or written on the bag in which the prescription is to be dispensed;

(4) A notation contained on the prescription container;

(5) Communication by telephone; or

(6) Any other manner prescribed by rule.

(c) Nothing in this section shall be construed as requiring a pharmacist to provide consultation if the medical assistance recipient or caregiver refuses the consultation. These refusals shall be noted in the profile maintained in accord with subsection (d) of this section for a medical assistance recipient.

(d) A pharmacist shall make a reasonable effort to obtain, record, and maintain, at the individual pharmacy, the following minimal information regarding a medical assistance recipient receiving a prescription:

(1) Name, address, telephone number, date of birth or age, and gender;

(2) Individual patient history when significant, including known allergies and drug reactions, and a comprehensive list of medications and relevant devices; and

(3) Pharmacist comments relevant to the individual's drug therapy, which may be recorded either manually or electronically in the patient's profile, including any failure to accept the pharmacist's offer to counsel.

(e) This section shall apply only to medical assistance recipients presenting prescriptions for covered outpatient drugs.

(f) The requirements of this section do not apply to refill prescriptions.

(g) The Mayor may adopt regulations implementing the provisions of this section to assure compliance with federal medical assistance requirements.

HISTORY: 1981 Ed., § 2-3310.6a; D.C. Law 6-99, § 1006a, as added Apr. 26, 1994, D.C. Law 10-102, § 2, 41 DCR 1002.

§ 3-1210.07. Criminal penalties [Formerly § 2-3310.7]

(a) Any person who violates any provision of this chapter shall, upon conviction, be subject to imprisonment not to exceed 1 year, or a fine not to exceed \$ 10,000, or both.

(b) Any person who has been previously convicted under this chapter shall, upon conviction, be subject to imprisonment not to exceed 1 year, or a fine not to exceed \$ 25,000, or both.

HISTORY: 1981 Ed., § 2-3310.7; Mar. 25, 1986, D.C. Law 6-99, § 1007, 33 DCR 729; Mar. 23, 1995, D.C. Law 10-247, § 2(z), 42 DCR 457.

NOTES:

LEGISLATIVE HISTORY OF LAW 6-99. --See note to § 3-1201.01.

LEGISLATIVE HISTORY OF LAW 10-247. --See note to § 3-1201.01.

§ 3-1210.08. Prosecutions [Formerly § 2-3310.8]

(a) Prosecutions for violations of this chapter shall be brought in the name of the District of Columbia by the Corporation Counsel.

(b) In any prosecution brought under this chapter, any person claiming an exemption from licensing under this chapter shall have the burden of providing entitlement to the exemption.

HISTORY: 1981 Ed., § 2-3310.8; Mar. 25, 1986, D.C. Law 6-99, § 1008, 33 DCR 729; Mar. 23, 1995, D.C. Law 10-247, § 2(aa), 42 DCR 457.

NOTES:

LEGISLATIVE HISTORY OF LAW 6-99. --See note to § 3-1201.01.

LEGISLATIVE HISTORY OF LAW 10-247. --See note to § 3-1201.01.

§ 3-1210.09. Alternative sanctions [Formerly § 2-3310.9]

Civil fines, penalties, and fees may be imposed as alternative sanctions for any infraction of the provisions of this chapter, or any rules or regulations issued under the authority of

this chapter, pursuant to Chapter 18 of Title 2.

HISTORY: 1981 Ed., § 2-3310.9; Mar. 25, 1986, D.C. Law 6-99, § 1009, 33 DCR 729.

NOTES:

LEGISLATIVE HISTORY OF LAW 6-99. --See note to § 3-1201.01.

§ 3-1210.10. Injunctions [Formerly § 2-3310.10]

(a) The Corporation Counsel may bring an action in the Superior Court of the District of Columbia in the name of the District of Columbia to enjoin the unlawful practice of any health occupation or any other action which is grounds for the imposition of a criminal penalty or disciplinary action under this chapter.

