

RULES

State of Vermont Board of Medical Practice

Rules Effective: February 16, 2001

RULES OF THE BOARD OF MEDICAL PRACTICE

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RULES OF THE BOARD OF MEDICAL PRACTICE

I. GENERAL PROVISIONS; PHYSICIAN LICENSING

PART 1. The Board, Its Purposes, and Governing Authorities.

1.1 PURPOSE

The Board of Medical Practice has been created and given powers by Vermont law. The Board's purpose is to protect the public health, safety and welfare. The Board does this by setting standards for issuing licenses, licensing only qualified applicants, investigating complaints of unprofessional conduct, disciplining and regulating the practices of license holders. Pursuant to 26 V.S.A. §1353(1) and 3 V.S.A. § 831(d), the Board adopts and promulgates the following Rules of Practice. These rules amend the rules previously effective November 1, 1995. All prior rules adopted by the Board are repealed. The Board presumes that every physician, physician assistant, and podiatrist has notice of these rules and expects that he or she will practice medicine in accordance with them.

1.2 BOARD MEMBERS AND OFFICERS

The Board has a total of 14 members, each member having been appointed by the governor for a term up to five years. Board members shall not serve more than two consecutive terms. When acting on matters related to physicians and podiatrists, the Board is composed of 13 members, nine licensed physicians, one licensed podiatrist, and three persons not associated with the medical field, who shall be known as "public members." In matters relating to the general business of the Board, the Physician Assistant member shall also participate.

1.3 MEETINGS AND HEARINGS

- (a) The Board meets a minimum of once a month. The chair or a majority of the members may call a special or emergency meeting if it is deemed necessary. Seven members of the Board constitute a quorum for all meetings.
- (b) Hearings before the Board have different quorum requirements. Five members of the Board, including at least one public member, constitute a quorum for hearings before a full hearing panel. The Board chair may designate a hearing committee constituting less than a quorum, a minimum of one public member and one physician member of the Board, to conduct hearings which would otherwise be heard by a full hearing panel. Any recommendation by an investigative committee must be by a majority of that committee.
- (c) Information on meeting times and places may be obtained from the Board.

1.4 LAWS THAT GOVERN THE BOARD

The Board is governed by 26 V.S.A Chapter 23, which establishes the Board's responsibilities for setting standards, issuing licenses and regulating physicians. The Board is governed by 26 V.S.A Chapter 7 in its regulation of podiatrists, by 26 V.S.A. Chapter 31 regulating physician assistants, and by 26 V.S.A. Chapter 57 regulating review of licensing statutes and boards.

In addition to the above, the Board is obligated to comply with several other state laws including, but not limited to, the Administrative Procedure Act (3 V.S.A. §§801-847), the Law of Professional Regulation (3 V.S.A. §§121-131), the Right to Know Law (1 V.S.A. §§312-313), the Access to Public Records Law (1 V.S.A. §§315-320), the Bill of Rights for Hospital Patients (18 V.S.A. §1852), enforcement of child support orders (15 V.S.A. §§795 and 798), compliance with tax payments (32 V.S.A. §3113), and compliance with unemployment compensation contributions (21 V.S.A. §1378). These laws spell out the rights of applicants, license holders, or members of the public when dealing with the Board.

Anyone wishing to read the complete text of any of these laws can find them at the Board's website www.docboard.org, or should contact a town clerk or library.

1.5 DEFINITIONS

As used in these rules:

- (a) "ABMS" means the American Board of Medical Specialties.
- (b) "Accredited Medical School" means a medical school accredited by the LCME or the Canadian equivalent.
- (c) "ACGME" means the Accreditation Council for Graduate Medical Education.
- (d) "AMA" means the American Medical Association.
- (e) "Board" means the Board of Medical Practice created by 26 V.S.A. Chapter 23.
- (f) "Board-approved medical school" means a medical school listed in the World Directory of Medical Schools published by the World Health Organization and must not appear on the California Medical Board list of "disapproved or under review" schools.
- (g) "CACMS" means the Committee on Accreditation of Canadian Medical Schools.
- (h) "CFPC" means the College of Family Physicians of Canada.
- (i) "ECFMG" means the Educational Commission for Foreign Medical Graduates.
- (j) "Fifth pathway" means a program of medical education that meets the following requirements:
 - (1) Completion of two years of pre-medical education in a college or university of the United States.
 - (2) Completion of all the formal requirements for the degree corresponding to doctor of medicine except internship and social service in a medical school outside the United States which is recognized by the World Health Organization.
 - (3) Completion of one academic year of supervised clinical training sponsored by an approved medical school in the United States or Canada.
 - (4) Completion of one year of graduate medical education in a program approved by the Liaison Committee on Graduate Medical Education of the American Medical Association.
- (k) "FLEX" means the Federation Licensing Examination.
- (l) "Foreign medical school" means a legally chartered medical school in a sovereign state other than the United States or Canada.
- (m) "Lapsed license" means a license that has expired or is no longer valid due to the licensee's failure to complete the requirements for renewal of that license.
- (n) "Limited temporary license" means a license issued for the purpose of completing post-graduate training and allows the licensee to practice under the supervision and control of a Vermont licensed physician in an ACGME-accredited training program.
- (o) "LCME" means the Liaison Committee on Medical Education of the AMA.
- (p) "LMCC" means the Licentiate of the Medical Council of Canada.
- (q) "MCCQE" means Medical Council of Canada Qualifying Examination.
- (r) "RCPSC" means the Royal College of Physicians and Surgeons of Canada, which is the accrediting body for postgraduate medical education in Canada.
- (s) "RRC" means the Residency Review Committee of the ACGME.

- (t) "National Boards" means the examination given by the National Board of Medical Examiners.
- (u) "Specialty Board certification" means successfully completing the educational and examination requirements of a specialty board of the American Board of Medical Specialties.
- (v) "USMLE" means the United States Medical Licensing Examination.
- (w) "V.S.A." means Vermont Statutes Annotated.

PART 2. Physician Licensing.

2.1 LICENSE REQUIRED

No one may practice medicine in the state unless licensed by the Board, or when exempt under the provisions contained in 26 V.S.A. §1313.

2.2 GENERAL REQUIREMENTS FOR LICENSING

In order to be granted a license to practice medicine the applicant must present evidence satisfactory to the Board that the applicant:

- (a) Is at least 18 years of age;
- (b) Is competent in speaking, writing and reading the English language;
- (c) Has completed high school and two years of college or the equivalent;
- (d) Is a graduate of a Board-approved medical school, or a medical school accredited by the LCME or CACMS;
- (e) Has met the Board's criteria for Postgraduate Training. (See 2.6);
- (f) Has met the Board's criteria for License by Examination (See 2.3); License by Reciprocity (See 2.4); or License by Appointment to the faculty of a Vermont medical college (See 2.5);
- (g) Has presented reference forms as to moral character and professional competence; and
- (h) Has been interviewed by a Board member, the licensing committee, and/or the Board.

2.3 LICENSE BY EXAMINATION

- (a) In 1991, an agreement between the National Board of Medical Examiners and the Federation of State Medical Boards created a single national licensing examination, the United States Medical Licensing Examination. The USMLE replaced the prior two examination systems (the National Boards offered by the NBME and the FLEX offered by the Federation).

