

TITLE 40. PROFESSIONS AND OCCUPATIONS

CHAPTER 47. PHYSICIANS, SURGEONS AND OSTEOPATHS

ARTICLE 1. GENERAL PROVISIONS

SECTION 40-47-5. Application of Chapter 1; conflict with other articles. [SC ST SEC 40-47-5]

(A) Unless otherwise provided for in this chapter, Chapter 1, Title 40 applies to the profession or business regulated under this chapter. However, if there is a conflict between this chapter and Article 1, Chapter 1, Title 40, the provisions of this chapter control.

(B) Unless there is a conflict with other articles of this chapter, Article 1, Chapter 47, Title 40 applies to all programs administered through the State Board of Medical Examiners.

SECTION 40-47-10. State Board of Medical Examiners; appointment; terms and vacancies; powers and duties. [SC ST SEC 40-47-10]

(A)(1) There is created the State Board of Medical Examiners to be composed of twelve members, three of whom must be lay members, one of whom must be a doctor of osteopathic medicine, two of whom must be physicians from the State at large, and six of whom must be physicians, each representing one of the six congressional districts. All members of the board must be residents of this State, and each member representing a congressional district shall reside in the district the member represents. All physician members of the board must be licensed by the board, must be without prior disciplinary action or conviction of a felony or other crime of moral turpitude, and must be practicing their profession in this State. All lay members of the board must hold a baccalaureate degree or higher, must not have been convicted of a felony or a crime of moral turpitude, and must not be employed or have a member of their immediate family employed in a health or medically related field.

(2) The members of the board shall serve for terms of four years or until their successors are appointed and qualify. Members of the board may only serve three consecutive terms.

(3) All members of the board have full voting rights.

(4) The one lay member and one physician from the State at large must be appointed by the Governor, with the advice and consent of the Senate. Two lay members must be appointed by the Governor, with the advice and consent of the Senate, one upon the recommendation of the President Pro Tempore of the Senate and one upon the recommendation of the Speaker of the House of Representatives.

(5) The board shall conduct an election to nominate one physician from the State at large. The election must provide for participation by all physicians currently permanently licensed and residing in South Carolina. To nominate the physicians who will represent the six congressional districts, the board shall conduct an election within each district. These elections must provide for participation by all permanently licensed physicians residing in the particular district. The board shall conduct an election to nominate the doctor of osteopathic medicine from the State at large, and this election must provide for participation by any physician currently permanently licensed in this State as a doctor of osteopathic medicine. The board shall certify in writing to the Governor the results of each election. The Governor may reject any or all of the nominees upon

satisfactory showing of the unfitness of those rejected. If the Governor declines to appoint any of the nominees submitted, additional nominees must be submitted in the same manner following another election. Vacancies must be filled in the same manner of the original appointment for the unexpired portion of the term.

(6) Vacancies that occur when the General Assembly is not in session may be filled by an interim appointment of the Governor in the manner provided by Section 1-3-210.

(B) Public and lay members of boards and panels must be appointed in accordance with Section 40-1-45.

(C) Board members and persons authorized by the board to engage in business for the board must be compensated for their services at the usual rate for mileage, subsistence, and per diem as provided by law for members of state boards, committees, and commissions and may be reimbursed for actual and necessary expenses incurred in connection with and as a result of their work as members or persons acting on behalf of the board.

(D) The board annually shall elect from among its members a chairman, vice chairman, secretary, and other officers as the board determines necessary. The board may adopt rules and regulations reasonably necessary for the performance of its duties and the governance of its operations and proceedings, for the practice of medicine, for judging the professional and ethical competence of physicians, including a code of medical ethics, and for the discipline of persons licensed or otherwise authorized to practice pursuant to this chapter.

(E) The board shall meet at least four times a year and at other times upon the call of the chair or a majority of the board.

(F) A majority of the members of the board constitutes a quorum; however, if there is a vacancy on the board, a majority of the members serving constitutes a quorum.

(G) A board member is required to attend meetings or to provide proper notice and justification of inability to do so. The Governor may remove members from the board for absenteeism, as well as for other grounds provided for in Section 1-3-240.

(H) The Chairman of the State Board of Medical Examiners, or the chairman's designee, shall serve as an advisory nonvoting member of the State Board of Nursing to provide consultation on matters requested by the State Board of Nursing. The Board of Nursing shall send written notice at least ten days before meetings that the Board of Nursing wants the Chairman of the State Board of Medical Examiners, or the chairman's designee, to attend. The Chairman of the State Board of Medical Examiners, or the chairman's designee, and the State Board of Nursing shall meet at least twice a year and more often as necessary.

(I) In addition to the powers and duties enumerated in Section 40-1-70, the board may:

(1) publish advisory opinions and position statements relating to practice procedures or policies authorized or acquiesced to by any agency, facility, institution, or other organization that employs persons authorized to practice under this chapter to comply with acceptable standards of practice;

(2) develop minimum standards for continued competency of licensees continuing in or

returning to practice;

(3) adopt rules governing the proceedings of the board and may promulgate regulations for the practice of medicine and as necessary to carry out the provisions of this chapter;

(4) conduct hearings concerning alleged violations of this chapter;

(5) use minimum standards as a basis for evaluating safe and effective medical practice;

(6) license and renew the authorizations to practice of qualified applicants;

(7) approve temporary licenses, limited licenses, and other authorizations to practice in its discretion as it considers in the public interest;

(8) join organizations that develop and regulate the national medical licensure examinations and promote the improvement of the practice of medicine for the protection of the public;

(9) collect any information the board considers necessary, including social security numbers or alien identification numbers, in order to report disciplinary actions to national databanks of disciplinary information as otherwise required by law;

(10) establish guidelines to assist employers of licensees when errors in practice can be handled through corrective action in the employment setting;

(11) establish an initial fee schedule in regulations.

SECTION 40-47-11. Medical Disciplinary Commission; qualifications of members; hearings; service as expert witness. [SC ST SEC 40-47-11]

(A) There is created the Medical Disciplinary Commission of the State Board of Medical Examiners to be composed of thirty-six physician members appointed by the board and twelve lay members appointed by the Governor. The physician members of the commission must be licensed physicians practicing their profession, and they must be without prior disciplinary action or conviction of a felony or other crime of moral turpitude. Five physician commissioners must be appointed from each of the six congressional districts and must reside in the district, which they are appointed to represent, and six physician members of the commission must be appointed from the State at large. At-large members must be currently licensed and actively practicing medicine in this State and must reside within the State at the time of appointment and throughout their terms. One physician commissioner initially appointed from each congressional district shall serve a term of one year and until a successor is appointed and qualified. One physician commissioner initially appointed from each congressional district shall serve a term of two years and until a successor is appointed and qualified. One physician commissioner initially appointed from each congressional district shall serve a term of three years and until a successor is appointed and qualified. The successors of the initial physician commissioners shall serve terms of three years or until their successors are appointed and qualified. The members of the commission are limited to three consecutive terms. A member of the board may not simultaneously serve as a commissioner. In case of a vacancy by way of death, resignation, or otherwise, the board shall appoint a successor to serve for the unexpired portion of the term. Where justice, fairness, or other circumstances so require, the board may appoint past commissioners to hear complaints in individual cases.

(B) All lay commissioners must hold a baccalaureate degree or higher, must not have been convicted of a felony or other crime of moral turpitude, and must not be employed or have a member of their immediate family employed in a health or medically related field. Two lay commissioners must be appointed by the Governor from each of the six congressional districts, with the advice and consent of the Senate. Each lay commissioner must be a registered voter and reside in the congressional district he represents throughout his term. Each lay commissioner initially appointed from each district shall serve for a term of three years and until his successor is appointed and qualified. Vacancies must be filled in the manner of the original appointment for the remainder of the unexpired portion of the term. The Governor may appoint a lay commissioner to serve a full term; however, a lay commissioner may not serve more than three consecutive terms.

(C) The commission is empowered to hear those formal complaints filed against practitioners authorized to practice under this chapter, unless otherwise provided in this chapter. These hearings must be conducted in accordance with the Administrative Procedures Act and with regulations promulgated by the board and must be before a panel composed of not more than three physician commissioners and one lay commissioner. The panel is empowered to hear the matters complained of and to recommend findings of fact and conclusions of law to the board. The panel shall submit a certified report of its proceedings, including its findings of fact, conclusions of law, and mitigating and aggravating circumstances, for consideration by the board in rendering a final decision and shall file this report with the department.

(D) The physician members of the commission may serve as expert reviewers and witnesses in investigations and proceedings pursuant to this chapter. A physician commissioner who serves as an expert reviewer or witness in an investigation or proceeding may not serve on the hearing panel for that particular matter or related matters.

SECTION 40-47-20. Definitions. [SC ST SEC 40-47-20]

In addition to the definitions provided in Section 40-1-20, as used in this chapter unless the context indicates otherwise:

(1) "Active license" means the status of an authorization to practice that has been renewed for the current period and authorizes the licensee to practice in this State.

(2) "Administrative hearing officer" means a physician designated by the board or director.

(3) "Adverse disciplinary action" means a final decision by a United States or foreign licensing jurisdiction, a peer review group, a health care institution, a professional or medical society or association, or a court, which action was not resolved completely in the licensee's favor.

(4) "Agreed to jointly" means the agreement by the Board of Nursing and Board of Medical Examiners on delegated medical acts that nurses perform and that are promulgated by the Board of Nursing in regulation.

(5) "Approved written protocols" means specific statements developed collaboratively by the physician or the medical staff and the advanced practice registered nurse (NP, CNM, or CNS) that establish physician delegation for medical aspects of care, including the prescription of medications.

(6) "Approved written scope of practice guidelines" means specific statements developed by a physician or the medical staff and a physician assistant that establish physician delegation for medical aspects of care, including the prescription of medications.

(7) "Board" means the State Board of Medical Examiners for South Carolina.

(8) "Board-approved credentialing organization" means an organization that offers a certification examination in a specialty area of practice, establishes scope and standards of practice statements, and provides a mechanism approved by the board for evaluating continuing competency in a specialized area of practice.

(9) "Business days" means every day except Saturdays, Sundays, and legal holidays.

(10) "Cancellation" means the withdrawal or invalidation of an authorization to practice that was issued to an ineligible person either in error or based upon a false, fraudulent, or deceptive representation in the application process.

(11) "Certification" means approval by an established body, other than the board, but recognized by the board, that recognizes the unique, minimal requirements of specialized areas of practice. Certification requires completion of a recognized formal program of study and specialty board examination, if the specialty board exists, and certification of competence in practice by the certifying agency.

(12) "Criminal history" means a federal, state, or local criminal history of conviction or a pending charge or indictment of a crime, whether a misdemeanor or a felony, that bears upon a person's fitness or suitability for an authorization to practice with responsibility for the safety and well-being of others.

(13) "Delegated medical acts" means additional acts delegated by a physician or dentist to a physician assistant, respiratory care practitioner, anesthesiologist's assistant, or other practitioner authorized by law under approved written scope of practice guidelines or approved written protocols as provided by law in accordance with the applicable scope of professional practice. Delegated medical acts must be performed under the supervision of a physician or dentist who must be readily or immediately available for consultation in accordance with the applicable scope of professional practice.

(14) "Delegated medical acts to the APRN" means additional acts delegated by a physician or dentist to the Advanced Practice Registered Nurse (NP, CNM, or CNS) which may include formulating a medical diagnosis and initiating, continuing, and modifying therapies, including prescribing drug therapy, under approved written protocols as provided in Section 40-33-34 and Section 40-47-195. Delegated medical acts to the APRN (NP, CNM, or CNS) must be agreed to jointly by both the Board of Nursing and the Board of Medical Examiners. Delegated medical acts to the APRN (NP, CNM, or CNS) must be performed under the general supervision of a physician or dentist who must be readily available for consultation.

(15) "Dentist" means a dentist licensed by the South Carolina Board of Dentistry.

(16) "Disciplinary action" means a final decision and sanction imposed at the conclusion of a disciplinary proceeding.

- (17) "Entity" means a sole proprietorship, partnership, limited liability partnership, limited liability corporation, association, joint venture, cooperative, company, corporation, or other public or private legal entity authorized by law.
- (18) "Final decision" means an order of the board that concludes a license application proceeding or formal disciplinary proceeding.
- (19) "Formal complaint" means a formal written complaint charging misconduct by a respondent in violation of this chapter, Chapter 1 of Title 40, or any other provision of law.
- (20) "Immediately available" for the purpose of supervising unlicensed personnel means being located within the office and ready for immediate utilization when needed.
- (21) "Inactive license" means the official temporary retirement of a person's authorization to practice upon the person's notice to the board that the person does not wish to practice.
- (22) "Incompetence" means the failure of a licensee to demonstrate and apply the knowledge, skill, and care that is ordinarily possessed and exercised by other practitioners of the same licensure status and required by the generally accepted standards of the profession. Charges of incompetence may be based upon a single act of incompetence or upon a course of conduct or series of acts or omissions that extend over a period of time and that, taken as a whole, demonstrate incompetence. It is not necessary to show that actual harm resulted from the act or omission or series of acts or omissions if the conduct is such that harm could have resulted to the patient or to the public from the act or omission or series of acts or omissions.
- (23) "Independent credentials verification organization" means an entity approved by the board to provide primary source verification of an applicant's identity, medical education, postgraduate training, examination history, disciplinary history, and other core information required for licensure in this State.
- (24) "Initial complaint" means a brief statement that alleges misconduct on the part of a licensee.
- (25) "Initial licensure" means the first authorization to practice issued to a person by a licensing authority in this State or any other state.
- (26) "Lapsed license" means an authorization to practice that no longer authorizes practice in this State due to the person's failure to renew the authorization within the renewal period.
- (27) "Letter of caution or concern" means a written caution or warning about past or future conduct issued when it is determined that no misconduct has been committed. The issuance of a letter of caution or concern is not a form of discipline and does not constitute a finding of misconduct. The fact that a letter of caution or concern has been issued must not be considered in a subsequent disciplinary proceeding against a person authorized to practice unless the caution or warning contained in the letter of caution or concern is relevant to the misconduct alleged in the proceedings.
- (28) "License" means a current document authorizing a person to practice.
- (29) "Licensed in good standing" means that one's authorization to practice has not been revoked

and there are no restrictions or limitations currently in effect. Public reprimands issued less than five years from the date an application is received by the board are considered restrictions upon practice.

(30) "Limited license" means a current time-limited and practice-limited document that authorizes practice at the level for which one is seeking licensure.

(31) "Misconduct" means violation of any of the provisions of this chapter or regulations promulgated by the board pursuant to this chapter or violation of any of the principles of ethics as adopted by the board or incompetence or unprofessional conduct.

(32) "Osteopathic medicine" means a complete school of medicine and surgery utilizing all methods of diagnosis and treatment in health and disease and placing special emphasis on the interrelationship of the musculo-skeletal system to all other body systems.

(33) "Pending disciplinary action" means an action or proceeding initiated by a formal complaint.

(34) "Person" means a natural person, male or female.

(35) "Physician" means a doctor of medicine or doctor of osteopathic medicine licensed by the South Carolina Board of Medical Examiners.

(36) "Practice of Medicine" means:

(a) advertising, holding out to the public or representing in any manner that one is authorized to practice medicine in this State;

(b) offering or undertaking to prescribe, order, give, or administer any drug or medicine for the use of any other person;

(c) offering or undertaking to prevent or to diagnose, correct or treat in any manner, or by any means, methods, or devices, disease, illness, pain, wound, fracture, infirmity, defect, or abnormal physical or mental condition of a person, including the management or pregnancy and parturition;

(d) offering or undertaking to perform any surgical operation upon a person;

(e) rendering a written or otherwise documented medical opinion concerning the diagnosis or treatment of a patient or the actual rendering of treatment to a patient within this State by a physician located outside the State as a result of transmission of individual patient data by electronic or other means from within a state to such physician or his or her agent;

(f) rendering a determination of medical necessity or a decision affecting the diagnosis and/or treatment of a patient is the practice of medicine subject to all of the powers provided to the Board of Medical Examiners, except as provided in Section 38-59-25;

(g) using the designation Doctor, Doctor of Medicine, Doctor of Osteopathic Medicine, Physician, Surgeon, Physician and Surgeon, Dr., M.D., D.O., or any combination of these in the conduct of any occupation or profession pertaining to the prevention, diagnosis, or treatment of

human disease or condition unless such a designation additionally contains the description of another branch of the healing arts for which one holds a valid license in this State that is applicable to the clinical setting; and

(h) testifying as a physician in an administrative, civil, or criminal proceeding in this State by expressing an expert medical opinion.