(b) The Corporation Counsel may bring an action in the Superior Court of the District of Columbia in the name of the District of Columbia to enjoin the unlawful sale of drugs or the unlawful trade practice or unlawful operation of a pharmacy, nursing home, community residential facility, or any other establishment purporting to provide health services.

(c) Remedies under this section are in addition to criminal prosecution or any disciplinary action by a board.

(d) In any proceeding under this section, it shall not be necessary to prove that any person is individually injured by the action or actions alleged.

HISTORY: 1981 Ed., § 2-3310.10; Mar. 25, 1986, D.C. Law 6-99, § 1010, 33 DCR 729.

NOTES:

LEGISLATIVE HISTORY OF LAW 6-99. --See note to § 3-1201.01.

SUBCHAPTER XI. (RESERVED)

SUBCHAPTER XII. TRANSITIONAL PROVISIONS.

§ 3-1212.01. Transfer of personnel, records, property, and funds [Formerly § 2-3311.1]

(a) The personnel, records, property, and unexpended balances of appropriations and other funds which relate primarily to the functions of the Board of Dental Examiners are transferred to the Board of Dentistry established by this chapter.

(b) The personnel, records, property, and unexpended balances of appropriations and other funds which relate primarily to the functions of the Commission on Licensure to Practice the Healing Arts are transferred to the Board of Medicine established by this chapter.

- (c) The personnel, records, property, and unexpended balances of appropriations and other funds which relate primarily to the functions of the Nurses' Examining Board are transferred to the Board of Nursing established by this chapter.
- (d) The personnel, records, property, and unexpended balances of appropriations and other funds which relate primarily to the functions of the Board of Examiners for Nursing Home Administrators are transferred to the Board of Nursing Home Administration established by this chapter.
- (e) The personnel, records, property, and unexpended balances of appropriations and other funds which relate primarily to the functions of the Board of Occupational Therapy Practice are transferred to the Board of Occupational Therapy established by this chapter.
- (f) The personnel, records, property, and unexpended balances of appropriations and other funds which relate primarily to the functions of the Board of Optometry are transferred to the Board of Optometry established by this chapter.
- (g) The personnel, records, property, and unexpended balances of appropriations and other funds which relate primarily to the functions of the Physical Therapists Examining Board are transferred to the Board of Physical Therapy established by this chapter.
- (h) The personnel, records, property, and unexpended balances of appropriations and other funds which relate primarily to the functions of the Board of Pharmacy are transferred to the Board of Pharmacy established by this chapter.
- (i) The personnel, records, property, and unexpended balances of appropriations and other funds which relate primarily to the functions of the Board of Podiatry Examiners are transferred to the Board of Podiatry established by this chapter.
- (j) The personnel, records, property, and unexpended balances of appropriations and other funds which relate primarily to the functions of the Board of Psychologist Examiners are transferred to the Board of Psychology established by this chapter.

HISTORY: 1981 Ed., § 2-3311.1; Mar. 25, 1986, D.C. Law 6-99, § 1201, 33 DCR 729.

NOTES:

LEGISLATIVE HISTORY OF LAW 6-99. --See note to § 3-1201.01.

§ 3-1212.02. Members of boards abolished [Formerly § 2-3311.2]

Members of boards or commissions abolished by section 1104 shall serve as members of the successor boards to which their functions are transferred until the expiration of their terms or the appointment of their successors, whichever occurs first.

HISTORY: 1981 Ed., § 2-3311.2; Mar. 25, 1986, D.C. Law 6-99, § 1202, 33 DCR 729; Apr. 30, 1988, D.C. Law 7-104, § 26(a), 35 DCR 147.

NOTES:

LEGISLATIVE HISTORY OF LAW 6-99. --See note to § 3-1201.01.