All applicants entering the examination system after 1994 must use and pass the USMLE three-step sequence. A passing grade of at least 75 must be obtained on each of the three USMLE steps. All three steps must be completed within seven (7) years of taking Step 1 for the first time. If Step 3 is failed on the first attempt, one reexamination is permitted for obtaining a Vermont license. The reexamination must be taken within one year of the date of notice of the first failed examination. Additional attempts, even if successful, do not qualify the applicant for a Vermont license.

- (c) Applicants who successfully completed the National Boards Parts 1,2, and 3 or FLEX Component 1 and 2 with a grade of at least 75 on all segments of either exam meet the examination criteria of the Board. All segments of either exam must have been completed within seven (7) years. The final clinical segment (Part 3 or Component 2) must have been passed on the first or second attempt to qualify for a Vermont license.
- (d) Applicants who entered, but did not complete, either the NBME or FLEX sequences before the discontinuance of FLEX or National Boards may combine some parts (components) from

the two discontinued exam systems with USMLE for completion of an acceptable examination sequence. Each of the following combinations are acceptable:

(1)			
NBME Part I or USMLE Step 1	plus	NBME Part II or USMLE Step 2	plus NBME Part III or USMLE Step 3
OR			
(2)			
FLEX Component I	plus	USMLE Step 3	
OR			
(3)			
NBME Part I or USMLE Step 1	plus	NBME Part II or USMLE Step 2	plus FLEX Component 2

- (e) Graduates of Canadian medical schools, in addition to the above examination options, can qualify for a Vermont license by successfully passing the MCCQE, Part I and Part II.
- (f) Applicants who took and successfully passed a Vermont Board-designed and administered examination with a passing grade of 75 on either the first or second attempt meet the examination requirements for a Vermont license. Applicants who took and passed examinations designed and administered by other state boards must have these examinations reviewed by the Vermont Board for adequacy in meeting Vermont examination standards.

2.4 LICENSE BY RECIPROCITY

An applicant who holds a current, unrestricted license in another United States or Canadian jurisdiction may be licensed without further examination if the other jurisdiction has equivalent standards for licensure and grants the same reciprocity privileges to Vermont license holders. Board Counsel shall determine whether licensing standards and reciprocity privileges are equivalent. The applicant must present a certificate of medical licensure and a statement of reciprocity from the licensing jurisdiction.

2.5 LICENSE BY FACULTY APPOINTMENT

The Board may license without examination a citizen of a foreign country who is a licensed physician in good standing in the home country and who presents verifiable evidence of outstanding academic and clinical achievements and potential. To qualify for a Vermont license under this rule the applicant must present evidence that the applicant will be appointed to the University of Vermont College of Medicine full-time faculty at the rank of associate professor or higher. The license is issued only for the duration of the faculty appointment and is dependent on favorable faculty evaluations conducted according to the usual College of Medicine procedures. The licensee shall share these evaluations with the Board if requested.

2.6 POSTGRADUATE TRAINING REQUIREMENTS

- (a) Graduates of accredited U.S. or Canadian medical schools must successfully complete one year of postgraduate training in ACGME, RCPSC, or CFPC accredited programs.
- (b) Graduates who hold a diploma from a Board-approved medical school outside of the United States or Canada must complete one of the following additional requirements:

- (1) Three years of postgraduate training in programs approved by the ACGME, the RCPSC, or the CFPC. The training should be a progression of directed experience, preferably in a single program. Multiple first year programs are not acceptable;
 - (2) Specialty certification by a specialty board recognized by the ABMS, the RCPSC, or CFPC may be substituted for (a) above; or;
 - (3) Three years as a full time faculty member at or above the level of assistant professor in a clinical discipline in a medical school approved by the LCME, with documentation of the applicant's clinical training and competence and the school's method of evaluating that competence. The evaluation must be part of the school's normal established procedure. The documentation will include letters from the chairperson and two senior members of the applicant's department, special honors or awards which the applicant has achieved, and articles which the applicant has published in reputable medical journals or medical textbooks.
- (c) Fifth Pathway graduates are not required to submit an ECFMG certificate and are eligible for a Vermont license after three years of postgraduate training in an ACGME, RCPSC, or CFPC-accredited program.

2.7 APPLICATION TO TAKE USMLE IN VERMONT

- (a) The Board administers the USMLE Step 3. Applicants who wish to take the exam in Vermont under Board auspices must include with the completed application and the required fee the following:
 - (1) Certification of graduation from an accredited medical school in the United States or Canada, or a Board-approved medical school located in other countries;
 - (2) Verification of ECFMG certificate if applicant is a graduate from a medical school outside the United States or Canada. Fifth Pathway graduates are not required to submit an ECFMG certificate;
 - (3) Certification that applicant has completed at least seven months of postgraduate training in a program approved by the ACGME, the RCPSC, or the CFPC.
- (b) Once the application is complete, the Board will notify the applicant of the time, date, and location of the next regularly scheduled exam.
- (c) An applicant who fails USMLE Step 3 may apply for reexamination. By Vermont statute, only one reexamination is allowed in order to qualify for a Vermont license. The reexamination must be taken within one year of the date of notice of the first failed examination.

2.8 LIMITED TEMPORARY LICENSE

- (a) A limited temporary license is issued for the purpose of completing postgraduate training and allows the licensee to practice under the supervision and control of a Vermont licensed physician in an ACGME-accredited training program. The applicant must be enrolled in an ACGME-accredited program of postgraduate training or in sub-specialty clinical fellowship training in an institution that has an accredited program in the parent specialty. A limited temporary license is granted for a period of one year only. An applicant may renew a limited temporary license only four times.
- (b) Application for a limited temporary license must include with the application the required fee, a certified copy of the applicant's medical school diploma, and a supervising physician's statement, acknowledging statutory responsibility for the applicant's negligent or wrongful acts or omissions. The diploma may be from any medical school that is legally chartered in the country where it is located. The medical school must be accredited in the United States or Canada, or be Board-approved.

2.9 APPLICANT'S RIGHT TO A WRITTEN DECISION

- (a) The Board must document, in writing, all decisions on whether the applicant is granted or denied a license. The Board may stay its decision on an application for a license from a practitioner who is the subject of an unresolved complaint or allegations in another jurisdiction which involve or relate to the practitioner's care of patients.
- (b) On all license denials, the Board follows a two-step process:
 - (1) If the Board intends to deny the applicant a license, it shall issue a written preliminary decision containing the following:
 - (A) The specific reasons for the license denial;
 - (B) The applicant has the right to request a hearing at which the Board shall review the preliminary decision, and that such request must be filed with the Board within 30 days of the date the decision was sent to the applicant.
 - (2) At the hearing to review the preliminary decision to deny the license application, the applicant shall be given the opportunity to show that he or she has met the licensing requirements;
 - (3) After the hearing, the Board shall affirm or reverse the preliminary decision, and shall issue a final written decision and order setting forth its reasons for the decision. The decision and order shall be signed by the chair or vice-chair of the Board and the Board shall enter the order. A decision and order is effective upon entry.
- (c) Notice of both the preliminary decision and the final decision and order shall be sent to the applicant by certified mail.