(37) "Practitioner" means a person who has been issued an authorization to practice in this State. The term does not include persons who have not been issued a license, registration, certification, or other authorization to practice in this State, except as provided by law for persons licensed in another state or jurisdiction.

(38) "Presiding officer" means the chairman of the hearing panel or a designee. When no chair of the hearing panel has been designated, the term includes the chairman or vice chairman of the board or a designee. A person designated to act on behalf of the chairman of the board or a hearing panel may not have been involved with the investigation or prosecution of the particular matter.

(39) "Private reprimand" means a statement by the board that misconduct was committed by a person authorized to practice which has been declared confidential and which is not subject to disclosure as a public document.

(40) "Probation" means the issuance of an authorization to practice conditioned upon compliance with terms and conditions imposed by a licensing board in this State or another state. The holder of the authorization to practice on probation may petition the board for reinstatement to full, unrestricted practice upon compliance with all terms and conditions imposed by the board.

(41) "Public reprimand" means a publicly available statement of the board that misconduct was committed by a person authorized to practice.

(42) "Reactivation" means the restoration to active status of an authorization from inactive status.

(43) "Readily available" means the physician must be in near proximity and is able to be contacted either in person or by telecommunications or other electronic means to provide consultation and advice to the practitioner performing delegated medical acts. When application is made for more than the equivalent of three full-time NPs, CNMs, or CNSs to practice with one physician, or when a NP, CNM, or CNS is performing delegated medical acts in a practice site greater than forty-five miles from the physician, the Board of Nursing and the Board of Medical Examiners shall review the application to determine if adequate supervision exists.

(44) "Reinstatement" means an action of the board in a disciplinary matter that authorizes the resumption of practice upon any terms or conditions ordered or agreed to by the board.

(45) "Relinquish" means to permanently cancel or invalidate an authorization instead of disciplinary proceedings or final decision by the board. A person whose authorization to practice has been relinquished to the board is permanently ineligible for a license or other authorization of any kind from the board. Relinquishment is irrevocable, an admission of any or all of the allegations of misconduct, and reported and treated as a permanent revocation.

(46) "Respondent" means a person charged with responding in a disciplinary or other administrative action.

(47) "Revocation" means the permanent cancellation or withdrawal of an authorization issued by the board. A person whose authorization has been permanently revoked by the board is permanently ineligible for an authorization of any kind from the board.

(48) "Significant disciplinary action" means a public decision in a disciplinary matter that involves substantial issues of professional or ethical competence or qualification to practice. The board may consider any actions taken by the original board or conduct considered relevant to the applicant's fitness for licensure to practice in this State.

(49) "State identification bureau" means an authorized governmental agency responsible for receiving and screening the results of criminal history records checks in this State or another state.

(50) "Supervision" means the process of critically observing, directing, and evaluating another person's performance, unless otherwise provided by law.

(51) "Suspension" means the temporary withdrawal of authorization to practice for either a definite or indefinite period of time ordered by the board. The holder of a suspended authorization to practice may petition the board for reinstatement to practice upon compliance with all terms and conditions imposed by the board.

(52) "Temporary license" means a current, time-limited document that authorizes practice at the level for which one is seeking licensure.

(53) "Unprofessional conduct" means acts or behavior that fail to meet the minimally acceptable standard expected of similarly situated professionals including, but not limited to, conduct that may be harmful to the health, safety, and welfare of the public, conduct that may reflect negatively on one's fitness to practice, or conduct that may violate any provision of the code of ethics adopted by the board or a specialty.

(54) "Voluntary surrender" means forgoing the authorization to practice by the subject of an initial or formal complaint pending further order of the board. It anticipates other formal action by the board and allows any suspension subsequently imposed to include this time.

(55) "Volunteer license" means authorization of a retired practitioner to provide medical services to others through an identified charitable organization without remuneration.

SECTION 40-47-25. Rights and privileges of licensees. [SC ST SEC 40-47-25]

Osteopathic physicians and surgeons licensed hereunder shall have the same rights and privileges as physicians and surgeons of other schools of medicine with respect to the treatment of cases, hospital privileges, and the holding of health offices or offices of public institutions. Physicians and surgeons licensed pursuant to this chapter must be licensed to practice medicine in all its branches regardless of whether the physician holds an M.D. or D.O. degree and has passed the United States Medical Licensing Examination (USMLE) or the Comprehensive Osteopathic Medical Licensing Examination (COMLEX--USA) examination sequence, or graduated from a college accredited by the Liaison Committee on Medical Education (LCME) or

the American Osteopathic Association (AOA), Commission on Osteopathic College Accreditation (COCA), or successfully completed post-graduate training from the American Council for Graduate Medical Education (ACGME) approved or AOA-approved programs, or obtained American Board of Medical Specialties (ABMS) or AOA board certification, or on the basis of his or her race, color, creed, religion, sex, or national origin.

SECTION 40-47-30. Licensure requirement; excepted activities; physician licensed in another state. [SC ST SEC 40-47-30]

(A) A person may not practice medicine in this State unless the person is twenty-one years of age and has been authorized to do so pursuant to the provisions of this article. Nothing in this article may be construed to:

(1) prohibit service in cases of emergency or the domestic administration of family remedies;

(2) apply to those who practice the religious tenets of their church without pretending a knowledge of medicine if the laws, rules, and regulations relating to contagious diseases and sanitary matters are not violated;

(3) prohibit licensed pharmacists from selling, using, and dispensing drugs in their places of business;

(4) allow under any circumstances, physicians' assistants or optometrists' assistants to make a refraction for glasses or give a contact lens fitting;

(5) prohibit a licensed physician from delegating tasks to unlicensed personnel in the physician's employ and on the premises if:

(a) the task is delegated directly to unlicensed personnel by the physician and not through another licensed practitioner;

(b) the task is of a routine nature involving neither the special skill of a licensed person nor significant risk to the patient if improperly done;

(c) the task is performed while the physician is present on the premises and in such close proximity as to be immediately available to the unlicensed person if needed;

(d) the task does not involve the verbal transmission of a physician's order or prescription to a licensed person if the licensed person requires the order or prescription to be in writing; and

(e) the unlicensed person wears an appropriate badge denoting to a patient the person's status. The unlicensed person shall wear a clearly legible identification badge or other adornment at least one inch by three inches in size bearing the person's first name at a minimum and staff position. The identification badge must be worn in a manner so that it is clearly visible to patients at all times;

(6) prohibit the practice of any legally qualified licensee of another state who is employed by the United States government or any department, bureau, division, or agency of the United States government, while in the discharge of official duties;

- (7) prohibit students while engaged in training in a medical school approved by the board;
- (8) prohibit practicing dentistry, nursing, optometry, podiatry, psychology, or another of the healing arts in accordance with state law;
- (9) prohibit the practice of any legally qualified licensee of another state involved in the transport of patients to medical facilities or the lawful procurement of organs or other body parts for medical use.
- (10) prohibit a physician from practicing in actual consultation with a physician licensed in this State concerning an opinion for the South Carolina physician's consideration in managing the care or treatment of a patient in this State.
- (B)(1) A physician licensed in another state, territory, or other jurisdiction of the United States or of any other nation or foreign jurisdiction is exempt from the requirements of licensure in this State, if the physician:
- (a) holds an active license to practice in the other jurisdiction;
- (b) engages in the active practice of medicine in the other jurisdiction; and
- (c) is employed or designated as the team physician by an athletic team visiting the State for a specific sporting event.
- (2) A physician's practice pursuant to this section is limited to the members, coaches, and staff of the team by which the physician is employed or designated. A physician practicing in this State pursuant to this section does not have practice privileges in any licensed health care facility and is not authorized to issue orders or prescriptions or to order testing at a medical facility in this State.
- (C) Nothing in this chapter may be construed to authorize a physician to delegate the performance of radiological services in violation of Chapter 74 of Title 44.

SECTION 40-47-31. Limited and temporary licenses. [SC ST SEC 40-47-31]

- (A) Limited licenses may be issued for postgraduate medical residency training or for employment with a state agency, as approved by the board. A limited license entitles the licensee to apply for individual controlled substance registration through the Department of Health and Environmental Control. Each limited license is valid for one year or part of one year. Renewal may be considered upon approval of the board. A special limited license also may be issued to a physician licensed in another state for up to fourteen days not more than four times a year in order to authorize practice under supervision for training involving direct patient care or to explore potential employment relationships.
- (B) Applicants for a limited license for medical residency training who are graduates of an approved medical school located in the United States or Canada must complete and submit an application and the appropriate application fee. A completed application must include the following:
- (1) a copy of a contract in which the applicant has been offered a position in a medical residency

training program accredited by the American Council for Graduate Medical Education or American Osteopathic Association or a fellowship or a letter from the institution stating the applicant has been recommended for a medical residency training program or a fellowship. The recommendation letter must be addressed and mailed directly to the board office from the institution;

(2) a certification of medical education form approved by the board to be completed by the dean, the president, or the registrar of the applicant's medical school or as approved by the board;

(3) a supervising physician form approved by the board to be completed by the chairman or residency director of the training program;

(4) letters of recommendation from licensed physicians recommending the applicant for a limited license in this State; and

(5) verification of licensure in other states, if applicable.

(C) An applicant for a limited license for medical residency training who is a graduate of a medical school located outside the United States or Canada may be considered on an individual basis. Such applicants shall complete and submit an application and the appropriate application fee. In addition to all other requirements, a completed application must include a copy of a current or permanent Educational Commission for Foreign Medical Graduates (ECFMG) certificate or documentation of successful completion of a Fifth Pathway program, or both. The board may waive this requirement if the applicant has a full-time academic faculty appointment at the rank of assistant professor or greater in a medical school in this State accredited by the American Council for Graduate Medical Education or the American Osteopathic Association. This requirement also may be waived if the applicant:

(1) has been licensed for five years or more without significant disciplinary action; and

(2) holds current certification by a specialty board recognized by the American Board of Medical Specialties or the American Osteopathic Association or another organization approved by the board.

(D) A physician in a medical residency training program in this State may apply for a permanent license at least ninety days before his or her limited license expires. No part of a limited license application may be applied to an application for a permanent license. Each application must be filed separately.

(E) A new application for a limited license for employment with a state agency may not be authorized after January 1, 2001. A current holder of a limited license for employment with a state agency may renew his or her limited license if no change of agency has occurred. A change in agency may be approved upon presentation to the board of a copy of a contract in which the limited license holder has been offered a position within the South Carolina Department of Corrections, the South Carolina Department of Health and Environmental Control, the South Carolina Department of Mental Health, or the South Carolina Department of Disabilities and Special Needs.

(F) A special limited license may be issued to a physician licensed in another state to authorize practice under supervision for training involving direct patient care or to explore potential

employment relationships. The applicant must submit the following items:

- (1) a completed application and payment of applicable fees; and
- (2) a documentation from the supervising physician relating the purpose and dates requested.

(G) An emergency limited license may be issued to a physician actively licensed in another state who is in good standing in accordance with Section 40-47-160(B) and whose place of established practice has been the subject of an emergency disaster declaration by an appropriate federal or state authority. An emergency limited license is valid for one year and may be renewed upon approval of the board. This license must be limited to practice in this State while associated with a licensed physician in this State who holds an unrestricted, permanent license or while employed by a licensed healthcare facility in this State. The applicant must submit the following items:

- (1) a completed application and payment of applicable fees; and
- (2) such documentation as may be acceptable to the board under the circumstances to demonstrate eligibility for the limited license, including documentation of an existing license in good standing authorizing professional practice in the state which is subject to the emergency disaster declaration.

(H) A temporary license may be issued to an applicant who has met all requirements for the issuance of a permanent license, except such final verifications as may be required. A temporary license is valid for three months or more, if approved by the board. Renewal may be considered upon approval of the board.

(I) The board may not issue a limited or temporary license to a licensed physician of another state of the United States:

- (1) whose license is currently revoked, suspended, restricted in any way, or on probationary status in that state; or
- (2) who currently has disciplinary action pending in any state.

SECTION 40-47-32. Permanent licenses; requirements; examinations; post-graduate medical residency training requirements; fee. [SC ST SEC 40-47-32]

(A) To obtain a permanent license to practice medicine in this State an applicant shall comply with the requirements of this section.

(B)(1) An applicant shall document to the satisfaction of the board graduation from a:

- (a) medical school located in the United States or Canada that is accredited by the Liaison Committee on Medical Education or other accrediting body approved by the board;
- (b) school of osteopathic medicine located in the United States or Canada accredited by the Commission on Osteopathic College Accreditation or other accrediting body approved by the board;

(c) medical school located outside the United States or Canada.

(2) An applicant who graduated from a medical school located outside of the United States shall:

(a)(i) possess a permanent Standard Certificate from the Education Commission on Foreign Medical Graduates (ECFMG); and

(ii) document a minimum of three years of progressive postgraduate medical residency training in the United States approved by the Accreditation Council for Graduate Medical Education (ACGME), American Osteopathic Association (AOA), or postgraduate training in Canada approved by the Royal College of Physicians and Surgeons, except that if an applicant has been actively licensed in another state for the preceding five years or more without significant disciplinary action, the applicant need only document one year of postgraduate residency training approved by the board; or

(b)(i) document successful completion of a Fifth Pathway program; and

(ii) complete a minimum of three years progressive postgraduate medical residency training in the United States approved by the ACGME or AOA or postgraduate training in Canada approved by the Royal College of Physicians and Surgeons or be board eligible or board certified by a specialty board recognized by the American Board of Medical Specialties (ABMS), the AOA, or another organization approved by the board;

(c) notwithstanding the provisions of this subsection, the board may waive the ECFMG or Fifth Pathway requirement if the applicant is to have a full-time academic faculty appointment at the rank of assistant professor or greater at a medical school in this State.

(C) An applicant shall document to the satisfaction of the board successful completion of:

(1) all parts of the National Board of Medical Examiners Examination in approved sequence;

(2) all parts of the National Board of Osteopathic Medical Examiners Examination in approved sequence;

(3) the Federation Licensing Exam (FLEX) based on standards established by the board;

(4) the United States Medical Licensing Examination (USMLE) based on standards established by the board;

(5) the Medical Council of Canada Qualifying Examination (MCCQE) in approved sequence;

(6) the Comprehensive Osteopathic Medical Licensing Examination (COMLEX--USA);

(7) a written state examination of another state medical, osteopathic, or composite board prior to 1976, and current certification by a specialty board recognized by the American Board of Medical Specialties, the American Osteopathic Association, or another organization approved by the board; or

(8) combinations of the FLEX, National Board of Medical Examiners, and USMLE acceptable to the Composite Committee of the USMLE and approved by the board. These combinations

may be accepted only if taken before 1999.

(D) In addition to meeting all other licensure requirements, an applicant shall pass the Special Purpose Examination (SPEX) or the Composite Osteopathic Variable-Purpose Examination (COMVEX), unless the applicant can document within ten years of the date of filing a completed application to the board one of the following:

- (1) National Board of Medical Examiners examination;
- (2) National Board of Osteopathic Medical Examiners examination;
- (3) FLEX;
- (4) USMLE;
- (5) MCCQE;
- (6) SPEX;
- (7) COMVEX;
- (8) COMLEX--USA;
- (9) ECFMG;
- (10) certification, recertification, or a certificate of added qualification examination by a specialty board recognized by either the American Board of Medical Specialties (ABMS), the American Osteopathic Association (AOA), or another organization approved by the board; or
- (11) one hundred fifty hours of Category I continuing medical education in the three years preceding the date of the application by an applicant who is currently certified by a specialty board recognized by the American Board of Medical Specialties, the American Osteopathic Association, or other organization approved by the board, which certification is not time limited and does not require recertification by examination. Such Category I continuing medical education must be approved by the American Medical Association or American Osteopathic Association, or other national organization approved by the board, as appropriate. Seventy-five percent of these hours must be related to the applicant's area of specialty. This is the only exception to the ten year requirement of this subsection that does not require an examination or reexamination.