LEGISLATIVE HISTORY OF LAW 7-104. --Law 7-104, the "Technical Amendments Act of 1987," was introduced in Council and assigned Bill No. 7-346. The Bill was adopted on first and second readings on November 24, 1987 and December 8, 1987, respectively. Signed by the Mayor on December 22, 1987, it was assigned Act No. 7-124 and transmitted to both Houses of Congress for its review.

EDITOR'S NOTES. --The reference to "section 1104" in this section is presumably a reference to D.C. Law 6-99, § 1104, which repealed Chapters 21, 23, 24, 26, and 29 of **Title 3**.

§ 3-1212.03. Pending actions and proceedings; existing rules and orders [Formerly § 2-3311.3]

(a) No suit, action, or other judicial proceeding lawfully commenced by or against any board or commission specified in section 1104, or against any member, officer or employee of the board or commission in the official capacity of the officer or employee, shall abate by reason of the taking effect of this chapter, but the court or agency, unless it determines that survival of the suit, action, or other proceeding is not necessary for purposes of settlement of the question involved, shall allow the suit, action, or other proceeding to be maintained, with substitutions as to parties as are appropriate.

(b) No disciplinary action against a health professional or other administrative action or proceeding lawfully commenced shall abate solely by reason of the taking effect of any provision of this chapter, but the action or proceeding shall be continued with substitutions as to parties and officers or agencies as are appropriate.

(c) Except as otherwise provided in this chapter, all rules and orders promulgated by the boards abolished by this act shall continue in effect and shall apply to their successor boards until the rules or orders are repealed or superseded.

HISTORY: 1981 Ed., § 2-3311.3; Mar. 25, 1986, D.C. Law 6-99, § 1203, 33 DCR 729; Apr. 30, 1988, D.C. Law 7-104, § 26(b), 35 DCR 147.

NOTES:

LEGISLATIVE HISTORY OF LAW 6-99. --See note to § 3-1201.01.

LEGISLATIVE HISTORY OF LAW 7-104. --See note to § 3-1212.02.

EDITOR'S NOTES. --The reference to "section 1104" in this section is presumably a reference to D.C. Law 6-99, § 1104, which repealed Chapters 21, 23, 24, 26, and 29 of **Title 3**.

SUBCHAPTER XIII. APPROPRIATIONS.

§ 3-1213.01. Appropriations [Formerly § 2-3312.1]

(a) Funds may be appropriated to carry out the purposes of this chapter.

(b) All provisions pertaining to marriage and family therapy added by the Marriage and Family Therapy Amendment Act of 2003, effective May 10, 2004, D.C. Law 15-88, 50 DCR 10999, shall be subject to the availability of appropriations.

HISTORY: 1981 Ed., § 2-3312.1; Mar. 25, 1986, D.C. Law 6-99, § 1301, 33 DCR 729; Mar. 10, 2004, D.C. Law 15-88, § 2(k), 50 DCR 10999.

NOTES:

EFFECT OF AMENDMENTS. --D.C. Law 15-88 added (b).

LEGISLATIVE HISTORY OF LAW 6-99. --See note to § 3-1201.01.

LEGISLATIVE HISTORY OF LAW 15-88. --Law 15-88, the "Marriage and Family Therapy Amendment Act of 2003," was introduced in Council and assigned Bill No. 15-179. The Bill was adopted on first and second readings on Oct. 7, 2003, and Nov. 4, 2003, respectively. Signed by the Mayor on Nov. 25, 2003, it was assigned Act No. 15-256 and transmitted to Congress for its review. D.C. Law 15-88 became effective on Mar. 10, 2004.

Unit B. Special Programs Associated with Board Duties

CHAPTER 12A. NURSES REHABILITATION PROGRAM.

§ 3-1251.01. Definitions

(a) For the purposes of this subchapter, the term:

(1) "Board" means the District of Columbia Board of Nursing.

(2) "Committee" means the Committee on Impaired Nurses.

(3) "Contract" means a written agreement between the impaired nurse and the Committee providing the terms and conditions of the nurse's participation in the Program.