2.10 APPLICANT'S RIGHT TO APPEAL

A party aggrieved by a final decision of the Board may, within 30 days of the decision, appeal that decision by filing a notice of appeal with the director of the Office of Professional Regulation, Vermont Secretary of State's Office, as provided by 3 V.S.A. §130a. For further rules concerning appeals, see the Administrative Rules for the Office of Professional Regulation.

2.11 FEES

Physician Application Fees are established by the Legislature and can be found at 26 V.S.A. §1401a.

2.12 WAIVER OF LICENSING FEE FOR FREE CLINIC PRACTITIONERS

A physician who will limit his or her practice in Vermont to providing pro bono services at a Board recognized free health care clinic for no more than 10 days or 80 hours in any calendar year shall meet all of the usual license requirements, but may apply for a waiver of licensing fee, by submitting a fee waiver request to the Board which shall include the following information:

- (a) The name and address of the free health clinic(s) where the pro bono services shall be performed;
- (b) The licensee's certification that he or she shall perform only pro bono services in Vermont, and shall only perform such services at the listed clinics and within the time limit specified by this rule;
- (c) The clinic director's certification that the licensee shall perform only pro bono services at the clinic and only within the time limit specified by this rule.

This fee waiver request must be filed with the Board at the biennial renewal. The licensee's failure to follow the terms of the certifications or the provisions of this rule shall constitute unprofessional conduct as set forth in 26 V.S.A. § 1398 and may result in disciplinary action.

PART 3. License Renewal; Lapsed License; License Reinstatement.

3.1 RENEWING A LICENSE

Licenses are renewed on a fixed biennial schedule. A physician must renew his or her license before it lapses. The date on which a license shall lapse is printed on the license. One month before such date, the Board will mail each licensed physician a renewal application and notice of the renewal fee to the address last provided to the Board. If a physician does not return the completed renewal application and fee to the Board by the date on which the license shall lapse, the physician's license will lapse automatically.

A physician, whose initial license has been issued within 90 days of the renewal date, will not be required to renew and pay the renewal fee. Instead, the license will be issued through the next full license period. A physician who has been issued an initial license more than 90 days prior to the renewal expiration date will be required to renew and pay the renewal fee.

Licensees have a continuing obligation during each two-year renewal period to promptly notify the Board of any change or new information regarding their responses to Section III licensure questions of the renewal application, including but not limited to disciplinary or other action limiting or conditioning his or her license or ability to practice in any licensing jurisdiction. Failure to do so may subject the licensee to disciplinary action by the Board.

3.2 LAPSED LICENSE

If a license has not been renewed by the required date, it has lapsed. A physician may not legally practice in Vermont after a license has lapsed. The physician must halt the practice of medicine until the license has been reinstated.

3.3 REINSTATING A LICENSE AFTER IT HAS LAPSED FOR LESS THAN ONE YEAR

A physician may not legally practice medicine in Vermont after his or her license has lapsed. A physician must halt the practice of medicine if his or her license has lapsed. To seek reinstatement after failing to renew, a physician must complete in full the renewal application and tender it to the Board with a late fee in addition to the fee required for renewal. The Board may stay the decision on the application pending investigation of charges or allegations of unprofessional conduct against the renewal applicant. The Board may seek or request such additional information as it deems needed to make a determination as to the renewal application. The Board may deny the renewal of a license on grounds of unprofessional conduct as set forth under Vermont law, after notice and opportunity to be heard has been provided to the physician.

3.4 REINSTATING A LICENSE AFTER IT HAS LAPSED FOR ONE YEAR OR MORE

If a license is lapsed for one year or more the physician must complete a reinstatement application in full and pay the application fee. The reinstatement application requires additional information beyond that required in the standard renewal application. A chronological accounting of the physician's professional activities in other jurisdictions during the period the license was lapsed in Vermont must be presented.

The physician must include (1) a letter from the chief of staff of each hospital at which he or she held privileges during the period in which the Vermont license was lapsed and (2) a license verification from each state in which he or she held an active license during the period in which the Vermont license was lapsed. In addition, he or she must appear for a personal interview. Reinstatement may be denied on grounds of unprofessional conduct as set forth under Vermont law or for other good cause, after notice and opportunity to be heard has been provided to the physician.

PART 4. Physicians' Professional Standards.

4.1 GROUNDS FOR DISCIPLINARY ACTION

Grounds for disciplinary action are set forth in 26 V.S.A. §§1354, 1398, and 1739a. Additional grounds are set forth in 3 V.S.A. §129a and 18 V.S.A. §1852. The Board may refuse to issue a

physician's license or may suspend, revoke, condition, limit, reprimand, or otherwise take action against a licensee for any of the reasons set forth in those statutes. All complaints and allegations of unprofessional conduct shall be processed in accordance with Section IV of these rules.

4.2 CHANGE OF NAME OR ADDRESS

All physicians are responsible for notifying the Board within 10 days of any change of name or address. A Vermont-licensed out-of-state physician who intends to re-locate his or her practice to Vermont shall notify the Board 30 days in advance of the intended starting date of the Vermont practice.

4.3 SELF-PRESCRIBING AND PRESCRIBING FOR FAMILY MEMBERS

It is unacceptable medical practice and unprofessional conduct for a licensee to prescribe controlled substances listed in DEA Schedules II, III, and IV for his or her own use. Such conduct constitutes a violation of 26 V.S.A. §1398. It also is unacceptable medical practice and unprofessional conduct for a licensee to prescribe Schedule II, III, and IV controlled substances to a member of his or her immediate family, except in a bona fide emergency, of short-term and unforeseeable character.

"Immediate family", as referred to above, includes the following: a spouse (or spousal equivalent), parent, grandparent, child, sibling, parent-in-law, son/daughter-in-law, brother/sister-in-law, step-parent, step-child, step-sibling, or any other person who is permanently residing in the same residence as the licensee.

4.4 MEDICATIONS BROUGHT INTO THE INSTITUTION BY PATIENTS

Notwithstanding Board of Pharmacy Rule 4.520, it is acceptable medical practice for medications brought into the institution by a patient to be used by the patient while the patient is in the institution provided that the medications are identified by an attending physician, another prescribing practitioner, or a pharmacist according to the institution's policy and there is a written order from the practitioner responsible for the patient to administer the drugs.

4.5 ENFORCEMENT OF CHILD SUPPORT ORDERS

The Board regulates three professional licensing or certification programs: Physicians, Physician Assistants, and Podiatrists. Under 15 V.S.A. §795, the Board may not issue or renew a professional license or certification to practice these professions if the applicant is under an obligation to pay child support and is not in good standing or in full compliance with a plan to pay the child support due. The Board requires that each applicant for the issuance or renewal of a license or certification sign a statement that the applicant is not under an obligation to pay child support or is in good standing with respect to or in full compliance with a plan to pay any and all child support payable under a support order as of the date the application is filed.

When the Board receives a letter of non-compliance from the Office of Child Support, the Board will include the letter of non-compliance with any license or certification renewal application sent to the professional licensed or certified with the Board.

When the Board receives a suspension order from the Family Court, the Board will respond as required to implement the order of the Court.

II. RULES FOR PHYSICIAN ASSISTANTS

PART 5. Certification of Physician Assistants.