(E) The additional examination required pursuant to subsection (D) must be waived if the applicant is to practice in a position within the South Carolina Department of Corrections, South Carolina Department of Health and Environmental Control, South Carolina Department of Mental Health, or the South Carolina Department of Disabilities and Special Needs. A license issued pursuant to this waiver is immediately invalid if the individual leaves that position or acts outside the scope of employment within the department. A change in agency may be approved upon presentation to the board of a copy of a contract in which the individual has been offered a position within the South Carolina Department of Corrections, the South Carolina Department of Health and Environmental Control, the South Carolina Department of Mental Health, or the South Carolina Department of Disabilities and Special Needs.

(F) In addition to the following standards, the board shall establish minimum standards of performance to be attained on examinations for an applicant to qualify for licensure:

(1) For FLEX examinations taken before June 1, 1985, the following standards apply:

(a) An applicant for permanent licensure shall obtain, in one sitting, a FLEX weighted average score of at least seventy-five on the examination.

(b) FLEX examinations taken before June 1, 1985, were administered in three days and the days were referred to as Day 1, Day 2, and Day 3. In case of failure, the results of the first three takings of each day must be considered by the board, and the board may consider the results from a fourth taking of any day; however, the applicant has the burden of presenting special and compelling circumstances why a result from a fourth taking should be considered. These circumstances may include, but are not limited to, the applicant's additional medical education or training, the applicant's score on the third taking, or other special or compelling circumstances. Under no circumstances may the board consider results received after the fourth taking of Day 1, Day 2, or Day 3, except that a subsequent taking may be considered by the board for an applicant who currently holds a certification, recertification, or a certificate of added qualification by a specialty board recognized by the ABMS, AOA, or another organization approved by the board.

(2) For FLEX examinations taken after June 1, 1985, the following standards apply:

(a) An applicant for permanent licensure shall obtain a score of seventy- five or more on both Component I and Component II. An applicant shall pass both components within five years of the first taking of any component of this examination.

(b) FLEX examinations taken after June 1, 1985, were administered as Component I and Component II. In case of failure, the results of the first three takings of each component must be considered by the board. The board may consider the results from a fourth taking of any component; however, the applicant has the burden of presenting special and compelling circumstances why a result from a fourth taking should be considered. These circumstances may include, but are not limited to, the applicant's additional medical education or training, the applicant's score on the third taking, or other special or compelling circumstances. Under no circumstances may the board consider results received after the fourth taking of Component I or Component II, except that a subsequent taking may be considered by the board for an applicant who currently holds a certification, recertification, or a certificate of added qualification by a specialty board recognized by the ABMS, AOA, or another organization approved by the board.

(3) For the United States Medical Licensing Examination or the Comprehensive Osteopathic Medical Licensing Examination, or the Medical Council of Canada Qualifying Examination, the applicant shall pass all steps within ten years of passing the first taken step. The results of the first three takings of each step examination must be considered by the board. The board may consider the results from a fourth taking of any step; however, the applicant has the burden of presenting special and compelling circumstances why a result from a fourth taking should be considered. These circumstances may include, but are not limited to, the applicant's additional medical education or training, the applicant's score on the third taking, or other special or compelling circumstances. Under no circumstances may the board consider results received after the fourth taking of any step, except that a subsequent taking may be considered by the board for

an applicant who currently holds a certification, recertification, or a certificate of added qualification by a specialty board recognized by the ABMS, AOA, or another organization approved by the board.

(G) With respect to postgraduate medical residency training requirements, the following standards apply:

(1) Graduates of approved medical or osteopathic schools located in the United States or Canada shall document the successful completion of a minimum of one year of postgraduate medical residency training approved by the board.

(2) Graduates of medical schools located outside the United States or Canada shall document a minimum of three years of progressive postgraduate medical residency training approved by the board, except that these graduates who have completed at least two and one-half years of progressive postgraduate medical residency training in the program in which they are currently enrolled may be issued a license upon certification from the program of their good standing and expected satisfactory completion. These graduates who have been actively licensed in another state for the preceding five years or more without significant disciplinary action need only document one year of postgraduate residency training approved by the board. A foreign graduate may satisfy the three year postgraduate training requirement with at least one year of approved training in combination with certification by a specialty board recognized by the ABMS, AOA, or another national organization approved by the board.

(3) The board may accept a full-time academic appointment at the rank of assistant professor or greater in a medical or osteopathic school in the United States as a substitute for and instead of postgraduate medical residency training. Each year of this academic appointment may be credited as one year of postgraduate medical residency training for purposes of the board's postgraduate training requirements.

(4) For purposes of satisfying postgraduate medical residency training requirements, the board may accept postgraduate training in the United States approved by the Accreditation Council on Graduate Medical Education or the American Osteopathic Association or postgraduate training in Canada approved by the Royal College of Physicians and Surgeons.

(H) An applicant may be denied licensure if the individual has committed acts or omissions that are grounds for disciplinary action as provided for in Section 40-47-110. The board or department immediately may cancel an authorization that was issued based on false, fraudulent, or misleading information provided by an applicant.

(I) The board may grant or refuse licensure to licentiates of the National Board of Medical Examiners, the Medical Council of Canada, or of the National Board of Osteopathic Medical Examiners without further examination and may make and establish all necessary rules and regulations for the endorsement of licensure issued by other state boards having substantially equivalent requirements.

(J) An applicant for a permanent license shall document compliance with applicable continued competency requirements.

(K) An applicant shall file a completed application, with required supporting documentation, on forms provided by the department. Primary source verification of an applicant's identity, medical

education, postgraduate training, examination history, disciplinary history, and other core information required for licensure in this State must be provided through an independent credentials verification organization approved by the board.

(L) A nonrefundable permanent license application fee must be submitted with the application. Applications will not be processed without the required fee.

(M) The board must not issue a permanent license to a licensed physician of another state of the United States:

(1) whose license is currently revoked, suspended, restricted in any way, or on probationary status in that state; or

(2) who currently has disciplinary action pending in any state.

SECTION 40-47-33. Academic license; qualifications; responsibility of dean for compliance with practice limitations. [SC ST SEC 40-47-33]

(A) The issuance of an academic license is initiated by a written request from the dean of the medical school outlining the candidate's credentials, proposed role at the academic institution, and the reasons for requesting an exception to the usual course of permanent licensure. The candidate shall meet the following requirements:

(1) The individual must have the rank of assistant professor or higher.

(2) The individual must have established academic credentials and a compelling reason to be invited by the dean.

(3) The academic license may be used only in the educational setting or in a training program associated with the medical school.

(4) Use of the academic license is limited to the designated practice site only. It is not for independent practice or "moonlighting" situations.

(B) In that an academic license is issued at the dean's request for his accommodation, the dean is professionally responsible under Section 40-47-110 for the academic licensee's compliance with the limitations of practice under an academic license.

SECTION 40-47-34. Special volunteer licenses; waiver of fees; restrictions; qualifications [SC ST SEC 40-47-34]

(A) The board shall waive all application fees, examination fees, and annual reregistration fees for an applicant who applies for a special volunteer license and who otherwise meets permanent licensure requirements if the applicant documents, to the satisfaction of the board, that practice is to be exclusively and totally devoted to providing medical care to the needy and indigent in this State. To be eligible for the waiver of these fees, an applicant shall acknowledge that there is no expectation of payment or compensation for any medical services rendered, or compensation or payment to the applicant, either direct or indirect, monetary or in-kind, for the provision of medical services. A special volunteer license entitles the licensee to apply for individual controlled substance registration through the Department of Health and Environmental Control.

(B) A special volunteer license may be issued to a qualified applicant upon approval by the board. Practice must be limited to each specific site and practice setting approved by the board. There must be no licensure or other fees associated with a special volunteer license.

(C) Requirements for a special volunteer license are as follows:

(1) satisfactory completion of a special volunteer license application, including documentation of medical or osteopathic school graduation and practice history;

(2) documentation of specific proposed practice location;

(3) documentation that the applicant previously has been issued an unrestricted license to practice medicine in South Carolina or in another state of the United States or Canada and that the applicant has never been the subject of any significant disciplinary action in any jurisdiction;

(4) documentation that the applicant shall only practice under the supervision of a supervising physician approved by the board. In order to ensure that public health, safety, and welfare are protected, the board shall review the proposed supervisory relationship to ensure that the physician supervisor is competent to supervise the special volunteer licensee. Factors the board shall consider include, but are not limited to, the training and practice experience of the supervising physician, the current nature and extent of the supervising physician's practice, the existence of any recent demonstration of the supervising physician's clinical competency, and the number of special volunteer licensees the physician proposes to supervise;

(5) documentation of the name of the supervising physician and that the physician has agreed to accept this supervisory responsibility. Supervising physicians shall possess an active, unrestricted permanent license to practice medicine in this State. An approved supervising physician physically must be on the premises whenever a special volunteer licensee is practicing medicine;

(6) documentation and acknowledgement that the applicant may not receive payment or compensation, either direct or indirect, or have any expectation of payment or compensation for medical services rendered, and the supervising physician may not receive compensation or payment as the result of the special volunteer licensee's provision of medical services.

SECTION 40-47-35. Licensure as expert medical witness; waiver of fee. [SC ST SEC 40-47-35]

(A) The board may issue a license to a physician licensed in good standing in another state, who has been engaged to testify as an expert medical witness in an administrative, civil, or criminal proceeding in this State. The license only shall authorize practice in this State as an expert medical witness in a particular proceeding in this State. This license must be valid for the duration of the particular proceeding for which it is issued. This license must authorize only practice in this State that is related directly to the particular proceeding for which it is issued. A separate license must be obtained for each proceeding in which the applicant is engaged to testify as an expert medical witness in this State. The applicant shall submit the following items:

(1) a completed application and payment of applicable fees; and

(2) satisfactory documentation of the applicant's engagement as an expert witness in a particular proceeding in this State.

(B) The board may waive any part or all of a fee for this license for a physician to testify as an expert witness on behalf of a state, county, or municipal agency or office.

SECTION 40-47-36. Criminal history background checks; costs; confidentiality of information obtained. [SC ST SEC 40-47-36]

(A) In addition to other requirements established by law and for the purpose of determining an applicant's eligibility for an authorization to practice, the department may require a criminal history background check of each applicant for an authorization to practice pursuant to this chapter. Each applicant may be required to furnish a full set of fingerprints and additional information required to enable a criminal history background check to be conducted by the State Law Enforcement Division or the State Identification Bureau of another state and the Federal Bureau of Investigation, if no disqualifying record is identified at the state level. Costs of conducting a criminal history background check must be borne by the applicant. The department shall keep information received pursuant to this section confidential, except that information relied upon in denying an authorization to practice may be disclosed as may be necessary to support the administrative action.

(B) In an investigation or disciplinary proceeding concerning a licensee, the department may require a criminal history background check of a licensee. A licensee may be required to furnish a full set of fingerprints and additional information required to enable a criminal history background check to be conducted by the State Law Enforcement Division or the State Identification Bureau of another state and the Federal Bureau of Investigation, if no pertinent information is identified at the state level. Costs of conducting a criminal history background check must be borne by the department and may be recovered as administrative costs associated with an investigation or hearing pursuant to this chapter, unless ordered by the board as a cost in a disciplinary proceeding. The department shall keep information received pursuant to this section confidential, except that information relied upon in an administrative action may be disclosed as may be necessary to support the administrative action.

SECTION 40-47-40. Continuing professional education. [SC ST SEC 40-47-40]

The continued professional competency of a physician holding a permanent license must be demonstrated in the following manner:

(1) For renewal of a permanent license initially issued during a biennial renewal period, compliance with all educational, examination, and other requirements for the issuance of a permanent license is sufficient for the first renewal period following initial licensure.

(2) For renewal of an active permanent license biennially, documented evidence of at least one of following options during the renewal period is required:

(a) forty hours of Category I continuing medical education sponsored by the American Medical Association, American Osteopathic Association, or another organization approved by the board as having acceptable standards for courses it sponsors, at least thirty hours of which must be related directly to the licensee's practice area;

- (b) certification of added qualifications or recertification after examination by a national specialty board recognized by the American Board of Medical Specialties or American Osteopathic Association or another approved specialty board certification;
 - (c) completion of a residency program or fellowship in medicine in the United States or Canada approved by the Accreditation Council on Graduate Medical Education or American Osteopathic Association;
 - (d) passage of the Special Purpose Examination or Comprehensive Osteopathic Medical Variable Purpose Examination; or
 - (e) successful completion of a clinical skills assessment program approved by the board, such as the Institute for Physician Evaluation or the Center for Personalized Education for Physicians.
- (3) For reinstatement or reactivation of a permanent license from lapsed or inactive status of less than four years, documented evidence of at least one of the following options within the preceding two years is required:
- (a) forty hours of Category I continuing medical education sponsored by the American Medical Association, American Osteopathic Association, or another organization approved by the board as having acceptable standards for courses it sponsors, at least thirty hours of which must be directly related to the licensee's practice area;
 - (b) certification of added qualifications or recertification after examination by a national specialty board recognized by the American Board of Medical Specialties or American Osteopathic Association or another approved specialty board certification;
 - (c) completion of a residency program or fellowship in medicine in the United States or Canada approved by the Accreditation Council on Graduate Medical Education or American Osteopathic Association;
 - (d) passage of the Special Purpose Examination or Comprehensive Osteopathic Medical Variable Purpose Examination; or
 - (e) successful completion of a clinical skills assessment program approved by the board, such as the Institute for Physician Evaluation or the Center for Personalized Education for Physicians.
- (4) For reinstatement or reactivation of a permanent license from lapsed or inactive status of four years or more, documented evidence of at least one of the following options within the preceding two years is required:
- (a) certification of added qualifications or recertification after examination by a national specialty board recognized by the American Board of Medical Specialties or American Osteopathic Association or another approved specialty board certification;
 - (b) completion of a residency program or fellowship in medicine in the United States or Canada approved by the Accreditation Council on Graduate Medical Education or American Osteopathic Association;
 - (c) passage of the Special Purpose Examination or Comprehensive Osteopathic Medical

Variable Purpose Examination; or

(d) successful completion of a clinical skills assessment program approved by the board, such as the Institute for Physician Evaluation or the Center for Personalized Education for Physicians.

(5) For reinstatement or reactivation of a lapsed or an inactive status of a permanent license of a licensee who has been in active practice in another state, compliance with any of the requirements of this section within the preceding two years is sufficient.

SECTION 40-47-41. License renewal; notification of change of address or adverse disciplinary action in another jurisdiction. [SC ST SEC 40-47-41]

(A) A license issued pursuant to this chapter may be renewed biennially or as otherwise provided by the board and department. A person who has not demonstrated continuing medical competence, as required by this chapter, is not eligible for issuance or renewal of an active license.

(B) A licensee shall complete the renewal form and submit the form to the board with the renewal fee. Upon receipt of the application and the fee, the department shall verify the accuracy of the application and renew the license for the applicable period. If a licensee fails to timely renew the license, the license is deemed lapsed at the close of the renewal period, and the licensee may not practice in this State until the licensee is reinstated to practice. The board may reinstate the licensee on payment of a reinstatement fee, the current renewal fee, and demonstration of continued competency satisfactory to the board. The board may deny reinstatement or take other action based on evidence of misconduct.

(C) A licensee shall notify the board in writing within fifteen business days of any change of residential address, office address, or office telephone number.

(D) A licensee shall notify the board within thirty days of any adverse disciplinary action by another United States or foreign licensing jurisdiction, a peer review group, a health care institution, a professional or medical society or association, a governmental agency, a law enforcement agency, including arrest, or a court, including indictment. Confidential information received from a licensee or other sources must continue to be maintained as confidential, except to the extent necessary for the proper disposition of the matter. Notification is not required in the case of:

(1) a nondisciplinary resignation by the licensee from a health care facility; however, a resignation occurring after an incident or occurrence which could result in the revocation or suspension of or other limitation upon the licensee's privileges must be reported;

(2) a minor disciplinary action regarding the licensee's privileges in a health care facility when the action taken does not involve the revocation or suspension of or other limitation upon the licensee's privileges to practice there;

(3) a disciplinary action resulting from the licensee's failure to meet recordkeeping standards in a health care institution;

(4) a disciplinary action resulting from the licensee's failure to attend meetings of a health care institution; or

(5) other disciplinary actions as defined by the board in regulation.