(4) "Disciplinary action" means any proceeding which may lead to a fine or probation, or to reprimand, restriction, revocation, suspension, denial or other order relating to the licensure or certification of a nurse by the Board of Nursing.

(5) "Impaired nurse" means a nurse who is unable to perform his or her professional

responsibilities due to drug or alcohol dependency or mental illness.

(6) "Licensed Nurse" means an advanced practice registered nurse, a registered nurse, or a licensed practical nurse.

(7) "Program" means the treatment and rehabilitation program for impaired nurses described in this subchapter. Program shall also refer to the facility where program services shall be provided.

(8) "Provider" means an experienced and licensed, registered, or certified individual approved by the Board.

(9) "Treatment facility" means a facility for the treatment of impairments that meets the certification requirements of the District of Columbia's Department of Health, the Joint Commission on the Accreditation of Health Care Organizations, the Commission on the Accreditation of Rehabilitation Facilities, or other accrediting body approved by the Board.

HISTORY: May 1, 2001, D.C. Law 13-297, § 2, 48 DCR 2036.

NOTES:

LEGISLATIVE HISTORY OF LAW 13-297. --Law 13-297, the "Nurse's Rehabilitation Program Act of 2000," was introduced in Council and assigned Bill No. 13-794. The Bill was adopted on first and second readings on December 5, 2000, and December 19, 2000, respectively. Signed by the Mayor on January 24, 2001, it was assigned Act No. 13-587 and transmitted to both Houses of Congress for its review. D.C. Law 13-297 became effective on May 1, 2001.

§ 3-1251.02. Formation of Committee on Impaired Nurses

(a) A Committee on Impaired Nurses is established to supervise operation of the Program. The Committee shall be composed of 5 nurses licensed in the District of Columbia who shall be appointed by the Board. The Board may establish additional committees as may be necessary to perform the functions described in this subchapter.

(b) All members of the Committee shall be knowledgeable about impairment and rehabilitation.

(c) The members of the Committee shall be appointed for a 3-year term, except in the first year of any Committee, when the terms shall be staggered. At the end of a term, a member shall continue to serve until a successor is appointed.

(d) A Committee member who is appointed after a term has begun, or to replace a former member of the Committee, shall serve for the rest of the term of his or her predecessor. The appointed member shall continue to serve until a successor is appointed.

- (e) The Board may appoint a Committee member for successive terms.
- (f) The Committee shall select a chairperson from among its members.
- (g) The Board may remove a Committee member for cause.
- (h) The Board shall review and approve all procedures established by the Committee.

HISTORY: May 1, 2001, D.C. Law 13-297, § 3, 48 DCR 2036.

NOTES:

LEGISLATIVE HISTORY OF LAW 13-297. --See note to § 3-1251.01.

§ 3-1251.03. Committee meetings

- (a) The Committee shall determine where meetings are held and the frequency of meetings.
- (b) Minutes of Committee meetings shall be confidential. Only Committee members shall have access to these documents.
- (c) Records of the Committee shall be privileged and confidential, and shall not be disclosed. The records shall be used by the Committee only in the exercise of the proper functions of the Committee, as set forth in this subchapter, and shall not be public records. The records shall not be subject to court order, except as provided in § 3-1251.07, nor subject to discovery or introduction as evidence in any civil, criminal, or administrative proceedings, except those conducted by a health regulatory board.
- (d) A majority of the members serving on the Committee shall be required to establish a quorum.

HISTORY: May 1, 2001, D.C. Law 13-297, § 4, 48 DCR 2036.

NOTES:

LEGISLATIVE HISTORY OF LAW 13-297. --See note to § 3-1251.01.

§ 3-1251.04. Committee staff

The Committee may employ staff or engage the services of a consultant to carry out its functions in accordance with the approved budget of the District of Columbia and as approved by the Board.