5.1 INTRODUCTION

Physician assistants practice medicine with physician supervision. Physician assistants may perform those duties and responsibilities, including the prescribing and dispensing of drugs and medical devices, that are delegated by their supervising physicians.

Physician assistants shall be considered the agents of their supervising physicians in the performance of all practice-related activities, including but not limited to, the ordering of diagnostic, therapeutic and other medical services.

It is the obligation of each team of physician(s) and the physician assistant(s) to insure that the written scope of practice submitted to the Board for approval clearly delineates the role of the physician assistant in the medical practice of the supervising physician(s).

5.2 DEFINITIONS

As used in these rules:

- (a) "Authorization to prescribe medications and medical devices" means the authorization for a physician assistant to prescribe, dispense and administer drugs and medical devices to the extent delegated by the supervising physician. Prescribing and dispensing of drugs may include DEA Schedules II through V. At no time shall the prescriptive practices of the physician assistant exceed the prescriptive practices of the supervising physician(s).
- (b) "Board" means the Vermont Board of Medical Practice established by Chapter 23 of Title 26 of the Vermont Statutes Annotated.
- (c) "CME and Category 1 CME" means continuing medical education as defined by the Accreditation Council for Continuing Medical Education (ACCME).
- (d) "Employer" means the organization, facility, and/or supervising physician entering into an employment contract with a physician assistant.
- (e) "NCCPA" means National Commission for the Certification of Physician Assistants.
- (f) "Physician assistant committee" means an ad hoc committee of the Board that reviews matters relating to physician assistants, reports its findings to the Board, and makes recommendations for action.
- (g) "PA" means physician's assistant or physician assistant. These terms are identical in meaning and are used interchangeably.
- (h) "Physician assistant trainee" means a person enrolled in a Board-approved apprenticeship program as a means of becoming eligible for certification as a physician assistant, or a person whose physician assistant certification has been revoked for failure to maintain competence and who has been permitted by the Board to practice for one year as a registered physician assistant trainee prior to re-examination.
- (i) "Protocol": For purposes of these rules, "scope of practice" will be used instead of the word "protocol".
- (j) "Referral" means sending a patient to a non-supervising practitioner for diagnosis and treatment. See also Rule 7.5.
- (k) "Scope of practice" means a written document detailing those areas of medical practice

including duties and medical acts, delegated to a physician assistant by the supervising physician for which the certificate holder is qualified by education, training and experience.

- (l) "Secondary supervising physician" means a Vermont-licensed physician who has been approved by the Board to supervise the practice of a physician assistant when the supervising physician is unavailable.
- (m) "Supervising physician" means a Vermont-licensed physician who has been approved by the Board to supervise the practice of a physician assistant.
- (n) "Supervision" means the direction provided and review performed by the supervising physician, as determined to be appropriate by the Board, of the medical services provided by the physician assistant. The supervising physician need not be present on the premises where the physician assistant renders medical services and may provide supervision by telephonic or electronic means of communication. See also Rule 7.5.

5.3 NOTIFYING THE BOARD

The Board must be notified and the appropriate applications and documentation must be filed whenever:

- (a) The physician assistant's scope of practice changes. See Rule 7.3 for additional information.
- (b) Additional practice sites are added. This applies to newly-opened branch sites only. See Rule 7.6 for additional information.
- (c) Additional employer(s) are obtained, the primary or secondary supervising physician changes, or a secondary supervising physician is added. See Rule 5.5 for additional information.

All physician assistants are responsible for notifying the Board within 10 days of any change of name or mailing address.

5.4 INITIAL CERTIFICATION

Applicants for initial certification as a physician assistant shall be interviewed by a Board member and may be interviewed by the licensing committee and/or the; and shall submit:

- (a) The Board's application form, completed in full;
- (b) Certified copy of birth certificate;
- (c) Verification of certification or licensure in all other states where currently or ever certified or licensed;
- (d) Two reference forms from allopathic or osteopathic physicians with whom the applicant has worked recently, including one form from the most recent primary supervising physician assistant. If the applicant has recently graduated from a Board-approved physician assistant program, one form must be from the Director of the program. If the applicant has recently completed a Board-approved apprenticeship program, one form must be from the primary training physician;

- (e) Either (1) documentation of completion of a Board-approved physician assistant program sponsored by an institution of higher education and proof of satisfactory completion of the certification examination given by the NCCPA; or (2) documentation of completion of a Board-approved apprenticeship program, including the evaluation conducted by the Board;
- (f) Application by the proposed supervising physician(s), including a statement that the physician shall be personally responsible for all medical acts of the physician assistant;
- (g) Application by the proposed secondary supervising physician(s), including a statement that the secondary physician shall be personally responsible for all medical acts of the physician assistant only when the supervising physician is unavailable and only when consulted by the physician assistant;
- (h) A scope of practice as defined by Rule 5.2(k) and described in Rule 7.3.
- (i) A completed applicant's employment contract (form provided by the Board);
- (j) The required fee.

Regarding any of the above items, except the required fee, the Board shall have the discretion to require additional information.

5.5 SUBSEQUENT CERTIFICATION APPLICATIONS

To maintain certification as a physician assistant, renewal of certification is required every two years (See Rule 6.1) and additional certification applications must be filed in advance with the Board in the following circumstances:

- (a) Adding a New Employer: If the physician assistant adds a new employer, such as an additional institution, clinic or other agency, the following information and fees shall be submitted:
 - (1) The physician assistant's name and current home address;
 - (2) The name and office address of the additional employer;
 - (3) Employment contract;
 - (4) Any new primary supervising physician(s)' application(s), including a statement that the physician shall be personally responsible for all medical acts of the physician assistant;
 - (5) Any new secondary supervising physician(s)' application(s), including a statement that the secondary physician shall be personally responsible for all medical acts of the physician assistant only when the supervising physician is unavailable and only when consulted by the physician assistant;
 - (6) A scope of practice as defined by Rule in 5.2(k) and described in Rule 7.3;
 - (7) The required fees.
- (b) Change of Primary Supervising Physician when Secondary Supervising Physician Remains the Same: the following information and fees shall be submitted:
 - (1) Primary supervising physician(s)' application(s), including a statement that the physician shall be personally responsible for those medical acts of the physician assistant;
 - (2) A scope of practice as defined by Rule 5.2(k) and described in 7.3;
 - (3) The required fees.
- (c) Change or Addition of Secondary Supervising Physician when Primary Supervising Physician Remains the Same: the following information and fees shall be submitted:

- (1) Secondary supervising physician(s)' application(s), including a statement that the secondary physician shall be personally responsible for all medical acts of the physician assistant only when the supervising physician is unavailable and only when consulted by the physician assistant;
 - (2) A scope of practice as defined by Rule 5.2(k) and described in Rule 7.3;
 - (3) The required fees.
- (d) Change of Primary and Secondary Supervising Physician when the Employer Remains the Same: the following information and fees shall be submitted:
- (1) Primary supervising physician's application, including a statement that the physician shall be personally responsible for those medical acts of the physician assistant;
 - (2) Secondary supervising physician(s)' application(s), including a statement that the physician shall be personally responsible for those medical acts of the physician assistant only when the supervising physician is unavailable or only when consulted by the physician assistant;
 - (3) A scope of practice as defined by Rule 5.2(k) and described in Rule 7.3.
 - (4) The required fees.