SECTION 40-47-42. Reactivation of inactive license. [SC ST SEC 40-47-42]

A person with an inactive license to practice medicine in this State who wishes to resume active practice shall submit an application for reactivation including:

- (1) a completed application form approved by the board;
- (2) the applicable reactivation fee;
- (3) documented evidence of compliance with applicable continued competency requirements;
- (4) written verification of licensure and disciplinary history in all states in which a license has ever been issued; and
- (5) a practice history, including any malpractice suits and judgments.

SECTION 40-47-43. Renewal of expired license. [SC ST SEC 40-47-43]

A person submitting an application for renewal within one year after the expiration of the previous authorization period shall:

- (1) submit a completed application on a form provided by the board;
- (2) pay a renewal fee;
- (3) pay a late fee of one hundred dollars for any part of each month during which the license was lapsed;
- (4) provide evidence of compliance with applicable continued competency requirements; and
- (5) provide a statement under oath relating any practice activity following the expiration of the previous renewal period. If unauthorized practice occurred following the expiration of the previous renewal period, a penalty of one thousand dollars must be imposed for any portion of each month in which unauthorized practice occurred. The penalty must be paid in full before the license may be renewed by the department unless otherwise provided by the board.

SECTION 40-47-44. Application for reinstatement of license. [SC ST SEC 40-47-44]

In addition to compliance with all of the terms and conditions for reinstatement of a licensee required in a final order of the board, the licensee shall provide documented evidence of compliance with all other requirements for reactivation or renewal of authorization to practice before authorization may be issued. It is the licensee's responsibility to present clear and convincing evidence of rehabilitation that is satisfactory to the board. The board may require the licensee to personally appear in support of a petition for reinstatement or it may proceed upon information filed in the disciplinary matter or thereafter.

SECTION 40-47-45. Review of final action of board; presumption of service of notice of board

action; review of motions for continuance and other interlocutory relief. [SC ST SEC 40-47-45]

A final action of the board relating to the granting, refusal, or cancellation of a license is subject to review by the Administrative Law Court as provided pursuant to Article 5 of Chapter 23 of Title 1 on the record of the board, as in certiorari, upon petition of the applicant or licensee within thirty days from receipt of official notice from the board of the action of which review is sought. Service of this notice conclusively must be presumed ten days after mailing by registered or certified mail to the applicant or licensee of the notice at the person's last known address. Motions for continuance and for other interlocutory relief are not subject to review by the Administrative Law Court until a final decision has been issued by the board.

SECTION 40-47-50. Administrative support; fees to cover costs of operation of board; maintenance of records. [SC ST SEC 40-47-50]

(A) The Department of Labor, Licensing and Regulation shall provide all administrative, fiscal, investigative, inspectional, clerical, secretarial, and license renewal operations and activities of the board in accordance with Section 40-1-50.

(B) Initial fees must be established by the board in statute or regulation and must serve as the basis for necessary adjustments in accordance with Section 40-1-50 to ensure that they are sufficient, but not excessive, to cover expenses, including the total of the direct and indirect costs to the State for the operations of the board.

(C) The administrator shall maintain a record of each formal complaint and of all final decisions on complaints, which must be retained permanently as part of the records of the board.

SECTIONS 40-47-60, 40-47-65. Omitted by 2006 Act No. 385, § 1, eff June 9, 2006. [SC ST SEC 40-47-60]

SECTIONS 40-47-60, 40-47-65. Omitted by 2006 Act No. 385, § 1, eff June 9, 2006. [SC ST SEC 40-47-65]

SECTION 40-47-70. Code of ethics. [SC ST SEC 40-47-70]

A practitioner shall conduct himself or herself in accordance with the applicable codes of ethics adopted by the board in regulation.

SECTION 40-47-75. Repealed by 2005 Act No. 10, § 4, eff January 13, 2005. [SC ST SEC 40-47-75]

SECTION 40-47-80. Investigation of complaints. [SC ST SEC 40-47-80]

The department shall investigate complaints and violations as provided in Section 40-1-80.

SECTION 40-47-90. Administering oaths. [SC ST SEC 40-47-90]

In addition to the powers and duties enumerated in Section 40-1-90, the presiding officer of the board may administer oaths when taking testimony upon any and all matters pertaining to the business or duties of the board.

SECTIONS 40-47-95, 40-47-97. Omitted by 2006 Act No. 385, § 1, eff June 9, 2006. [SC ST SEC 40-47-95]

SECTIONS 40-47-95, 40-47-97. Omitted by 2006 Act No. 385, § 1, eff June 9, 2006. [SC ST SEC 40-47-97]

SECTION 40-47-100. Restraining orders. [SC ST SEC 40-47-100]

Restraining orders and cease and desist orders may be issued in accordance with Section 40-1-100.

SECTION 40-47-110. Misconduct constituting grounds for disciplinary action; temporary suspensions; review of final actions; conduct subverting security or integrity of medical licensing examination process. [SC ST SEC 40-47-110]

(A) In addition to the grounds provided in Section 40-1-110, upon finding misconduct that constitutes one or more of the grounds for disciplinary action the board may cancel, fine, suspend, revoke, issue a public reprimand or a private reprimand, or restrict, including probation or other reasonable action such as requiring additional education or training or limitation on practice, the authorization to practice of a person who has engaged in misconduct.

(B) "Misconduct" that constitutes grounds for disciplinary action is a showing to the board by the preponderance of evidence that a licensee has:

- (1) used a false, fraudulent, or forged statement or document or practiced a fraudulent, deceitful, or dishonest act in connection with a licensing requirement;
- (2) been convicted of, has pled guilty to, or has pled nolo contendere to a felony or other crime involving moral turpitude or drugs. For purposes of this item, "drugs" includes a substance whose possession, use, or distribution is governed by Article 3, Chapter 53 of Title 44, Narcotics and Controlled Substances, or which is listed in the current edition of the Physician's Desk Reference;
- (3) violated a federal, state, or local law involving alcohol or drugs or committed an act involving a crime of moral turpitude. The board may receive evidence to reach an independent conclusion as to the commission of the violation; however, the determination may be used only in making the administrative decision;
- (4) engaged in the habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability;
- (5) attempted to practice when judgment or physical ability is impaired by alcohol, drugs, or other substances;
- (6) been convicted of or sanctioned for illegal or unauthorized practice;
- (7) knowingly performed an act that in any way assists an unlicensed person to practice;
- (8) sustained a physical or mental impairment that renders further practice by the licensee dangerous to the public or that may interfere with the licensee's ability to competently and safely

perform the essential functions of practice;

(9) engaged in dishonorable, unethical, or unprofessional conduct that is likely either to deceive, defraud, or harm the public;

(10) used a false or fraudulent statement in a document connected with the licensee's practice;

(11) obtained fees or assisted in obtaining fees under dishonorable, false, or fraudulent circumstances;

(12) intentionally violated or attempted to violate, directly or indirectly, or is assisting in or abetting the violation of or conspiring to violate the medical practice laws;

(13) violated the code of medical ethics adopted by the board or has been found by the board to lack the ethical or professional competence to practice;

(14) violated a provision of this chapter or a regulation or order of the board;

(15) failed to cooperate with an investigation or other proceeding of the board;

(16) failed to comply with an order, subpoena, or directive of the board or department;

(17) failed to prepare or maintain an adequate patient record of care provided;

(18) engaged in disruptive behavior or interaction, or both, with physicians, hospital personnel, patients, family members, or others that interferes with patient care or could reasonably be expected to adversely impact the quality of care rendered to a patient. This behavior may include, but is not limited to, inappropriate sexual behavior;

(19) engaged in behavior that exploits the physician-patient relationship in a sexual way. This behavior is nondiagnostic and nontherapeutic, may be written, verbal, or physical and may include expressions of thoughts and feelings or gestures that are sexual or that reasonably may be construed by a patient as sexual. This behavior includes sexual contact with patient surrogates or key third parties;

(20) failed to appear before the board after receiving a formal notice to appear;

(21) signed a blank prescription form;

(22) failed to report to the board any adverse disciplinary action by another United States or foreign licensing jurisdiction, a peer review body, a health care institution, by any professional or medical society or association, a board-approved credentialing organization, a governmental agency, a law enforcement agency, including arrest, or a court, including indictment, for acts or conduct similar to acts or conduct that would constitute grounds for disciplinary action as provided for in this section;

(23) failed to provide pertinent and necessary medical records to another physician or patient in a timely fashion when lawfully requested to do so by a patient or by a lawfully designated representative of a patient;

(24) improperly managed medical records, including failure to maintain timely, legible, accurate, and complete medical records; or

(25) provided false, deceptive, or misleading testimony as an expert witness in an administrative, civil, or criminal proceeding in this State.

(C) In addition to all other remedies and actions incorporated in this chapter, a licensee who is adjudged mentally incompetent by a court of competent jurisdiction automatically must be suspended by the board until the licensee is adjudged by a court of competent jurisdiction, or in another manner provided by law, as being restored to mental competency. The automatic suspension of a license pursuant to this section is public information under the Freedom of Information Act.

(D) A decision by the board to revoke, suspend, or restrict a license or to limit or discipline a licensee must be by majority vote of the board members serving, except that the board may delegate to the chairman or vice chairman of the board the authority to issue orders to temporarily suspend licenses or to seek from the Administrative Law Court an order temporarily suspending or restricting a license pending final decision by the board, as follows:

(1) when the chairman or vice chairman of the board determines that public health, safety, or welfare imperatively requires emergency action, and incorporates a finding to that effect in an order, a temporary suspension order may be issued without a prior hearing being afforded to the licensee, in which event the licensee may request by the close of the next business day after receipt of the order a review by the administrative hearing officer. The fact of suspension or restriction of a license, and the fact of any subsequent related action, is public information under the Freedom of Information Act after issuance of an order by the chairman or vice chairman, unless a review by the administrative hearing officer has been timely requested in writing. Filing a written request for a review by the administrative hearing officer does not stay the temporary suspension and no stay may be issued; however, the fact of the issuance of the temporary suspension order must not be made public until the time for requesting a review has passed or the administrative hearing officer issues an order after a review hearing. Upon proper written request, a review hearing must be held by the administrative hearing officer within three business days of the filing of the request for review, unless otherwise agreed by the parties. If the issuance of the temporary suspension order is not sustained by the administrative hearing officer, the matter must remain confidential and must not be made public, except to the extent the board considers it relevant to the final decision of the board; or

(2) the Department of Labor, Licensing and Regulation, acting through the Office of General Counsel or its designee, at the direction of the chairman or vice chairman of the board, may petition the Administrative Law Court for an order temporarily suspending or restricting a license pending final decision by the board. A hearing must be held by the Administrative Law Court within three business days of the filing of the petition, unless otherwise agreed by the parties. If an order temporarily suspending or restricting a license is not issued by the administrative law judge, the matter must remain confidential and must not be made public, except to the extent the board considers it relevant to the final decision of the board. The fact of suspension or restriction of a license, and the fact of any subsequent related action, is public information under the Freedom of Information Act after issuance of an order by the Administrative Law Court.

(E) Motions for continuance and for other interlocutory relief are not subject to review by the

Administrative Law Court until a final decision has been issued by the board. A licensee against whom disciplinary action is taken in a final decision pursuant to this article has the right to review by the Administrative Law Court as provided in Section 40-1-160. If the board has revoked, suspended, or restricted a license in any manner for six months or more, including probation conditions, an appeal taken to the Administrative Law Court as provided in Section 40-1-160 has precedence on the court's calendar, is considered an emergency appeal, and should be heard not later than thirty days from the date the petition is filed. The review is limited to the record established by the board hearing. No stay or supersedeas may be granted by the administrative law judge or a reviewing court pending appeal from a final decision by the board to revoke, suspend, or restrict a license for six months or more.

(F)(1) If a person is found by the board to have engaged in conduct that subverts or attempts to subvert the security or integrity of the licensing examination process, the board may have the scores on the licensing examination withheld or declared invalid. The individual may be disqualified from practice or be subjected to the imposition of any other appropriate sanction provided by Section 40-47-120.

(2) Conduct that subverts or attempts to subvert the security or integrity of the medical licensing examination process includes, but is not limited to, conduct that violates the:

(a) security of examination materials including, but not limited to, the improper reproduction or reconstruction of any portion of the licensing examination; aiding in the improper reproduction or reconstruction of any portion of the licensing examination; or selling, distributing, buying, receiving, or having unauthorized possession of any portion of a future, current, or previously administered licensing examination;

(b) standard of test administration including, but not limited to, improperly communicating with any other examinee during the administration of a licensing examination; copying answers from another examinee or permitting one's own answers to be copied by another examinee during the administration of a licensing examination; or having in one's possession during the administration of a licensing examination any books, notes, other written or printed materials, or data of any kind other than the examination materials or other materials authorized by the board; and

(c) credentials process including, but not limited to, falsifying or misrepresenting educational credentials or other information required for admission to the licensing examination, impersonating an examinee, or having an impersonator take the licensing examination in one's behalf.

SECTION 40-47-111. Disciplinary action in another state. [SC ST SEC 40-47-111]

(A) Acts or omissions by a licensee causing the denial, cancellation, revocation, suspension, or restriction of a license to practice in another state, which would constitute misconduct in this State, support the issuance of a formal complaint and the commencement of disciplinary proceedings.

(B) Proof of acts or omissions in another state may be shown by a copy of the transcript of record of the disciplinary proceedings in that state or a copy of the final order, consent order, or similar order stating the basis for the action taken.

(C) Upon the filing of an application or an initial complaint alleging that the applicant or licensee has been disciplined in another state, the applicant or licensee must provide to the department copies of all transcripts, documents, and orders used, relied upon, or issued by the licensing authority in the other state. Failure to provide these items within ninety days of a written request results in the denial of the individual's application or suspension of the individual's authorization to practice in this State until these items have been provided to the department and until further order of the board.

(D) The applicant or licensee may present mitigating testimony to the board or hearing officer or hearing panel regarding disciplinary action taken in another state or evidence that the acts or omissions committed in another state do not constitute misconduct in this State.

SECTION 40-47-112. Attending patient while under the influence of alcohol or drugs; penalty; suspension and disqualification from practice. [SC ST SEC 40-47-112]

A person licensed or otherwise authorized by the Board of Medical Examiners who attends a patient while under the influence of alcohol or drugs is guilty of a misdemeanor and, upon conviction, may be fined not more than ten thousand dollars or imprisoned not more than one year. In addition, upon conviction, the license or authorization granted to the person must be suspended and the person must be disqualified from practicing in this State until he satisfies the board that he is qualified to resume practice. The provisions of this section are in addition to the remedies otherwise relating to physicians who may be addicted to the use of alcohol or drugs.

SECTION 40-47-113. Establishment of physician-patient relationship as prerequisite to prescribing drugs; unprofessional conduct. [SC ST SEC 40-47-113]

(A) It is unprofessional conduct for a licensee initially to prescribe drugs to an individual without first establishing a proper physician-patient relationship. A proper relationship, at a minimum, requires that the licensee make an informed medical judgment based on the circumstances of the situation and on the licensee's training and experience and that the licensee:

- (1) personally perform and document an appropriate history and physical examination, make a diagnosis, and formulate a therapeutic plan;
- (2) discuss with the patient the diagnosis and the evidence for it, and the risks and benefits of various treatment options; and
- (3) ensure the availability of the licensee or coverage for the patient for appropriate follow-up care.

(B) Notwithstanding subsection (A), a licensee may prescribe for a patient whom the licensee has not personally examined under certain circumstances including, but not limited to, writing admission orders for a newly hospitalized patient, prescribing for a patient of another licensee for whom the prescriber is taking call, prescribing for a patient examined by a licensed advanced practice registered nurse, a physician assistant, or other physician extender authorized by law and supervised by the physician, or continuing medication on a short-term basis for a new patient prior to the patient's first appointment.