HISTORY: May 1, 2001, D.C. Law 13-297, § 5, 48 DCR 2036.

NOTES:

LEGISLATIVE HISTORY OF LAW 13-297. --See note to § 3-1251.01.

§ 3-1251.05. Committee powers and duties

In addition to the powers and duties set forth elsewhere in this subchapter, the Committee shall:

- (1) Evaluate a nurse who requests participation in the Program according to the guidelines prescribed by the Committee and consider recommendations for a nurse's admission into the Program;
- (2) Designate and review facilities and providers to which nurses in the Program may be referred for treatment and services;
- (3) Receive and review information concerning a nurse participating in the Program;
- (4) Consider whether a nurse participating in the Program may safely continue or resume the practice of nursing;
- (5) Hold meetings, as necessary, to consider the requests of nurses to participate in the Program and the reports regarding nurses participating in the Program;
- (6) Establish rules and guidelines for the operation of the Program, including the evaluation of facilities and providers that provide treatment and services to nurses eligible to participate in the program;
- (7) Prepare reports to be submitted to the Board; and
- (8) Set forth in writing a rehabilitation program established for each nurse participating in the Program, including the requirements for supervision and surveillance.

HISTORY: May 1, 2001, D.C. Law 13-297, § 6, 48 DCR 2036.

NOTES:

LEGISLATIVE HISTORY OF LAW 13-297. --See note to § 3-1251.01.

§ 3-1251.06. Notice of Program procedures

Each nurse who requests to participate in the Program shall be informed in writing of the Program's procedures, including the rights and responsibilities of the nurse, and the consequences of noncompliance with the procedures, including suspension and termination of the nursing license.

HISTORY: May 1, 2001, D.C. Law 13-297, § 7, 48 DCR 2036.

NOTES:

LEGISLATIVE HISTORY OF LAW 13-297. --See note to § 3-1251.01.

§ 3-1251.07. Disclosure of records

(a) The Committee may disclose records relating to an impaired nurse only:

(1) When disclosure of the information is essential to the intervention, treatment, or rehabilitation needs of the impaired nurse;

(2) When release of the information has been authorized in writing by the impaired nurse;

(3) To the Board, if the nurse fails to comply with the conditions of the contract; or

(4) Pursuant to an order issued by a court of competent jurisdiction.

(b) A court shall order disclosure of records relating to an impaired nurse only upon a showing of good cause, including the need to avert a substantial risk of death or serious bodily harm. In assessing good cause, the court shall weigh the public interest and the need for disclosure against the potential for injury to the patient, to the nurse-patient relationship, and to the treatment services. In determining the extent to which any disclosure of all or any part of any record is necessary, the court shall impose appropriate protections against unauthorized disclosures.

(c) The proceedings of the Committee which in any way pertain or refer to a specific nurse who may be, or who actually is, impaired and who may be or is, by reason of the impairment, subject to disciplinary action by the Board shall be excluded from the requirements of subchapter II of Chapter 5 of Title 2 ("Freedom of Information Act"), and may be closed to the public. Such proceedings shall be privileged and confidential.

HISTORY: May 1, 2001, D.C. Law 13-297, § 8, 48 DCR 2036.

NOTES:

SECTION REFERENCES. --This section is referenced in § 3-1251.03.

LEGISLATIVE HISTORY OF LAW 13-297. --See note to § 3-1251.01.

§ 3-1251.08. Immunity from liability

The members of the Committee shall be immune from liability in the exercise of their duties.

HISTORY: May 1, 2001, D.C. Law 13-297, § 9, 48 DCR 2036.

NOTES:

LEGISLATIVE HISTORY OF LAW 13-297. --See note to § 3-1251.01.