Regarding any of the above items, except the required fee, the Board shall have the discretion to require additional information.

5.6 TEMPORARY CERTIFICATION

- (a) The applicant may be issued temporary certification if:
- (1) The applicant is applying for certification for the first time in this State; and
 - (2) The applicant has graduated from a Board-approved school for physician assistants, or has completed a Board-approved apprenticeship program; and
 - (3) Either: (A) the applicant is eligible and has applied to sit for the first NCCPA examination; or (B) the applicant is a graduate of a Board-approved apprenticeship program and has applied to sit for the first Board-approved evaluation available after completion of the application process; and
 - (4) The required fee is paid.
- (b) If the applicant fails the first examination or evaluation, the applicant may sit for the next-scheduled examination or evaluation. If the applicant fails the examination or evaluation after the second sitting, the applicant must obtain additional training before sitting again for the examination or evaluation. Temporary certification is not valid during periods of retraining.
- (c) In no case shall a temporary certification be valid for longer than two years.

5.7 APPLICANT'S RIGHT TO A WRITTEN DECISION

- (a) The Board must document, in writing, all decisions on whether the applicant is granted or denied a certification. The Board may stay its decision on an application for certification from a practitioner who is the subject of an unresolved complaint or allegations in another jurisdiction which involve or relate to the practitioner's care of patients.
- (b) On all certification denials, the Board follows a three-step process:
 - (1) If the Board intends to deny the applicant a certification, it shall issue a written preliminary decision containing the following:
 - (A) The specific reasons for the certification denial;
 - (B) Notice that the applicant has the right to request a hearing at which the Board shall review the preliminary decision, and that such request must be filed with the Board within 30 days of the date the decision was sent to the applicant. Failure to appeal within the 30-day period shall render the preliminary decision final.
 - (2) At the hearing to review the preliminary decision to deny the certification application, the applicant shall be given the opportunity to show that he or she has met the certification requirements;
 - (3) After the hearing, the Board shall affirm or reverse the preliminary decision, and shall issue a final written decision and order setting forth its reasons for the decision. The decision and order shall be signed by the chair or vice-chair of the Board and the Board shall enter the order. A decision and order is effective upon entry.
- (c) Notice of both the preliminary decision and the final decision and order shall be sent to the applicant by certified mail.

5.8 APPLICANT'S RIGHT TO APPEAL

A party aggrieved by a final decision of the Board may, within 30 days of the decision, appeal that decision by filing a notice of appeal with the director of the Office of Professional Regulation, Vermont Secretary of State's Office, as provided by 3 V.S.A. §130a. For further rules concerning appeals, see the Administrative Rules for the Office of Professional Regulation.

5.9 REGISTRATION AS A PHYSICIAN ASSISTANT TRAINEE

All physician assistant trainees enrolled in a Board approved apprenticeship program, shall register with the Board every two years. Applicants for registration as a physician assistant trainee shall submit:

- (a) The Board's application form, completed in full;
- (b) An application by the proposed supervising physician, including a statement that the physician shall be personally responsible for all medical acts of the trainee;
- (c) The name of the Board approved apprenticeship program (See Rule 6.8);
- (d) A copy of the applicant's employment contract;
- (e) The required fee.

Regarding any of the above items, except the required fee, the Board shall have the discretion to require additional information. See Rule 6.8.

PART 6. Certification Renewal; Lapsed Certification; Certification Reinstatement.

6.1 RENEWING A CERTIFICATION

Licenses are renewed on a fixed biennial schedule. A PA must renew his or her certificate before it lapses. The date on which a certificate shall lapse is printed on the certificate. One month before such date, the Board will mail each certified PA a renewal application and notice of the renewal fee to the address last provided to the Board. If a PA does not return the renewal application completed in full and fee to the Board by the date on which the certificate shall lapse, the PA's certificate will lapse automatically.

A PA, whose initial certificate has been issued within 90 days of the renewal date, will not be required to renew and pay the renewal fee. Instead, the certificate will be issued through the next full license period. A PA who has been issued an initial certificate more than 90 days] prior to the renewal expiration date will be required to renew and pay the renewal fee.

Certified PA's have a continuing obligation during each two-year renewal period to promptly notify the Board of any change or new information regarding their responses to Section III (certification questions) of the renewal application, including but not limited to disciplinary or other action limiting or conditioning his or her certificate or ability to practice in any certifying or licensing jurisdiction. Failure to do so may subject the certified PA to disciplinary action by the Board.

6.2 LAPSED CERTIFICATION

If a certification has not been renewed by the required date, it has lapsed. A physician assistant may not legally practice in Vermont after a certification has lapsed. The physician assistant must halt the practice of a physician assistant until the certification has been reinstated.

6.3 REINSTATING A CERTIFICATION AFTER IT HAS LAPSED FOR LESS THAN ONE YEAR

A physician assistant may not legally practice as a physician assistant in Vermont after his or her certification has lapsed. A physician assistant must halt such practice if his or her certification has lapsed. To seek reinstatement after failing to renew, a physician assistant must complete in full the renewal application and tender it to the Board with a late fee in addition to the fee required for renewal. The Board may stay the decision on the application pending investigation of charges or allegations of unprofessional conduct against the renewal applicant.

The Board may seek or request such additional information as it deems necessary to make a determination as to the renewal application. The Board may deny the renewal of a certification on grounds of unprofessional conduct as set forth under Vermont law, after notice and opportunity to be heard has been provided to the physician assistant.

6.4 REINSTATING A CERTIFICATION AFTER IT HAS LAPSED ONE YEAR OR MORE

If a certification is lapsed for one year or more the physician assistant must complete a reinstatement application in full and pay the application fee. The reinstatement application requires additional information beyond that required in the standard renewal application. A chronological accounting of the physician assistant's professional activities in other jurisdictions during the period the certification was lapsed in Vermont must be presented. The physician assistant must include (1) a letter from each supervising physician under whom he or she worked during the period in which the Vermont certification was lapsed and (2) a certification or license verification from each state in which he or she held an active certification or license during the period in which the Vermont certification was lapsed. In addition, he or she must appear for a personal interview. Reinstatement may be denied on grounds of unprofessional conduct as set forth under Vermont law, after notice and opportunity to be heard has been provided to the physician assistant.

6.5 REINSTATING A CERTIFICATION AFTER IT HAS LAPSED THREE YEARS OR MORE

If a certification is lapsed for three years or more, in addition to the provisions of Rule 6.4, above, the Board may, after notice and opportunity for hearing, require examination as a condition of certification renewal.

6.6 CHANGE OR TERMINATION OF CERTIFICATION OR REGISTRATION

If there is to be any change in the scope of practice, employer, or the primary or secondary supervising physician, prior Board approval must be received. Documents already on file with the Board may be referred to and need not be resubmitted. If the change requires extensive review by the Board, a fee may be charged. Such review may require a period of time to complete. Applicants should seek to avoid possible delays by requesting Board approval of such changes as early as possible.

If the employment contract of a physician assistant is terminated, the supervising physician and PA must notify the Board on a form supplied by the Board. The notification shall include the reason(s) for ending the employment relationship.