(C) Prescribing drugs to individuals the licensee has never personally examined based solely on answers to a set of questions is unprofessional.

SECTION 40-47-114. Requiring professional competency, mental, or physical examination; request for review; obtaining records; confidentiality. [SC ST SEC 40-47-114]

(A) If the board finds that probable cause exists that a licensee or applicant may be professionally incompetent, addicted to alcohol or drugs, or may have sustained a physical or mental disability that may render practice by the licensee or applicant dangerous to the public or is otherwise practicing in a manner dangerous to the public, the board, without a formal complaint or opportunity for hearing, may require a licensee or applicant to submit to a professional competency, mental, or physical examination by authorized practitioners designated by the board. The results of an examination are admissible in a hearing before the board, notwithstanding a claim of privilege under a contrary rule of law. A person who accepts the privilege of engaging in licensed practice in this State pursuant to this chapter, or who files an application for a license to practice pursuant to this chapter, is considered to have consented to submit to a professional competency, mental, or physical examination and to have waived all objections to the admissibility of the results in a hearing before the board upon the grounds that this constitutes a privileged communication. If a licensee or applicant fails to submit to an examination when properly directed to do so by the board, unless the failure was due to circumstances beyond the person's control, the board shall enter an order automatically suspending or denying the license pending compliance and further order of the board. A licensee or applicant who is required to submit to a professional competency, mental, or physical examination may request by the close of the next business day after receipt of the requirement a review by the administrative hearing officer. Filing a written request for a review by the administrative hearing officer does not stay the time directed in which to submit to a professional competency, mental, or physical examination, and no stay may be issued, except as provided in this section. Upon proper written request, a review hearing must be conducted within three business days of receipt of the request, unless otherwise agreed by the parties. Failure to provide a review hearing within the prescribed time stays the time required to submit to a professional competency, mental, or physical examination until a decision is issued by the administrative hearing officer. The review hearing for purposes of this section must be limited to the issues of whether the person is a licensee or applicant, whether reasonable grounds exist to require a professional competency, mental, or physical examination, and whether the licensee or applicant has been informed that failure to submit to an examination will result in the entry of an order automatically suspending or denying the license pending compliance and further order of the board. The administrative hearing officer's decision is not subject to appeal. A licensee or applicant who is prohibited from practicing pursuant to this subsection must be afforded at reasonable intervals an opportunity to demonstrate to the board the ability to resume or begin the practice with reasonable skill and safety.

(B) The board upon probable cause may obtain records relating to the professional competency or mental or physical condition of a licensee or applicant including, but not limited to, psychiatric records, which are admissible in a hearing before the board, notwithstanding any other provision of law. A person who accepts the privilege of engaging in licensed practice in this State pursuant to this chapter, or who files an application to practice pursuant to this chapter, is considered to have consented to the board obtaining these records and to have waived all objections to the admissibility of these records in a hearing before the board upon the grounds that this constitutes a privileged communication. If a licensee or applicant refuses to sign a written consent for the board to obtain these records when properly requested by the board, unless the failure was due to circumstances beyond the person's control, the board shall enter an order automatically suspending or denying the license pending compliance and further order of

the board. A licensee or applicant who is prohibited from practicing under this subsection must be afforded at reasonable intervals an opportunity to demonstrate to the board the ability to resume or begin the practice of medicine with reasonable skill and safety.

(C) An order requiring a licensee or applicant to submit to a professional competency, mental, or physical examination or an order requiring the submission of records relating to the professional competency or mental or physical condition of a licensee or applicant is confidential and must not be disclosed, except to the extent necessary for the proper disposition of the matter before the board or administrative hearing officer. The fact of automatic suspension or denial of a license pending compliance and further order of the board is public information under the Freedom of Information Act. A review hearing and decision of an administrative hearing officer are confidential, unless an order automatically suspending or denying a license pending compliance and further order of the board has been issued, in which case the fact of suspension or denial of a license by the administrative hearing officer is public information under the Freedom of Information Act.

SECTION 40-47-115. Jurisdiction of board. [SC ST SEC 40-47-115]

The board has jurisdiction over the actions committed or omitted by current and former licensees as provided in Section 40-1-115.

SECTION 40-47-116. Initial complaint; informal conference; approval of agreement. [SC ST SEC 40-47-116]

(A) An initial complaint may be made by any person or the administrator of the board or director of the department based upon information considered reliable. The initial complaint must be dated, signed by the person making the complaint or the administrator or director when appropriate, and must identify the subject of the complaint and contain a brief summary of the nature of the complaint. Initial complaints must be filed with the director, or his designee, who may cause an investigation to be made into the allegation of professional misconduct. If the initial complaint on its face does not demonstrate an allegation of misconduct pursuant to this chapter, an investigation may not ensue. If the initial complaint does not demonstrate an allegation of misconduct pursuant to this chapter after investigation, the initial complaint may be dismissed. The department shall notify in writing the person initially complaining of the reason for dismissing the initial complaint. Except as provided in Section 40-47-190, the identity of the person making the initial complaint must remain privileged and confidential and must not be disclosed for use in any administrative or judicial proceeding of any kind. If a formal complaint is authorized, the identity of the initial complainant must continue to remain privileged and confidential, and must not be disclosed during the conduct of formal proceedings, upon administrative or judicial review, or at any time after that for use in any administrative or judicial proceeding of any kind, unless the initial complainant testifies as a witness in the formal proceedings.

(B) Before authorization of a formal complaint, the department shall provide an opportunity for the respondent to have an informal conference concerning the alleged misconduct with representatives of the department, including a physician designated by the board. The respondent may be represented by counsel at the conference, and the department shall so inform the respondent. Communications during the informal conference must be confidential. The parties shall maintain the confidentiality of the informal conference and shall not rely on, or introduce as evidence in any proceedings, any oral or written communications having occurred during the

informal conference, unless such communications are obtained by means other than the informal conference. An agreement reached by the respondent and department must be documented in writing and signed by the respondent and the department and may provide for formal or informal disposition of the allegations, with or without admitting and denying misconduct. An agreement is not final until it has been submitted to and approved by the board. An agreement marked private must be placed in the respondent's file within the department and maintained as confidential pursuant to Section 40-47-190(F).

SECTION 40-47-117. Formal complaint; service; answer; formal hearing by panel; filing of report with board; board action; notice. [SC ST SEC 40-47-117]

(A) A formal complaint must be issued by the Office of General Counsel after investigation upon a finding by one or more physicians designated by the board that probable cause exists to believe that professional misconduct may have been committed. Formal complaints must be captioned "In the Matter of (name of respondent)" and signed by an attorney assigned or designated by the Office of General Counsel. The department shall cause to be sent to the respondent or counsel, if any, by certified mail a formal complaint setting forth in summary fashion the alleged misconduct together with a notice requiring that the respondent file with the department an answer to the formal complaint and to serve a copy of the answer upon the attorney assigned or designated by the Office of General Counsel within thirty days after the notice and formal complaint are mailed. The notice mailed to the respondent must state that if the respondent fails to answer, judgment by default may be taken against the respondent. The answer must be signed by the respondent or counsel or by both and may be verified. If no answer has been filed by the respondent or counsel after thirty calendar days from the date of receipt by the respondent of the notice and formal complaint and no extension has been granted, the allegations of the formal complaint must be considered admitted, and the board may proceed and render a default judgment against the respondent.

(B)(1) After the respondent's answer has been filed, or the time within which the respondent was required to file the answer has expired, a formal hearing into the matter must be held by a panel of one lay member and not more than three physician members of the Medical Disciplinary Commission, none of which may reside or have a major part of their practice in the same county as the respondent. If the facts are not in dispute, the matter may be presented directly to the board for final decision without need for a panel hearing. The Office of General Counsel or its designee shall prepare and present the matter before the panel and board, as appropriate. Hearings must be held by the panel or board upon thirty days notice to the Office of General Counsel and the respondent or counsel.

(2) If the panel finds that the charges in the formal complaint are not supported by the evidence or do not merit taking disciplinary action, the panel shall make a certified report of the proceedings before it, including its findings of fact and conclusions of law, and shall file the report with the department.

(3) If the panel finds and determines that the respondent is guilty of misconduct, the panel shall submit a certified report of its proceedings, including its recommendation as to findings of fact, conclusions of law, and mitigating and aggravating circumstances for consideration by the board and shall file this report with the department together with a transcript of the testimony taken and the exhibits put into evidence before the panel. The panel may not recommend to the board whether a sanction should or should not be imposed.

(4) A copy of the panel's report must be served upon the Office of General Counsel and the respondent or counsel.

(5) In the event of a tie vote by the panel, the matter must be presented to the board for final decision upon separate reports submitted by each side of the tie vote.

(C) When the panel has filed its report, the department shall notify the respondent or counsel, if any, of the time and place at which the board will consider the report for the purpose of determining its action on the report, the notice must be given not less than thirty days before the meeting. The respondent and the Office of General Counsel have the right to appear before the board and to submit briefs and be heard in oral argument in opposition to or in support of the recommendations of the panel.

(D) Upon consideration of the panel's report and of the showing made to the board, the board may:

(1) refer the matter back to a panel for hearing;

(2) order a further hearing before the board; or

(3) proceed upon the certified report of the prior proceedings before the panel.

(E) Upon its final review, the board either may dismiss the complaint or find that the respondent is guilty of misconduct. If the formal complaint is dismissed, the department shall notify the respondent or counsel, if any, and the Office of General Counsel.

(F) If the board determines that the respondent is guilty of misconduct meriting sanction, the board shall issue a final order, including its findings of fact, conclusions of law, and decision of sanction, and shall file the report with the department, which promptly shall serve the respondent or counsel, if any, and the Office of General Counsel with a copy of the board's final order.

(G) Service of notices conclusively must be presumed thirty days after mailing by first class or certified mail to the respondent to the last address provided to the board by the respondent.

(H) When provision is made for the service of any notice, order, report, or other paper or copy of these upon any person in connection with any proceeding, service may be made upon counsel of record for the person, either personally or by first class or certified mail.

(I) Service of notice upon a respondent who cannot be found at the last known address provided by the respondent may be made by leaving with the director, or his designee, a copy of the notice and any accompanying documents along with proof of attempted service at the last known address. The board may set aside and reopen a proceeding upon satisfactory showing by the respondent of good cause as to why the respondent did not receive service of the notice.

SECTION 40-47-118. Discovery; exchange of information and evidence; depositions; prehearing motions. [SC ST SEC 40-47-118]

(A) Discovery is not permitted in a medical disciplinary proceeding except as provided in this chapter. Within twenty days of an answer being filed, the Office of General Counsel, or its designee, and the respondent or counsel shall exchange the names and addresses of all persons

known to have knowledge of the relevant facts. Except as provided in Section 40-47-190, the name and address of the initial complainant or a confidential informant must not be exchanged unless the person is expected to testify in the proceeding. The Office of General Counsel, or its designee, or the respondent or counsel may withhold information only with permission of the presiding officer, who shall authorize withholding of the information only for good cause shown, taking into consideration the materiality of the information possessed by the witness and the position the witness occupies in relation to the respondent. The presiding officer's review of the withholding request must be en camera, but the party making the request shall advise the opposing party of the request without disclosing the subject of the request. The presiding officer shall set a date for the exchange of the names and addresses of all witnesses the parties intend to call at the hearing.

(B) The Office of General Counsel, or its designee, and respondent or counsel shall exchange:

(1) notwithstanding Section 40-47-190, evidence relevant to the formal charges, documents to be presented at the hearing and statements of witnesses who will be called at the hearing, except evidence privileged pursuant to other state law. For purposes of this item, a witness statement is a written statement signed or otherwise adopted or approved by the person making it or a stenographic, mechanical, electrical, or other recording, or a transcription of any of these, which is a substantially verbatim recital of an oral statement by the person making it and contemporaneously recorded; and

(2) other material only upon good cause shown to the presiding officer of the panel.

(C) Copies of transcripts of testimony taken by a court reporter pursuant to this section may be obtained by the parties from the court reporter at the expense of the requesting party and are not required to be made available to the requesting party by the opposing party unless not otherwise available.

(D) Depositions are only allowed if agreed upon by the Office of General Counsel, or its designee, and the respondent or counsel, or if the presiding officer grants permission to do so based upon a showing of good cause. The presiding officer may place restrictions or conditions on the manner, time, and place of an authorized deposition. Depositions must be completed not later than fifteen days before a scheduled hearing. A deposition request filed less than fifteen days before a scheduled hearing must not be granted absent a showing of exceptional circumstances.

(E) A party may take the deposition de bene esse of a supporting witness who will be unavailable to testify at hearing without order of the presiding officer and as a matter of right under due process of law. Other parties must be notified and afforded the opportunity to participate in the deposition de bene esse upon not less than ten days notice, unless sooner ordered by the presiding officer or agreed to by all participating parties. The admissibility of a deposition de bene esse or portion of the deposition must be determined by the presiding officer or board not less than five days prior to the time it is to be offered into evidence.

(F) Prehearing motions must be made to the presiding officer in writing and must state the grounds for relief and the relief sought. Motions pertaining to the hearing must be filed not later than ten days before the hearing date, unless otherwise ordered by the presiding officer. Any party may file a written response to the motion within five days unless the time is extended or shortened by the presiding officer.

(G) Notwithstanding any other provision of this section, the Office of General Counsel, or its designee, shall provide the respondent with exculpatory evidence relevant to the formal charges.

(H) Both parties have a continuing duty to supplement information required to be exchanged under this section.

(I) If a party fails to disclose timely a witness's name and address, statements by the witness, or other evidence required to be disclosed or exchanged pursuant to this section, the panel or presiding officer may grant a continuance of the hearing, preclude the party from calling the witness or introducing the document, or take other action as may be appropriate. If the Office of General Counsel, or its designee, has not disclosed timely exculpatory material, the panel or presiding officer may require the matter to be disclosed and grant a continuance or take other action as may be appropriate.

(J) Disputes concerning depositions and the disclosure or exchange of information must be determined by the panel or presiding officer. Review of these decisions are not subject to an interlocutory appeal and must be challenged by filing objections to the panel's report within fifteen days from the service of the report. Failure to file objections to the panel report constitutes acceptance of the ruling on the issue.

SECTION 40-47-119. Information to be exchanged before hearing; admissibility; identification of relevant portions of information. [SC ST SEC 40-47-119]

(A) Before the hearing the parties shall exchange:

(1) a final list of witnesses the party reasonably expects to testify at the hearing;

(2) a final list of all exhibits expected to be offered at the hearing, including a written report or summary from each expert witness expected to testify;

(3) a final list of all facts that the party intends to request be judicially noticed and the information supporting the judicial notice of the facts requested.

(B) A witness list or exhibit not exchanged before the hearing may be excluded from admission into evidence. The prehearing exchange may be amended upon motion and for good cause shown, unless the amendment would substantially prejudice any other party in the presentation of its case.

(C)(1) If at least twenty days written notice of the intention to offer the following documents is given to every party, accompanied by a copy of the document, the name of the author or maker of the document or other person who can establish its admissibility in evidence, a party may offer in evidence, without foundation or other proof:

(a) documents including, but not limited to, photographs, maps, drawings, blue prints, weather reports, business records, and communications;

(b) documents prepared by hospitals, doctors, dentists, registered nurses, and other health care providers; bills for drugs and medical appliances; property damages bills or estimates, if itemized, setting forth the charges for labor and materials; and reports of earnings and lost time

No person licensed under this article may advertise or hold himself or herself out to the public as being authorized to practice medicine under this chapter.

SECTION 40-47-800. Licensing fees. [SC ST SEC 40-47-800]

Fees for acupuncturist, auricular therapist, and auricular detoxification specialist licensure must be established and adjusted biennially in accordance with Section 40-1-50(D) to ensure that they are sufficient but not excessive to cover expenses including the total of the direct and indirect costs to the State for the operations of the committee:

- (1) initial licensing fee;
- (2) renewal of license fee;
- (3) late renewal fee;
- (4) reactivation application fee.