§ 3-1251.09. Description of the Program

- (a) Admission to the Program is voluntary.
- (b) A colleague, employer, or the Board may refer impaired nurses to the Program through a self-report, formal complaint.
- (c) A nurse requesting admission to the Program may not have:
 - (1) Caused an injury to an individual while practicing nursing;
 - (2) Malpractice litigation pending against him or her alleging that he or she caused an injury to an individual while practicing nursing; or
 - (3) Been arrested for diversion of controlled substances for sale or distribution.
- (d) The Committee and the nurse shall enter into a written contract that sets forth the requirements and conditions for the nurse's participation in the Program.
- (e) A nurse who fails to comply with the requirements and conditions of the written contract shall be reported to the Board for disciplinary action. The Board may take such action as described in § 3-1205.14 (revocation, suspension, or denial of license or privilege, civil penalty, reprimand) against a nurse who is expelled from the rehabilitation program for noncompliance. The Board shall not be required to recommend a course of remediation, as described in § 3-1205.14(c)(6), for a nurse who is expelled from a rehabilitation program. The license of a nurse who is expelled from the rehabilitation program for noncompliance may be immediately suspended or restricted as described in § 3-1205.15 (summary action).
- (f) Evaluation of a nurse for participation in the Program shall be the responsibility of the Committee.
- (g) At the request of the Board, the Committee, in consultation with the treatment providers, may evaluate a nurse with a drug or alcohol abuse problem, or mental illness, for readiness to return to the practice of nursing.
- (h) An impaired nurse who is participating in the rehabilitation program may voluntarily limit or surrender any license issued under Unit A of this chapter in accordance with § 3-1205.18.

HISTORY: May 1, 2001, D.C. Law 13-297, § 10, 48 DCR 2036.

NOTES:

LEGISLATIVE HISTORY OF LAW 13-297. --See note to § 3-1251.01.

§ 3-1251.10. Approval of treatment facilities

(a) To qualify as a designated treatment facility to which a nurse in the Program may be referred, the treatment facility shall meet the following criteria:

(1) The treatment facility shall have a specific, identified contact person to whom the nurse can be referred for assistance;

(2) The treatment facility shall have convenient hours of operation;

(3) The costs of treatment services shall be clearly stated and defined to the Committee and to the nurse seeking assistance;

(4) Treatment and rehabilitation services shall be available and used in conjunction with appropriate individual and group therapy and other appropriate treatment modalities;

(5) The treatment facility shall have a provider who is available to conduct timely assessments and evaluations on site or at a convenient location;

(6) The treatment facility provider shall agree to submit written reports of the assessments and evaluations to the Committee within a designated period of time;

(7) The treatment facility provider shall agree to disclose to the Committee, upon request, all information in its possession regarding a nurse's impairment or disability and the nurse's participation in the treatment facility, in accordance with a signed release of information from the nurse;

(8) The treatment facility shall agree to submit progress reports at least quarterly and upon request, and immediately if a significant event should occur in treatment that is related to the issues of impairment or disability and its effect on the nurse's practice; and

(9) The treatment facility shall conduct random, supervised testing to screen for drug use. The treatment facility shall agree to make available all results of drug screens to the Committee, and shall agree to inform the Committee immediately should a drug screen be positive.

(b) The Committee shall evaluate the Program and participating treatment facilities at least annually to ensure that the criteria listed in subsection (a) of this section are maintained.

HISTORY: May 1, 2001, D.C. Law 13-297, § 11, 48 DCR 2036.

NOTES:

LEGISLATIVE HISTORY OF LAW 13-297. --See note to § 3-1251.01.

§ 3-1251.11. Maintenance of records

(a) Records shall be confidential and maintained in a locked file in the office of the Board.

(b) A nurse's records shall be destroyed 2 years after the nurse's satisfactory discharge from the Program.

HISTORY: May 1, 2001, D.C. Law 13-297, § 12, 48 DCR 2036.

NOTES:

LEGISLATIVE HISTORY OF LAW 13-297. --See note to § 3-1251.01.

3-1251.16. Appropriations.

This chapter shall be subject to the availability of appropriations.