6.7 CHANGE IN SCOPE OF PRACTICE

Any certified physician assistant wishing to change his or her scope of practice shall submit documentation of competency in the newly proposed scope of practice. The proposed scope of practice must be within the scope of practice of the primary supervising physician and the secondary supervising physician(s).

The Board shall evaluate the proposed changes in the scopes of practice, years of experience in the current scope of practice, continuing education, and any other factors deemed appropriate. The Board may require satisfactory completion of additional supervised training prior to approval of the proposed changes in the scope of practice.

A certified physician assistant with a valid employment contract may continue to practice within the current scope of practice while training for the proposed scope of practice.

6.8 APPRENTICESHIP PROGRAM

A person who wishes to become certified as a PA via an apprenticeship program must have Board approval prior to entering a program and the program itself must have received prior Board approval.

Apprenticeship programs shall be at least twenty-three months in duration. The program shall include at least nine months study of the basic sciences, including gross anatomy (college level), laboratory sciences, physiology, pathology, pharmacology, and microbiology (pre-clinical level). The program shall also include a minimum of 1,800 hours of clinical instruction within a fourteen-month period. Clinical training must include history taking and physical examination, interviewing techniques, the ethical and legal aspects of medicine as well as, but not limited to, cardiac care and CPR, emergency medicine and trauma. The program shall have on-site inspection. The student shall be evaluated for satisfactory completion of the program by oral, written, or practical examinations by a person(s) assigned by the Board.

Before starting a Board-approved apprenticeship program, persons who intend to obtain their education and training as a physician assistant in an apprenticeship program shall submit:

- (a) A transcript showing completion of at least 60 hours of college credits, or equivalent, including one course each in English, the humanities, chemistry, and biology, and one other natural sciences course;
- (b) Documentation showing at least six months health care experience;
- (c) A detailed plan of the apprenticeship program provided by the program director setting forth the curriculum and preclinical and clinical experience.

PART 7. Supervision, Scope of Practice, Prescribing.

7.1 PRIMARY SUPERVISING PHYSICIAN

The supervising physician shall:

- (a) Supervise physician assistants only in the field(s) of medicine in which he or she is qualified and actively practices;
- (b) Approve and sign the PA's scope of practice as described in Rule 7.3.
- (c) Outline in detail how he or she will be available for consultation and review of work performed by the physician assistant;
- (d) Supervise no more physician assistants concurrently than have been approved by the Board after review of the system of care delivery;
- (e) Furnish copies of the physician assistant's scope of practice to any medical facilities with which the physician assistant is affiliated or employed;
- (f) Notify the Board immediately in writing of termination of the physician assistant's employment contract and the reason(s) for termination. Similar notification is required if the scope of practice changes, the employer(s) change, or there is a change in the primary or secondary supervising physician(s). Prior Board approval must be received. Documents already on file with the Board need not be resubmitted. See Rule 5.3 and 6.6.
- (g) Sign a statement certifying that the primary supervising physician has read the statutes and Board rules governing physician assistants.

7.2 SECONDARY SUPERVISING PHYSICIAN

The secondary supervising physician shall:

- (a) Supervise physician assistants only in the field(s) of medicine in which he or she is qualified and actively practices;
- (b) Be personally responsible for the physician assistant's medical acts only when consulted by the physician assistant.
- (c) Be available for consultation as secondary supervising physician;
- (d) Have read the scope of practice submitted to the Board;
- (e) Supervise no more physician assistants concurrently than have been approved by the Board after review of the system of care delivery;
- (f) Notify the Board immediately in writing of the termination of secondary supervision and the reason(s) for termination. Similar notification is required if the scope of practice changes or there is a change in the secondary supervising physician(s). See Rule 5.3 and 6.6.
- (g) Sign a statement certifying that the secondary supervising physician has read the statutes and Board rules governing physician assistants.

7.3 SCOPE OF PRACTICE

The scope of practice document shall cover at least the following:

- (a) Narrative: A brief description of the practice setting, the types of patients and patient encounters common to this practice and a general overview of the role of the physician assistant in that practice.
- (b) Supervision:
 - (1) The mechanisms for on-site and off-site physician supervision and communication;
 - (2) How back-up and secondary supervising physicians will be utilized, and the means by which communication with them will be managed;

- (3) How emergency conditions will be handled in the absence of an on-site physician, including:
 - (A) plans for immediate care,
 - (B) means of accessing emergency transport;
 - (4) How ongoing supervision of the PA's activities are reviewed;
 - (5) Provisions for retrospective review of PA charts:
 - (A) the frequency with which these reviews will be conducted,
 - (B) the methods to be used to document this review;
 - (6) The practice referral patterns to non-supervising physicians and other health care providers. If a referral is to be made out of the usual referral pattern of the practice, describe:
 - (A) the supervising physician's role in the decision,
 - (B) the methods to be used to document this involvement
 - (7) The methods for in-practice consultation for patients who are not improving in a reasonable manner or time frame, including the ways in which the PA will access the supervising physician's expertise in determining diagnostic treatment and referral plans for a patient whose progress is not satisfactory;
- (c) Sites of Practice: A description of any and all practice sites (e.g. office, clinic, hospital outpatient, hospital inpatient, industrial sites, schools). For each site, a description of the PA's activities.
- (d) Tasks/Duties: A list of the PA's tasks and duties in the supervising physician's scope of practice. This list should express a sense of involvement in the level of medical care in that practice. The supervising physician may only delegate those tasks for which the physician assistant is qualified by education, training and experience to perform. Notwithstanding the above, the physician assistant should initiate emergency care when required while accessing back-up assistance. At no time should a particular task assigned to the PA fall outside of the scope of practice of the supervising physician.
- (e) An Authorization To Prescribe medications which shall include the following statements, verbatim:
- (1) "[insert physician assistant name] is authorized to prescribe medications in accordance with the scope of practice submitted to and approved by the Vermont Board of Medical Practice."
 - (2) "[insert physician assistant name] is authorized to prescribe controlled drugs in accordance with the scope of practice submitted to and approved by the Vermont Board of Medical Practice. [insert physician assistant name] has obtained a DEA number which is [insert number]."
- (f) At no time shall the scope of practice of the physician assistant exceed the normal scope of either the primary or secondary supervising physician(s)' practice.
- (g) Advertising or communications with the public from or regarding the PA and/or the availability of the PA's services shall clearly identify the PA's supervising physician by name and shall not state, imply, or otherwise lead the public to believe that the PA practices independently of such supervision.

7.4 AUTHORITY TO PRESCRIBE DRUGS; REQUIREMENTS

The certified physician assistant may prescribe only those drugs utilized by the primary supervising physician and permitted by the scope of practice submitted to and approved by the Board. The prescription form used by the PA must include:

- (a) The printed name of the physician assistant;
- (b) The printed name of the supervising physician;

- (c) The practice address and telephone number;
- (d) A space for the physician assistant's signature;
- (e) A space for the physician assistant's DEA number.

Upon a pharmacist's request, the Board shall furnish a copy of the Board-approved scope of practice and a signature sample of the physician assistant.