SECTION 40-47-810. Third party reimbursement. [SC ST SEC 40-47-810]

Nothing in this article may be construed to require third party reimbursement directly to an acupuncturist, auricular therapist, or auricular detoxification specialist for services rendered.

ARTICLE 7. PHYSICIAN ASSISTANTS

SECTION 40-47-905. Short title. [SC ST SEC 40-47-905]

This article may be cited as the "South Carolina Physician Assistants Practice Act".

SECTION 40-47-910. Definitions. [SC ST SEC 40-47-910]

As used in this article:

- (1) "Alternate physician supervisor" or "alternate supervising physician" means a South Carolina licensed physician currently possessing an active, unrestricted permanent license to practice medicine in South Carolina who accepts the responsibility to supervise a physician assistant's activities in the absence of the supervising physician and this physician is approved by the physician supervisor in writing in the scope of practice guidelines.
- (2) "Board" means the Board of Medical Examiners of South Carolina.
- (3) "Committee" means the Physician Assistant Committee as established by this article as an advisory committee responsible to the board.
- (4) "NCCPA" means the National Commission on Certification of Physician Assistants, Inc., the agency recognized to examine and evaluate the education of physician assistants, or its successor organization as recognized by the board.
- (5) "Physician assistant" means a health care professional licensed to assist in the practice of medicine with a physician supervisor.

(6) "Physician supervisor or supervising physician" means a South Carolina licensed physician currently possessing an active, unrestricted permanent license to practice medicine in South Carolina who is approved to serve as a supervising physician for no more than two physician assistants. The physician supervisor is the individual who is responsible for supervising a physician assistant's activities.

(7) "Supervising" means overseeing the activities of, and accepting responsibility for, the medical services rendered by a physician assistant in a manner approved by the board.

SECTION 40-47-915. Application of article. [SC ST SEC 40-47-915]

This article does not apply to a person:

(1) who is employed as a physician assistant by the United States Government, where such services are provided solely under the direction or control of the United States Government.

(2) pursuing a course of study leading to a degree or certificate to practice as a physician assistant in a program approved by the Commission on Accreditation of Allied Health Education Programs or its successor agency, where such activities and services constitute a part of a supervised course of study; however, the person must be clearly identified by a badge or other adornment with that person's name and the words "Physician Assistant-Student" clearly legible. The badge or adornment must be at least one inch by three inches in size.

SECTION 40-47-920. Authority to employ staff. [SC ST SEC 40-47-920]

The Director of the Department of Labor, Licensing and Regulation may employ additional staff as necessary for the performance of the department's duties under this article.

SECTION 40-47-925. Physician Assistant Committee; membership; term; filling vacancies; meetings; duty to receive and account for monies collected under article. [SC ST SEC 40-47-925]

(A) There is created the Physician Assistant Committee as an advisory committee to the board which consists of nine members to be appointed by the Board of Medical Examiners. Three of the members must be licensed physician assistants with a minimum of three years of patient care experience in this State. Two members must be consumers, and three members must be physicians who are licensed to practice in this State. Of the three physician members, at least one must regularly employ a physician assistant. One member of the Board of Medical Examiners shall serve on the committee ex officio. All organizations, groups, or interested individuals may submit recommendations to the board of at least two individuals for each position to be filled on the committee.

(B) The members shall serve for terms of four years and until their successors are appointed and qualify, except the initial term of two physician assistants, the consumer member, and one physician are for two years. Vacancies must be filled in the manner of the original appointment for the unexpired portion of the term. The board, after notice and opportunity for hearing, may remove any member of the committee for negligence, neglect of duty, incompetence, revocation or suspension of license, or other dishonorable conduct. Members of the committee shall receive mileage, subsistence, and per diem as provided by law for members of state boards,

commissions, and committees for each meeting attended. No member may serve more than two full four-year terms consecutively, but may be eligible for reappointment four years from the date the last full four-year term expired.

(C) The committee shall meet at least two times yearly and at other times as may be necessary. A quorum for all meetings shall consist of five members. At its initial meeting, and at the beginning of each year thereafter, the committee shall elect from its membership a chairman, vice-chairman, and secretary to serve for a term of one year.

(D) The committee shall receive and account for all monies under the provisions of this article and shall pay all monies collected to the board for deposit with the State Treasurer as provided for by law.

SECTION 40-47-930. Powers and duties of committee and board. [SC ST SEC 40-47-930]

(A) The committee shall evaluate the qualifications and supervise the examinations of applicants for licensure and make recommendations to the board.

(B) The board may issue subpoenas, examine witnesses, and administer oaths and may investigate allegations of practices violating the provisions of this article.

(C) The committee:

(1) may recommend regulations to the board relating to professional conduct to carry out the provisions of this article including, but not limited to, professional certification and the establishment of ethical standards of practice for persons holding a license to practice as physician assistants in this State;

(2) shall conduct hearings and keep records and minutes necessary to carry out its functions;

(3) shall provide notice of all hearings authorized under this article pursuant to the Administrative Procedures Act;

(4) shall determine the qualifications and make recommendations regarding the issuance of licenses to qualified physician assistants;

(5) shall recommend to the board whether to issue or renew licenses under those conditions prescribed in this article;

(6) may recommend requirements to the board for continuing professional education of physician assistants to the board;

(7) shall keep a record of its proceedings and a register of all licensees, including their names and last known places of employment and residence. The board shall annually compile and make available a list of physician assistants authorized to practice in this State. An interested person may obtain a copy of this list upon application to the board and payment of an amount sufficient to cover the cost of printing and mailing;

(8) shall report annually to the board on duties performed, actions taken, and recommendations;

(9) shall hear disciplinary cases and recommend findings of fact, conclusions of law, and sanctions to the board. The board shall conduct a final hearing at which it shall make a final decision;

(10) shall perform such duties and tasks as may be delegated to the committee by the board.

SECTION 40-47-935. Act and duties physician assistant authorized to perform; agency relationship to supervising physician. [SC ST SEC 40-47-935]

Physician assistants may perform:

(1) medical acts, tasks, or functions with written scope of practice guidelines under physician supervision;

(2) those duties and responsibilities, including the prescribing and dispensing of drugs and medical devices, that are lawfully delegated by their supervising physicians. However, only physician assistants holding a permanent license may prescribe drug therapy as provided in this article.

A physician assistant is an agent of his or her supervising physician in the performance of all practice related activities including, but not limited to, the ordering of diagnostic, therapeutic, and other medical services.

SECTION 40-47-940. Application for license; appearance before committee; temporary and permanent licenses. [SC ST SEC 40-47-940]

(A) An application must be submitted to the board on forms supplied by the board. The application must be complete in every detail before it may be approved and must be accompanied by a nonrefundable fee. As part of the application process, the supervising physician and physician assistant must specify clearly in detail those medical acts, tasks, or functions for which approval is being sought. The specific medical acts, tasks, or functions must be included in the scope of practice guidelines, and the scope of practice guidelines must accompany the application.

(B) When a board member or board designee or the administrative staff of the board has reviewed the entire application for completeness and correctness and has determined the eligibility or appropriateness of the application a temporary authorization may be issued immediately. At the next board meeting the application may be recommended for approval for a permanent license or other authorization consistent with this article. If a temporary authorization is not considered appropriate, the application must be reviewed by the committee and may be recommended to the board for approval as presented to or modified by the committee.

SECTION 40-47-945. Conditions for granting permanent license. [SC ST SEC 40-47-945]

(A) Except as otherwise provided in this article, an individual shall obtain a permanent license from the board before the individual may practice as a physician assistant. The board shall grant a permanent license as a physician assistant to an applicant who has:

(1) submitted a completed application on forms provided by the board;

- (2) paid the nonrefundable application fees established in this article;
- (3) successfully completed an educational program for physician assistants approved by the Accreditation Review Commission on Education for the Physician Assistant or its predecessor or successor organization;
- (4) successfully completed the NCCPA certifying examination and provide documentation that the applicant possesses a current, active, NCCPA certificate;
- (5) certified that the applicant is mentally and physically able to engage safely in practice as a physician assistant;
- (6) no licensure, certificate, or registration as a physician assistant under current discipline, revocation, suspension, probation, or investigation for cause resulting from the applicant's practice as a physician assistant;
- (7) good moral character;
- (8) submitted to the board other information the board considers necessary to evaluate the applicant's qualifications;
- (9) appeared before a board member or board designee with the applicant's supervising physician and all original diplomas and certificates and demonstrated knowledge of the contents of this article. A temporary authorization to practice may be issued as provided in Section 40-47-940 pending completion of this requirement and subject to satisfactory interview as provided below; and
- (10) successfully completed an examination administered by the committee on the statutes and regulations regarding physician assistant practice and supervision.

(B) Not later than ninety days from the date a temporary authorization is issued, each applicant shall appear before a board member or board designee with the applicant's supervising physician and scope of practice guidelines and demonstrate knowledge of the contents of this article. Failure to appear within the prescribed time automatically results in the immediate invalidation of the authorization to practice pending compliance and further order of the board. If approved, a permanent license may be issued immediately. If not approved, the application must be reviewed by the committee and may be recommended to the board for approval as presented to or modified by the committee.

(C) The supervising physician of a limited licensee physically must be present on the premises at all times when the limited licensee is performing a task. No on-the-job training or task not listed on the application may be approved for a limited license holder.

SECTION 40-47-950. Limited physician assistant license; conditions for issuance; duration; responsibilities of supervising physician. [SC ST SEC 40-47-950]

(A) The board may issue a limited physician assistant license to an applicant who has:

- (1) submitted a completed application on forms provided by the board;

- (2) paid the nonrefundable application fees established by this regulation;
 - (3) successfully completed an educational program for physician assistants approved by the Accreditation Review Commission on Education for the Physician Assistant or its predecessor or successor organization;
 - (4) never previously failed two consecutive NCCPA certifying examinations and has registered for, or intends to register to take the next offering of, the NCCPA examination;
 - (5) certified that the applicant mentally and physically is able to engage safely in practice as a physician assistant;
 - (6) no licensure, certificate, or registration as a physician assistant under current discipline, revocation, suspension, probation, or investigation for cause resulting from the applicant's practice as a physician assistant;
 - (7) good moral character;
 - (8) submitted to the board any other information the board considers necessary to evaluate the applicant's qualifications;
 - (9) appeared before a board member or board designee with the applicant's supervising physician and all original diplomas and certificates and demonstrated knowledge of the contents of this article; and
 - (10) successfully completed an examination administered by the committee on the statutes and regulations regarding physician assistant practice and supervision.
- (B) A limited license is not renewable and is valid only until the results of a limited licensee's two consecutive NCCPA certifying examinations are reported to the board. When a limited licensee has failed two consecutive NCCPA certifying examinations, or fails one exam and does not take the NCCPA certifying examination at the next opportunity or, after applying for a limited license, fails to register for the next offering of the examination, the limited license immediately is void and the applicant is no longer eligible to apply for further limited licensure.
- (C) The supervising physician of a limited licensee physically must be present on the premises at all times when the limited licensee is performing a task. No on-the-job training, or task not listed on the application, may be approved for a limited license holder.

SECTION 40-47-955. Scope of physician assistant's practice; physical presence requirements of supervising physician; practices in separate locations; granting of exceptions. [SC ST SEC 40-47-955]

(A) The supervising physician is responsible for all aspects of the physician assistant's practice. Supervision must be continuous but must not be construed as necessarily requiring the physical presence of the supervising physician at the time and place where the services are rendered, except as otherwise required for limited licensees. The supervising physician shall identify the physician assistant's scope of practice and determine the delegation of medical acts, tasks, or functions. Medical acts, tasks, or functions must be defined in approved written guidelines which must be appropriate to the physician assistant's ability and knowledge.

(B) In an on-site practice setting, the supervising physician or alternate supervising physician physically must be present at the same location as the physician assistant at least seventy-five percent of the time each month the physician assistant is providing services at the same location as the supervising physician or alternate supervising physician. The physician assistant may not provide services in the absence of the supervising physician or alternate supervising physician for more than seven consecutive days each month without the prior written approval of the board. The board may grant in writing exceptions to the seventy-five percent direct supervision requirement provided for in this subsection.

(C) For off-site practice, a physician assistant must have six months of clinical experience with the current supervising physician before being permitted to practice at a location off site from the supervising physician, except that a physician assistant who has at least two years continuous practice in South Carolina in the same specialty will be permitted to practice at a location off site from the supervising physician after three months clinical experience with the supervising physician and upon request of the supervising physician. This three-month requirement may be waived for experienced physician assistants and supervisors upon recommendation of the committee and approval by the board. The off-site location may not be more than forty-five miles or sixty minutes travel time from the supervising physician or alternate supervising physician without written approval of the board. The supervising physician or alternate supervising physician must be physically present at the off-site location not less than twenty percent of the time each month the physician assistant is providing services there. Notice of off-site practice must be filed with the administrative staff of the board before off-site practice may be authorized. The supervising physician or alternate must review, initial, and date the off-site physician assistant's charts not later than five working days from the date of service if not sooner as proportionate to the acuity of care and practice setting.

(D) A supervising physician may not supervise more than two physician assistants.

(E) Upon written request, and recommendation of the committee, the board may authorize exceptions to the requirements of this section.

SECTION 40-47-960. Scope of practice guidelines; signature and filing requirements; contents.
[SC ST SEC 40-47-960]

A physician assistant practicing at all sites shall practice pursuant to written scope of practice guidelines signed by all supervisory physicians and the physician assistant. Copies of the guidelines must be on file at all practice sites. The guidelines shall include at a minimum the:

- (1) name, license number, and practice addresses of all supervising physicians;
- (2) name and practice address of the physician assistant;
- (3) date the guidelines were developed and dates they were reviewed and amended;
- (4) medical conditions for which therapies may be initiated, continued, or modified;
- (5) treatments that may be initiated, continued, or modified;
- (6) drug therapy, if any, that may be prescribed with drug-specific classifications; and

(7) situations that require direct evaluation by or immediate referral to the physician.

SECTION 40-47-965. Requirements for writing prescriptions for drugs, controlled substances, and medical devices. [SC ST SEC 40-47-965]

(A) If the written scope of practice guidelines authorizes the physician's assistant to prescribe drug therapy:

(1) prescriptions for authorized drugs and devices shall comply with all applicable state and federal laws;

(2) prescriptions must be limited to drugs and devices authorized by the supervising physician and set forth in the written scope of practice guidelines;

(3) prescriptions must be signed by the physician assistant and must bear the physician assistant's identification number as assigned by the board and all prescribing numbers required by law. The preprinted prescription form shall include both the physician assistant's and physician's name, address, and phone number and shall comply with the provisions of Section 39-24-40;

(4) drugs or devices prescribed must be specifically documented in the patient record;

(5) the physician assistant may request, receive, and sign for professional samples of drugs authorized in the written scope of practice guidelines, except for controlled substances in Schedule II, and may distribute professional samples to patients in compliance with appropriate federal and state regulations and the written scope of practice guidelines.

(B) When applying for controlled substance prescriptive authority, the applicant shall comply with the following requirements:

(1) the physician assistant shall provide evidence of completion of sixty contact hours of education in pharmacotherapeutics acceptable to the board before application;

(2) the physician assistant shall provide at least fifteen contact hours of education in controlled substances acceptable to the board;

(3) every two years, the physician assistant shall provide documentation of four continuing education contact hours in prescribing controlled substances acceptable to the board; and

(4) the physician assistant and supervising physician must read and sign a document approved by the board describing the management of expanded controlled substances prescriptive authority for physician assistants in South Carolina which must be kept on file for review. Within the two-year period, the physician assistant and the supervising physician periodically shall review this document and the physician assistant's prescribing practices to ensure proper prescribing procedures are followed. This review must be documented in writing with a copy kept at each practice site.

(C) A physician assistant's prescriptive authorization may be terminated by the board if the physician assistant:

- (1) practices outside the written scope of practice guidelines;
- (2) violates any state or federal law or regulation applicable to prescriptions; or
- (3) violates a state or federal law applicable to physician assistants.

SECTION 40-47-970. Limitations on permissible medical act, task or function physician assistant may perform. [SC ST SEC 40-47-970]

A physician assistant may not:

- (1) perform a medical act, task, or function which has not been listed and approved on the scope of practice guidelines;
- (2) prescribe drugs, medications, or devices not specifically authorized by the supervising physician and documented in the written scope of practice guidelines;
- (3) prescribe, under any circumstances, controlled substances in Schedule II;
- (4) perform a medical act, task, or function that is outside the usual practice of the supervising physician.