7.5 SUPERVISION

Supervision shall include:

- (a) Regular and effective access to the supervising physician for consultation regarding on-going patient care while they are being treated by the PA;
- (b) Regular, retrospective review of selected PA-generated charts by the supervising physician, with documentation of such review;
- (c) Regularly scheduled and documented discussion of cases chosen by either the PA or the supervising physician. These may be cases which the PA handled, or cases which the physician handled and believes may be instructive for the PA;
- (d) Review of PA referrals outside the normal practice referral pattern as defined in the scope of practice;
- (e) Methods for in-practice consultation for patients not improving in a reasonable manner or time frame;
- (f) Review of the record of services rendered the patient by the physician assistant and sign such records within 72 hours after any such care was rendered by the physician assistant;

7.6 BRANCH OPERATIONS

A physician assistant may practice in a health care facility other than the supervising physician's primary place for meeting patients only if prior approval is obtained from the Board. If a new or additional branch operation is added, the Board must be notified immediately, so that approval to practice at the additional branch operation may be obtained. The supervising physician must satisfy the Board that communication with the physician assistant is direct and prompt. The supervising physician must demonstrate to the Board's satisfaction that:

- (a) There is adequate provision for prompt electronic communication between the physician assistant and the supervising physician;
- (b) There is adequate provision for back-up emergency care, delivery, and transport;
- (c) Patient care rendered by a physician assistant in this setting shall be reviewed in accordance with the scope of practice and with Rules 7.1, 7.2, 7.3, and 7.5.

7.7 NOTICE TO PATIENTS OF USE OF PHYSICIAN ASSISTANT

Any physician, clinic, or hospital that uses the services of a physician assistant must post a clear public notice to that effect.

PART 8. Physician Assistant Professional Standards; Disciplinary Procedures.

8.1 CONTINUING EDUCATION

As evidence of continued competence in the knowledge and skills of a physician assistant, all physician assistants shall complete a continuing medical education program of 100 approved credit hours every two years. A minimum of 40 credit hours shall be from Category 1. Proof of completion shall be

submitted to the Board with the application for renewal of certification. See Rule 6.1. Certification or recertification by the NCCPA at any time during a 2-year licensure period may be accepted in lieu of 100 hours continuing medical education credits for that 2-year period.

8.2 GROUNDS FOR DISCIPLINARY ACTION

Grounds for disciplinary action include the conduct set forth in 26 V.S.A. §1736 and 3 V.S.A. §129a. Under 26 V.S.A. §1734(e), failure to maintain competence in the knowledge and skills of a physician assistant may result in revocation of certification, following notice of the deficiency and an opportunity for a hearing.

In addition, under 26 V.S.A. §1739a, inappropriate use of the services of a physician assistant or a physician assistant trainee by a physician constitutes unprofessional conduct by the physician.

8.3 DISCIPLINARY ACTION

All complaints and allegations of unprofessional conduct shall be processed in accordance with Section IV of these rules.

After notice and an opportunity for hearing, the Board may take disciplinary action against any applicant, physician assistant trainee, or physician assistant found guilty of unprofessional conduct, as provided by 3 V.S.A. §§129 and §809, and 26 V.S.A. §§1734 and 1737, including but not limited to:

- (a) Reprimand, suspend, revoke, limit, condition, deny or prevent renewal of certification or registration;
- (b) Required completion of continuing education;
- (c) Required supervised training or practice for a specified period of time or until a satisfactory evaluation by the supervising physician has been submitted to the Board.

The Board may approve a negotiated agreement between the parties. The conditions or restrictions that may be included, without limitation, in addition to those above, in such an agreement are set forth in 3 V.S.A. §809(d) and 26 V.S.A. §1737(d).

8.4 RIGHT TO APPEAL

A party aggrieved by a final decision of the Board may, within 30 days of the decision, appeal that decision by filing a notice of appeal with the director of the Office of Professional Regulation, Vermont Secretary of State's Office, as provided by 3 V.S.A. §130a. For further rules concerning appeals, see the Administrative Rules for the Office of Professional Regulation.

8.5 ENFORCEMENT OF CHILD SUPPORT ORDERS

The Board regulates three professional licensing or certification programs: Physicians, Physician Assistants, and Podiatrists. Under 15 V.S.A. §795, the Board may not issue or renew a professional license or certification to practice these professions if the applicant is under an obligation to pay child support and is not in good standing or in full compliance with a plan to pay the child support due. The Board requires that each applicant for the issuance or renewal of a license or certification sign a statement that the applicant is not under an obligation to pay child support or is in good standing with respect to or in full compliance with a plan to pay any and all child support payable under a support order as of the date the application is filed.

When the Board receives a letter of non-compliance from the Office of Child Support, the Board will include the letter of non-compliance with any license or certification renewal application sent to the professional licensed or certified with the Board.

When the Board receives a suspension order from the Family Court, the Board will respond as required to implement the order of the Court.

III. RULES FOR PODIATRISTS

PART 9. Podiatrists' Licenses.

9.1 DEFINITIONS

As used in these rules:

- (a) "Board" means the Vermont Board of Medical Practice established by Chapter 23 of Title 26 of the Vermont Statutes Annotated.
- (b) "CPME" means Council on Podiatric Medical Education of the American Podiatric Medical Association.
- (c) "Disciplinary action" means any action against a licensee or an applicant by the Board, or an appeal therefrom, when that action suspends, revokes, limits or conditions licensure in any way, and includes reprimands.
- (d) "Practice of Podiatry" is set forth in 26 V.S.A. § 321(3).
- (e) "PMLexis" means the Podiatric Medical Licensure Examination for States.
- (f) "V.S.A." means Vermont Statutes Annotated.

9.2 LICENSE REQUIRED

No person shall practice or attempt to practice podiatry or hold himself or herself out as being able to do so in this state without possessing a valid, current license issued by the Board. In addition, no person shall use in connection with his or her name letters, words, or insignia indicating or implying that he or she is a Podiatrist unless licensed by the Board.

9.3 GENERAL REQUIREMENTS FOR LICENSING

An applicant for licensure as a Podiatrist must present evidence satisfactory to the Board that the applicant:

- (a) Is at least 18 years of age;
- (b) Is competent in speaking, writing and reading the English language;
- (c) Has received a diploma or certificate of graduation from a school of podiatric medicine accredited by the CPME and approved by the Board;
- (d) Has satisfactorily completed one year's postgraduate training in a United States hospital program or preceptorship which is approved by the Board and which meets the minimum requirements set by the CPME.
- (e) Has successfully completed the following examinations given by the National Board of Podiatry Examiners: Part I and Part II of the National Board of Podiatric Medical Examiners examination followed in sequence by the PMLexis examination.
- (f) Has presented three current reference forms as to moral character and professional competence; and
- (g) Has been interviewed by a Board member, the licensing committee, and/or the Board.

All applicants must submit a completed Board application package, provide required documentation, and pay the licensing fee.

9.4 LICENSURE WITHOUT EXAMINATION

To qualify for licensure without examination, an applicant must present evidence satisfactory to the Board that he or she:

- (a) Holds a current and unrestricted podiatrist license in another jurisdiction;
- (b) Has met licensing requirements in the other jurisdiction which are substantially equal to the Board's requirements for podiatric licensure;
- (c) Has presented current reference letters as to moral character and professional competence; and
- (d) Has been interviewed by a Board member, the licensing committee, and/or the Board. To assure that an applicant is professionally qualified, the Board may, in its discretion, require an applicant to take and pass the PMLexis examination prior to licensure.