SECTION 40-47-975. On-the-job training requests. [SC ST SEC 40-47-975]

A physician who has supervised a licensed physician assistant for a period of at least six months, or a physician assistant who has been licensed for at least one year, may request on-the-job training for the physician assistant. A request for on-the-job training must be submitted to the board in writing and shall describe in detail the additional training and additional tasks involved.

SECTION 40-47-980. Treatment of patients in chronic care and long-term care facilities. [SC ST SEC 40-47-980]

In the treatment of patients in chronic care and long-term care facilities including, but not limited to, nursing homes or chronic dialysis units, the supervising physician must conduct the initial patient visit. Thereafter, the physician supervisor or alternate physician supervisor must see the patient every six months for routine evaluation.

SECTION 40-47-985. Inspection of office or facility employing physician assistant. [SC ST SEC 40-47-985]

The board or a person designated by the board may make unscheduled inspections of any office or facility employing a physician assistant.

SECTION 40-47-990. Identification as physician assistant; badge size and content. [SC ST SEC 40-47-990]

A physician assistant must clearly identify himself or herself as a physician assistant to ensure that the physician assistant is not mistaken or misrepresented as a physician. A physician assistant shall wear a clearly legible identification badge or other adornment at least one inch by

three inches in size bearing the physician assistant's name and the words "Physician Assistant".

SECTION 40-47-995. Termination of supervisory relationship; notice to board. [SC ST SEC 40-47-995]

If the supervisory relationship between a physician assistant and the supervising physician is terminated for any reason, the physician assistant and the supervising physician shall inform the board immediately in writing of the termination, including the reasons for the termination. The approval of the practice setting terminates coterminous with the termination of the relationship, and practice shall cease until a new application is submitted by a supervising physician and is approved by the board.

SECTION 40-47-1000. Unlicensed person holding himself out as physician assistant; penalty; investigation; desist and refrain order; injunction; privileged communications; due process rights of respondent protected. [SC ST SEC 40-47-1000]

(A) It is unlawful for a person who is not licensed under this article to hold himself out as a physician assistant. A person who holds himself out as a physician assistant without being licensed under this article, during a period of suspension, or after his license has been revoked by the board is guilty of a misdemeanor and, upon conviction, must be fined not more than three hundred dollars or imprisoned for not more than ninety days, or both.

(B) For the purpose of any investigation or proceeding under the provisions of this article, the board or a person designated by the board may administer oaths and affirmations, subpoena witnesses, take testimony, and require the production of any documents or records which the board considers relevant to the inquiry.

(C) If the board has sufficient evidence that a person is violating a provision of this article, the board, in addition to all other remedies, may order the person to immediately desist and refrain from this conduct. The board may apply to an administrative law judge as provided under Article 5 of Chapter 23 of Title 1 for an injunction restraining the person from this conduct. An administrative law judge may issue a temporary injunction ex parte and upon notice and full hearing may issue any other order in the matter it considers proper. No bond may be required of the board by an administrative law judge as a condition to the issuance of any injunction or order contemplated by the provisions of this section.

(D) Investigations and disciplinary proceedings under this article must be conducted in accordance with the provisions of Article 1.

(E) No provision of this article may be construed as prohibiting the respondent or his legal counsel from exercising the respondent's constitutional right of due process under the law or prohibiting the respondent from normal access to the charges and evidence filed against him as a part of due process under the law.

SECTION 40-47-1005. Misconduct mandating revocation or denial of license. [SC ST SEC 40-47-1005]

Misconduct constituting grounds for revocation, suspension, probation, reprimand, restrictions, or denial of a license must be found when a physician assistant:

- (1) has knowingly allowed himself or herself to be misrepresented as a physician;
- (2) has filed or has had filed on his or her behalf with the board any false, fraudulent, or forged statement or documents;
- (3) has performed any work assignment, task, or other activity which is not on the physician assistant scope of practice guidelines;
- (4) misuses alcohol or drugs to such a degree to render him or her unfit to practice as a physician assistant;
- (5) has been convicted of a felony or a crime involving moral turpitude or drugs;
- (6) has sustained any physical or mental disability which renders further practice dangerous to the public;
- (7) has engaged in any dishonorable or unethical conduct that is likely to deceive or harm patients;
- (8) has used or made any false or fraudulent statement in any document connected with practice or licensure as a physician assistant;
- (9) has obtained or assisted another person in obtaining fees under dishonorable, false, or fraudulent circumstances;
- (10) has violated or conspired with another person to violate any provision of this article; or
- (11) otherwise demonstrates a lack of the ethical or professional competence required to act as a physician assistant.

SECTION 40-47-1010. Renewal of license. [SC ST SEC 40-47-1010]

A license issued pursuant to this chapter may be renewed biennially or as otherwise provided by the board and department. A person who has not demonstrated continuing education, as required by this article, is not eligible for issuance or renewal of an authorization to practice.

SECTION 40-47-1015. Fees for licensure. [SC ST SEC 40-47-1015]

(A) Fees for physician assistant licensure are established as follows:

- (1) initial licensing fee, not to exceed five hundred dollars;
- (2) renewal of license fee, not to exceed one hundred and fifty dollars;
- (3) late renewal fee, not to exceed the renewal fee doubled;
- (4) reactivation application fee, not to exceed two hundred dollars;
- (5) change in supervisor fee, not to exceed one hundred and fifty dollars;

(6) additional primary supervisor for dual employment fee, not to exceed one hundred and fifty dollars.

(B) Fees may be adjusted biennially pursuant to Section 40-1-50 to ensure that they are sufficient but not excessive to cover expenses including the total of the direct and indirect costs to the State for the operations of the committee.

SECTION 40-47-1020. Third party reimbursement to physician assistant. [SC ST SEC 40-47-1020]

Nothing in this article may be construed to require third party reimbursement directly to a physician assistant for services rendered.

ARTICLE 9. ANESTHESIOLOGIST'S ASSISTANTS

SECTION 40-47-1205. Short title. [SC ST SEC 40-47-1205]

This article may be cited as the "South Carolina Anesthesiologist's Assistants Practice Act".

SECTION 40-47-1210. Definitions. [SC ST SEC 40-47-1210]

As used in this article:

(1) "Anesthesiologist" means a physician who has successfully completed an approved anesthesiology training program including, but not limited to, a program approved by the Accreditation Committee on Graduate Medical Education, American Osteopathic Association, or its equivalent or successor.

(2) "Anesthesiologist's assistant" means an allied health graduate of an accredited anesthesiologist's assistant program who is currently certified by the National Commission for Certification of Anesthesiologist's Assistants and who works under the direct supervision of an anesthesiologist who is immediately available in the operating suite and is physically present during the most demanding portions of the anesthetic including, but not limited to, induction and emergence.

(3) "Board" means the Board of Medical Examiners of South Carolina.

(4) "Committee" means the Anesthesiologist's Assistant Committee as established by this article as an advisory committee responsible to the board.

(5) "NCCAA" means the National Commission on Certification of Anesthesiologist's Assistants, Inc., the agency recognized to examine and evaluate the education of anesthesiologist's assistants, or its successor organization as recognized by the board.

(6) "Sponsoring anesthesiologist" means the physician specialist in anesthesiology who signs the anesthesiologist's assistant's application for licensure. The sponsoring anesthesiologist must be a South Carolina licensed physician currently possessing an active, unrestricted license to practice medicine in this State who practices in the medical specialty of anesthesiology, approved by the Accreditation Committee on Graduate Medical Education, or its equivalent or successor. The sponsoring anesthesiologist also may be the supervising anesthesiologist.

(7) "Supervising anesthesiologist" means a South Carolina licensed physician currently possessing an active, unrestricted license to practice medicine in South Carolina who practices in the medical specialty of anesthesiology and has successfully completed a residency in anesthesiology, approved by the Accreditation Committee on Graduate Medical Education, American Osteopathic Association, or its equivalent or successor.

(8) "Supervision" means medically directing and accepting responsibility for the anesthesia services rendered by an anesthesiologist's assistant in a manner approved by the board. The supervising anesthesiologist must be in the hospital and in the anesthetizing or operative area such that he can be immediately available to participate directly in the care of the patient with whom the anesthesiologist's assistant and the anesthesiologist are jointly involved.

SECTION 40-47-1215. Application of this article. [SC ST SEC 40-47-1215]

This article does not apply to a person who is employed as an anesthesiologist's assistant by the United States Government, where such services are provided solely under the direction or control of the United States Government.

SECTION 40-47-1220. Department of Labor staff. [SC ST SEC 40-47-1220]

The Director of the Department of Labor, Licensing and Regulation may employ additional staff as necessary for the performance of the department's duties under this article.

SECTION 40-47-1225. Anesthesiologist's Assistant Committee. [SC ST SEC 40-47-1225]

(A) There is created the Anesthesiologist's Assistant Committee as an advisory committee to the Board of Medical Examiners which consists of nine members to be appointed by the board. Three of the members must be licensed anesthesiologist's assistants with a minimum of three years of patient care experience. Two members must be consumers and three members must be physicians who are licensed to practice in this State. Of the three physician members, at least one must regularly employ an anesthesiologist's assistant. One member of the Board of Medical Examiners shall serve on the committee ex officio, with full rights to participate and vote. All organizations, groups, or interested individuals may submit recommendations to the board of at least two individuals for each position to be filled on the committee.

(B) The members shall serve for terms of four years and until their successors are appointed and qualify, except the initial term of two anesthesiologist's assistants, the consumer member, and one physician are for two years. Vacancies must be filled in the manner of the original appointment for the unexpired portion of the term. The board, after notice and opportunity for hearing, may remove any member of the committee for negligence, neglect of duty, incompetence, revocation or suspension of license, or other dishonorable conduct. Members of the committee shall receive mileage, subsistence, and per diem as provided by law for members of state boards, commissions, and committees for each meeting attended. No member may serve more than two full four-year terms consecutively but may be eligible for reappointment four years from the date the last full four-year term expired.

(C) The committee shall meet at least two times yearly and at other times as may be necessary. A majority of the members currently serving, not less than two of whom must be physician members, constitutes a quorum. At its initial meeting, and at the beginning of each year

thereafter, the committee shall elect from its membership a chairman, vice-chairman, and secretary to serve for a term of one year.

SECTION 40-47-1230. Duties of Anesthesiologist's Assistant Committee. [SC ST SEC 40-47-1230]

(A) The committee shall evaluate the qualifications for licensure and make recommendations to the board.

(B) The committee:

(1) may recommend regulations to the board relating to professional conduct to carry out the provisions of this article including, but not limited to, professional certification and the establishment of ethical standards of practice for persons holding a license to practice as an anesthesiologist's assistant in this State;

(2) shall conduct hearings and keep records and minutes necessary to carry out its functions;

(3) shall provide notice of all hearings authorized under this article pursuant to the Administrative Procedures Act;

(4) shall determine the additional qualifications and make recommendations regarding the issuance of licenses to qualified anesthesiologist's assistants; however, these recommendations may not be less stringent than the requirements for national licensure;

(5) shall recommend to the board whether to issue or renew licenses under those conditions prescribed in this article;

(6) may recommend requirements to the board for continuing professional education of anesthesiologist's assistants;

(7) shall keep a record of its proceedings and a register of all licensees, including names and last known places of employment and residence. The board shall annually compile and make available a list of anesthesiologist's assistants authorized to practice in this State. An interested person may obtain a copy of this list upon application to the board and payment of an amount sufficient to cover the cost of printing and mailing;

(8) shall report annually to the board on duties performed, actions taken, and recommendations;

(9) shall hear disciplinary cases and recommend findings of fact, conclusions of law, and sanctions to the board. The board shall conduct a final order hearing at which it shall make a final decision;

(10) shall perform such duties and tasks as may be delegated to the committee by the board.

SECTION 40-47-1235. Functions and duties of anesthesiologist's assistants. [SC ST SEC 40-47-1235]

Anesthesiologist's assistants may perform medical tasks and services within the framework of a written practice protocol developed for the anesthesiologist's assistant. Within this practice

protocol the anesthesiologist's assistant, under the direction of the anesthesiologist may engage in these functions and duties:

- (1) obtaining relevant preoperative health history by record or chart review and by direct contact with the patient in the preoperative period;
- (2) presenting preoperative health information to the supervising anesthesiologist for the collaborative formulation of an anesthetic plan;
- (3) performing initial acute cardio-pulmonary resuscitation in life-threatening situations as directed by a physician;
- (4) initiating medically directed multi-parameter monitoring before anesthesia and in other acute care settings. Modalities that may be used include, but are not limited to, American Society of Anesthesiologists Standard Monitors, arterial and venous catheters, or any other current medically accepted modality. The anesthesiologist's assistant may obtain data from monitors or devices that are indicated and may initiate medically directed therapy. The anesthesiologist's assistant may administer drugs used in anesthetic practice by written protocol or as directed by the supervising anesthesiologist;
- (5) using current advanced treatment modalities to effect the prescribed anesthetic plan during the procedure. These advanced treatment modalities may include, but are not limited to, basic and advanced airway interventions, including intubation of the trachea; administering intermittent vasoactive drugs, starting and adjusting vasoactive infusions, administering anesthetic, adjuvant, and accessory drugs; administering blood and blood products; and any other treatment modalities prescribed by the medically directing anesthesiologist and within the training and expertise of the anesthesiologist's assistant;
- (6) supporting the patient upon emergence and recovery from an anesthetic by airway intervention or ventilatory support and administering any supportive medication and fluids;
- (7) participating in administrative, educational, and research activities as appropriate.

An anesthesiologist's assistant may not present himself or herself as an anesthesiologist, any other type of physician, or a nurse anesthetist. The required nomenclature is: "Anesthesiologist's Assistant".

SECTION 40-47-1240. Licensure of anesthesiologist's assistants. [SC ST SEC 40-47-1240]

Except as otherwise provided in this article, an individual must obtain a license in accordance with this article before the individual may practice as an anesthesiologist's assistant. The board shall grant a license as an anesthesiologist's assistant to an applicant who has:

- (1) submitted a completed application on forms provided by the board;
- (2) paid the nonrefundable application fees established in this article;
- (3) certified that he or she is mentally and physically able to engage safely in practice as an anesthesiologist's assistant;

(4) submitted evidence to the board that the applicant has obtained a baccalaureate or higher degree from an institution of higher education accredited by an organization recognized by the Commission on Higher Education. This degree program must have included courses in these areas of study:

- (a) general biology;
- (b) general chemistry;
- (c) organic chemistry;
- (d) physics;
- (e) calculus; and

(5) submitted evidence to the board that the applicant has obtained a graduate-level degree from a program accredited by the Commission on Accreditation of Allied Health Education Programs, or any of the commission's successor organizations, and the graduate degree program must have included the following:

(a) courses in the basic sciences of anesthesia, including general pharmacology, physiology, pathophysiology, anatomy, and biochemistry, and these courses must be presented as a continuum of didactic courses designed to teach students the foundations of human biological existence on which clinical correlations to anesthesia practice are based;

(b) pharmacology for the anesthetic sciences which must include instruction in the anesthetic principles of pharmacology, pharmacodynamics, pharmacokinetics, uptake and distribution, intravenous anesthetics and narcotics, and volatile anesthetics;

(c) physics in anesthesia; and

(d) fundamentals of anesthetic sciences, presented as a continuum of courses covering a series of topics in basic medical sciences with special emphasis on the effects of anesthetics on normal physiology and pathophysiology;

(6) submitted evidence satisfactory to the board that the applicant holds current certification from the National Commission for Certification of Anesthesiologist's Assistants and that the requirements for receiving the certification included passage of an examination to determine the individual's competence to practice as an anesthesiologist's assistant;

(7) no licensure, certificate, or registration as an anesthesiologist's assistant under current discipline, revocation, suspension, probation, or investigation for cause resulting from the applicant's practice as an anesthesiologist's assistant in any jurisdiction;

(8) appeared before a board member or board designee with his or her sponsoring anesthesiologist, presenting all original diplomas and certificates and demonstrated knowledge of the contents of this article; and

(9) submitted to the board any other information the board considers necessary to evaluate the applicant's qualifications.

SECTION 40-47-1245. Sponsoring anesthesiologist; protocol delineating services provided by anesthesiologist's assistant. [SC ST SEC 40-47-1245]

An anesthesiologist who agrees to act as the sponsoring anesthesiologist of an anesthesiologist's assistant shall adopt a written practice protocol that delineates the service that the anesthesiologist's assistant is authorized to provide and the manner in which the anesthesiologist will supervise the anesthesiologist's assistant. The anesthesiologist shall base the provisions of the protocol on consideration of relevant quality assurance standards, including being present at the most important times of the case and timely review of the patient's anesthesia record at appropriate times during the course of the anesthetic procedure. The protocol must be reviewed by the anesthesiologist at least once a year.

SECTION 40-47-1250. Supervision of anesthesiologist's assistants. [SC ST SEC 40-47-1250]

An anesthesiologist's assistant shall practice only under the supervision of a physician who is actively and directly engaged in the clinical practice of medicine and meets the definition of being a supervising anesthesiologist. An anesthesiologist may not supervise more than two anesthesiologist's assistants at any one time.

SECTION 40-47-1255. Anesthesiologist's assistants to practice pursuant to written protocol. [SC ST SEC 40-47-1255]

An anesthesiologist's assistant practicing at all sites shall practice pursuant to written scope of practice protocols signed by all supervising anesthesiologists and the anesthesiologist's assistant. Copies of the protocols must be on file at all practice sites. The protocols shall include at a minimum the:

- (1) name, license number, and practice addresses of the sponsoring anesthesiologist;
- (2) name and practice address of the anesthesiologist's assistant;
- (3) date the protocol was developed and dates it was reviewed or amended;
- (4) situations that require direct evaluation by or immediate referral to the anesthesiologist.

SECTION 40-47-1260. Limitations on practice of anesthesiologist's assistants. [SC ST SEC 40-47-1260]

An anesthesiologist's assistant may not:

- (1) perform a task which has not been listed and approved on the scope of the practice protocol currently on file with the board;
- (2) prescribe drugs, medications, or devices of any kind.

SECTION 40-47-1265. Inspections. [SC ST SEC 40-47-1265]

The board or a person designated by the board may make unscheduled inspections of any office or facility employing an anesthesiologist's assistant.

SECTION 40-47-1270. Identification of anesthesiologist's assistants. [SC ST SEC 40-47-1270]

An anesthesiologist's assistant must clearly identify himself or herself as an anesthesiologist's assistant to ensure that the anesthesiologist's assistant is not mistaken or misrepresented as a physician. An anesthesiologist's assistant shall wear a clearly legible identification badge or other adornment at least one inch by three inches in size bearing the anesthesiologist's assistant's name and the words "Anesthesiologist's Assistant". Patients in facilities utilizing anesthesiologist's assistants must be informed when an anesthesiologist's assistant will be involved in their anesthesia care.

SECTION 40-47-1275. Termination of sponsoring relationship between anesthesiologist and assistant. [SC ST SEC 40-47-1275]

If the sponsoring relationship between an anesthesiologist's assistant and the sponsoring anesthesiologist is terminated for any reason, both the anesthesiologist's assistant and the sponsoring anesthesiologist shall inform the board immediately in writing of the termination, including the reasons for the termination. The approval of the practice setting terminates coterminous with the termination of the relationship, and practice shall cease until a new application is submitted by a sponsoring anesthesiologist and is approved by the board.

SECTION 40-47-1280. Violations of this article. [SC ST SEC 40-47-1280]

(A) It is unlawful for a person who is not licensed under this article to hold himself out as an anesthesiologist's assistant. A person who holds himself out as an anesthesiologist's assistant without being licensed under this article, during a period of suspension, or after his license has been revoked by the board is guilty of a misdemeanor and, upon conviction, must be fined not more than three hundred dollars or imprisoned for not more than ninety days, or both.

(B) For the purpose of any investigation or proceeding under this article, the board or a person designated by the board may administer oaths and affirmations, subpoena witnesses, take testimony, and require the production of any documents or records which the board considers relevant to the inquiry.

(C) If the board has sufficient evidence that a person is violating a provision of this article, the board, in addition to all other remedies, may order the person to immediately desist and refrain from this conduct. The board may apply to an administrative law judge as provided under Article 5 of Chapter 23 of Title 1 for an injunction restraining the person from this conduct. An administrative law judge may issue a temporary injunction ex parte and upon notice and full hearing may issue any other order in the matter it considers proper. No bond may be required of the board by an administrative law judge as a condition to the issuance of any injunction or order contemplated by the provisions of this section.

(D) No provision of this article may be construed as prohibiting the respondent or his legal counsel from exercising the respondent's constitutional right of due process under the law or prohibiting the respondent from normal access to the charges and evidence filed against him as a part of due process under the law.

SECTION 40-47-1285. Grounds for disciplinary action. [SC ST SEC 40-47-1285]

Misconduct constituting grounds for revocation, suspension, probation, reprimand, restrictions, or denial of a license must be found when an anesthesiologist's assistant:

- (1) has knowingly allowed himself or herself to be misrepresented as a physician;
- (2) has filed or has had filed on his or her behalf with the board any false, fraudulent, or forged statement or documents;
- (3) has performed any work assignment, task, or other activity which is not on the anesthesiologist's assistant's written practice protocol;
- (4) misuses alcohol or drugs to such a degree to render him or her unfit to practice as an anesthesiologist's assistant;
- (5) has been convicted of a felony or a crime involving moral turpitude or drugs;
- (6) has sustained any physical or mental disability which renders further practice dangerous to the public;
- (7) has engaged in any dishonorable or unethical conduct that is likely to deceive or harm patients;
- (8) has used or made any false or fraudulent statement in any document connected with practice or licensure as an anesthesiologist's assistant;
- (9) has obtained or assisted another person in obtaining fees under dishonorable, false, or fraudulent circumstances;
- (10) has violated or conspired with another person to violate any provision of this article; or
- (11) otherwise demonstrates a competence required to act as an anesthesiologist's assistant.

SECTION 40-47-1290. License renewal. [SC ST SEC 40-47-1290]

An anesthesiologist's assistant's license must be renewed on or before the first of January of each licensure period. Upon payment of the nonrefundable renewal fee provided for in Section 40-47-1295 and submission of documentation that the anesthesiologist's assistant certificate issued by the National Commission for Certification of Anesthesiologist's Assistants, or its successor, is active and current, the board shall renew the anesthesiologist's assistant's license.

SECTION 40-47-1295. Maximum fees. [SC ST SEC 40-47-1295]

(A) Fees for anesthesiologist's assistant licensure are established as follows:

- (1) initial licensing fee, not to exceed one thousand dollars;
- (2) renewal of license fee, not to exceed three hundred dollars;
- (3) late renewal fee, not to exceed the renewal fee doubled;

(4) reactivation application fee, not to exceed three hundred dollars;

(5) change in supervisor sponsor fee, not to exceed three hundred dollars.

(B) Fees may be adjusted biennially in accordance with Section 40-1-50 to ensure that they are sufficient but not excessive to cover expenses including the total of the direct and indirect costs to the State for the operations of the committee.

SECTION 40-47-1300. Third party reimbursement. [SC ST SEC 40-47-1300]

Nothing in this article may be construed to require third party reimbursement directly to an anesthesiologist's assistant for services rendered.

ARTICLE 10. REGISTERED CARDIOVASCULAR INVASIVE SPECIALISTS

SECTION 40-47-1510. Citation of article. [SC ST SEC 40-47-1510]

This article may be cited as the "South Carolina Registered Cardiovascular Invasive Specialist Act".

SECTION 40-47-1520. Definitions. [SC ST SEC 40-47-1520]

As used in this article:

(1) "Cardiologist" means a physician who has successfully completed an approved cardiology training program including, but not limited to, a program approved by the Accreditation Committee on Graduate Medical Education, or its equivalent or successor.

(2) "Cardiovascular Invasive Specialist" means a cardiovascular invasive specialist who is currently registered by Cardiovascular Credentialing International, has graduated from an accredited program of Cardiovascular Invasive Technology and who working under the direct supervision of a cardiologist performs procedures on patients resulting in accurate diagnosis and/or optimal treatment of congenital or acquired heart disease.

(3) "Supervising cardiologist" means a South Carolina licensed physician currently possessing an active, unrestricted license to practice medicine in South Carolina who practices in the medical specialty of cardiology and has successfully completed a residency in cardiology, approved by the Accreditation Committee on Graduate Medical Education, or its equivalent or successor.

(4) "Supervision" means medically directing and accepting responsibility for the cardiac services rendered by a registered cardiovascular invasive specialist in a manner provided for in law and the adopted protocol of the licensed facility. The supervising cardiologist must be in the facility and in the operative area such that he can be immediately available to participate directly in the care of the patient with whom the invasive cardiovascular specialist and the cardiologist are jointly involved.

SECTION 40-47-1530. Registration requirement. [SC ST SEC 40-47-1530]

A person may not wilfully practice or offer to practice as a cardiovascular invasive specialist

unless that person is registered by the department. A person who uses the title cardiovascular specialist in any advertisement, business card or letterhead, or billing document or who makes another verbal or written communication indicating that the person is a cardiovascular specialist or who acquiesces in that representation violates this section.

SECTION 40-47-1540. Application for registration. [SC ST SEC 40-47-1540]

To be registered by the department as a cardiovascular invasive specialist, a person must:

- (1) apply in writing to the department on a form available from the department;
- (2) successfully complete an approved cardiology training program including, but not limited to, a program approved by the Accreditation Committee of Graduate Medical Education, or its equivalent or successor approved by the South Carolina Board of Medical Examiners;
- (3) provide satisfactory evidence of current registration with Cardiovascular Credentialing International;
- (4) provide satisfactory evidence that the applicant's practice protocol is in place, signed by each supervising cardiologist and by an appropriate representative of each licensed facility where practice is anticipated;
- (5) pay a fee established by the department.

SECTION 40-47-1550. Renewal; lapse of registration. [SC ST SEC 40-47-1550]

(A) Registration by the department as a cardiovascular invasive specialist must be renewed every two years. To renew a registration, a person shall:

- (1) submit a complete application in writing;
- (2) demonstrate continued competency including current registration with Cardiovascular Credentialing International and other requirements as provided by this article or regulation;
- (3) pay a fee established by the department.

(B) A registration by the department as a cardiovascular invasive specialist automatically lapses if the registered person fails to make a timely and complete application for renewal or if the registered person fails to maintain current registration with Cardiovascular Credentialing International or another organization approved by the board.

SECTION 40-47-1560. Authorized tasks and services; supervision by cardiologist; written protocols. [SC ST SEC 40-47-1560]

(A) Cardiovascular invasive specialists may perform medical tasks and services within the framework of a facility's written practice protocol developed for the cardiovascular invasive specialist. Within this practice protocol the registered cardiovascular invasive specialist, under the supervision of a cardiologist may engage in these functions and duties:

- (1) perform baseline patient assessment;

- (2) evaluate patient response to diagnostic or interventional maneuvers and medications during cardiac catheterization laboratory procedures;
- (3) provide patient care and drug administration commonly used in the cardiac catheterization laboratory under the direction of a qualified physician and subject to the oversight of the facility;
- (4) act as the first assistant during diagnostic and therapeutic catheterization procedures; and
- (5) assist in advanced cardiac life support procedures.

(B) A cardiovascular invasive specialist shall practice only under the supervision of a physician who is actively and directly engaged in the clinical practice of medicine as a cardiologist.

(C) A cardiovascular invasive specialist practicing at all sites shall practice pursuant to written scope of the facility's practice protocols signed by all supervising cardiologists and the cardiovascular invasive specialists. Copies of the protocols must be on file at all practice sites. The protocols shall include at a minimum the:

- (1) name, license number, and practice addresses of the supervising cardiologists;
- (2) name and practice address of the cardiovascular invasive specialists;
- (3) date the protocol was developed and dates it was reviewed or amended;
- (4) situations that require direct evaluation by or immediate referral to a cardiologist.

SECTION 40-47-1570. Administration of registration program; registry maintenance and availability; promulgation of regulations. [SC ST SEC 40-47-1570]

(A) The department is responsible for all administrative activities of the registration program. The department shall employ and supervise personnel necessary to effectuate the provisions of this article and shall establish fees sufficient, but not excessive, to cover expenses including direct and indirect costs to the State for the operations of this registration program. Fees must be adjusted as required by Title 40, Chapter 1.

(B) The department shall maintain a registry of all applications for registration and of all persons holding registration and shall make the roster of registered cardiovascular invasive specialists available on the department web site.

(C) The Board of Medical Examiners may promulgate regulations as necessary to effectuate this chapter.

SECTION 40-47-1580. Investigations of unfitness to practice or unauthorized practice. [SC ST SEC 40-47-1580]

If the department has reason to believe that a person registered pursuant to this article has become unfit to practice as a registered cardiovascular invasive specialist or if a complaint is filed with the department charging the registered person with the violation of a provision of this article or if a complaint is filed with the department alleging that an unregistered person is

fraudulently holding himself or herself out as registered, the department shall institute an investigation in accordance with the procedures of Chapter 40, Title 1 and this article.

SECTION 40-47-1590. Hearing before Administrative Law Judge Division; grounds for revocation, suspension, or other discipline. [SC ST SEC 40-47-1590]

(A) If, after investigation, it appears that the person registered pursuant to this article has become unfit to practice or has violated this article, the department shall file a petition with the Administrative Law Judge Court, stating the facts and the particular statutes and regulations at issue.

(B) The Administrative Law Judge Court, after opportunity for hearing, may order that the registration be revoked, suspended, or otherwise disciplined in accordance with Section 40-1-120 on the grounds that the registrant:

(1) used a false, fraudulent, or forged statement or document or committed a fraudulent, deceitful, or dishonest act or omitted a material fact in obtaining registration pursuant to this article;

(2) has had an authorization to practice a regulated profession or occupation in another state or jurisdiction canceled, revoked, or suspended, or has otherwise been disciplined by another jurisdiction;

(3) has lost or let lapse an underlying credential that served as the basis of registration;

(4) has intentionally used a false or fraudulent statement in a document connected with the practice of a registered cardiovascular invasive specialist;

(5) has obtained fees or assisted in obtaining fees under fraudulent circumstances; or

(6) has sustained a physical or mental disability or uses alcohol or drugs to such a degree as to render further practice as a registered cardiovascular invasive specialist dangerous to the public.

SECTION 40-47-1600. Proscribed activities; identification badges and notification of involvement in cardiac care. [SC ST SEC 40-47-1600]

(A) A cardiovascular invasive specialist may not:

(1) perform a task which has not been listed and approved on the scope of the practice protocol currently on file with the facility;

(2) prescribe drugs, medications, or devices of any kind.

(B) A cardiovascular invasive specialist must clearly identify himself or herself to ensure that the cardiovascular invasive specialist is not mistaken or misrepresented as a physician. A cardiovascular invasive specialist must wear a clearly legible identification badge or other adornment at least one inch by three inches in size bearing the cardiovascular invasive specialist's name and the words "Registered Cardiovascular Invasive Specialist". Patients in facilities utilizing cardiovascular invasive specialists must be informed when a cardiovascular invasive specialist will be involved in their cardiac care.

SECTION 40-47-1610. Injunctions; fines; actions by unregistered persons.. [SC ST SEC 40-47-1610]

(A) The Administrative Law Judge Division, after opportunity for hearing, may order injunctive relief against a person who, without possessing a valid certificate pursuant to this article, uses the title or term registered cardiovascular invasive specialist. For each violation the administrative law judge may impose a fine of no more than ten thousand dollars.

(B) A person who is not registered as required by this article may not bring an action either at law or in equity to enforce the provisions of a contract for providing services as a registered cardiovascular invasive specialist.

SECTION 40-47-1620. Promulgation of regulations. [SC ST SEC 40-47-1620]

The Department of Labor, Licensing and Regulation shall promulgate regulations necessary to ensure implementation of the provisions of this article.