9.5 APPLICANT'S RIGHT TO A WRITTEN DECISION

- (a) The Board must document, in writing, all decisions on whether the applicant is granted or denied a license. The Board may stay its decision on an application for a license from a practitioner who is the subject of an unresolved complaint or allegations in another jurisdiction which involve or relate to the practitioner's care of patients.
- (b) On all license denials, the Board follows a three-step process:
 - (1) If the Board intends to deny the applicant a license, it shall issue a written preliminary decision containing the following:
 - (A) The specific reasons for the license denial;
 - (B) The applicant has the right to request a hearing at which the Board shall review the preliminary decision, and that such request must be filed with the Board within 30 days of the date the decision was sent to the applicant. Failure to appeal within the 30- day period shall render the preliminary decision final.
 - (2) At the hearing to review the preliminary decision to deny the license application, the applicant shall be given the opportunity to show that he or she has met the license requirements;
 - (3) After the hearing, the Board shall affirm or reverse the preliminary decision, and shall issue a final written decision and order setting forth its reasons for the decision. The decision and order shall be signed by the chair or vice-chair of the Board, and the Board shall enter the order. A decision and order is effective upon entry.
- (c) Notice of both the preliminary decision and the final decision and order shall be sent to the applicant by certified mail.

9.6 AN APPLICANT'S RIGHT TO APPEAL

A party aggrieved by a final decision of the Board may, within 30 days of the decision, appeal that decision by filing a notice of appeal with the director of the Office of Professional Regulation, Vermont Secretary of State's Office, as provided by 3 V.S.A. §130a. For further rules concerning appeals, see the Administrative Rules for the Office of Professional Regulation.

PART 10. Podiatrists' Professional Standards.

10.1 GROUNDS FOR DISCIPLINARY ACTION

Grounds for disciplinary action are set out in 3 V.S.A. §129a, 18 V.S.A. §1852 and 26 V.S.A. §375.

10.2 DISCIPLINARY ACTION

All complaints and allegations of unprofessional conduct shall be processed in accordance with Section IV of these rules.

After notice and opportunity for hearing and upon a finding of unprofessional conduct, the Board may take disciplinary action against a licensed podiatrist, applicant, or person who later becomes an applicant as provided in 3 V.S.A. §129 and 26 V.S.A. §376. Disciplinary action may include:

- (a) Refusal to issue or renew a license;
- (b) Suspension, revocation, limitation, or conditioning of a license;
- (c) Issuance of a warning or reprimand.

The Board may approve a negotiated agreement between the parties. The conditions or restrictions that may be included, without limitation, in such an agreement are set forth in 3 V.S.A. §809(d) and 26 V.S.A. §376(d).

10.3 RIGHT TO APPEAL

A party aggrieved by a final decision of the Board may, within 30 days of the decision, appeal that decision by filing a notice of appeal with the director of the Office of Professional Regulation, Vermont Secretary of State's Office, as provided by 3 V.S.A. §130a. For further rules concerning appeals, see the Administrative Rules for the Office of Professional Regulation.

10.4 ENFORCEMENT OF CHILD SUPPORT ORDERS

The Board regulates three professional licensing or certification programs: Physicians, Physician Assistants, and Podiatrists. Under 15 V.S.A. §795, the Board may not issue or renew a professional license or certification to practice these professions if the applicant is under an obligation to pay child support and is not in good standing or in full compliance with a plan to pay the child support due. The Board requires that each applicant for the issuance or renewal of a license or certification sign a statement that the applicant is not under an obligation to pay child support or is in good standing with respect to or in full compliance with a plan to pay any and all child support payable under a support order as of the date the application is filed.

When the Board receives a letter of non-compliance from the Office of Child Support, the Board will include the letter of non-compliance with any license or certification renewal application sent to the professional licensed or certified with the Board.

When the Board receives a suspension order from the Family Court, the Board will respond as required to implement the order of the Court.

PART 11. License Renewal; Lapsed License; License Reinstatement.

11.1 RENEWING A LICENSE

Licenses are renewed on a fixed biennial schedule. A podiatrist must renew his or her license before it lapses. The date on which a license shall lapse is printed on the license. One month before the such date, the Board will mail each licensed podiatrist a renewal application and notice of the renewal fee to the address last provided to the Board. If a podiatrist does not return the renewal application completed in full and fee to the Board by the date on which the license shall lapse, the license will lapse automatically.

A podiatrist, whose initial license has been issued within 90 days of the renewal date, will not be required to renew and pay the renewal fee. Instead, the license will be issued through the next full license period. A podiatrist who has been issued an initial license more than 90 days prior to the renewal expiration date will be required to renew and pay the renewal fee.

Licensees have a continuing obligation during each two-year renewal period to promptly notify the Board of any change or new information regarding their responses to Section III (licensure questions) of the renewal application, including but not limited to disciplinary or other action limiting or conditioning his or her license or ability to practice in any licensing jurisdiction. Failure to do so may subject the licensee to disciplinary action by the Board.

11.2 LAPSED LICENSE

If a license has not been renewed by the required date, it has lapsed. A podiatrist may not legally practice in Vermont after a license has lapsed. The podiatrist must halt the practice of podiatry until the license has been reinstated.

11.3 REINSTATING A LICENSE AFTER IT HAS LAPSED FOR LESS THAN ONE YEAR

A podiatrist may not legally practice medicine in Vermont after his or her license has lapsed. A podiatrist must halt the practice of medicine if his or her license has lapsed. To seek reinstatement after failing to renew, a podiatrist must complete in full the renewal application and tender it to the Board with the fee required for renewal plus an additional penalty.

The Board may stay the decision on the application pending investigation of charges or allegations of unprofessional conduct against the renewal applicant. The Board may seek or request such additional information as it deems needed to make a determination as to the renewal application. The Board may deny the renewal of a license on grounds of unprofessional conduct as set forth under Vermont law, after notice and opportunity to be heard has been provided to the podiatrist.

11.4 REINSTATING A LICENSE AFTER IT HAS LAPSED ONE YEAR OR MORE

If a license is lapsed for one year or more the podiatrist must complete a reinstatement application in full and pay the application fee. The reinstatement application requires additional information beyond that required in the standard renewal application. A chronological accounting of the podiatrist's professional activities in other jurisdictions during the period the license was lapsed in Vermont must be presented.

The podiatrist must provide (1) a letter from the chief of staff of each hospital at which he or she held privileges during the period in which the Vermont license was lapsed and (2) a license verification from each state in which he or she held an active license during the period in which the Vermont license was lapsed. In addition, he or she must appear for a personal interview.

The Board may seek or request such additional information as it deems needed to make a determination as to the renewal application. Reinstatement may be denied on grounds of unprofessional conduct as set forth under Vermont law or for other good cause, after notice and opportunity to be heard has been provided to the podiatrist.

11.5 REINSTATING A LICENSE AFTER IT HAS LAPSED THREE YEARS OR MORE

If a license is lapsed for three years or more, in addition to the provisions of Rule 11.4, above, the Board may, after notice and opportunity for hearing, require examination as a condition of license renewal.

11.6 FAILURE TO MAINTAIN COMPETENCY

Notwithstanding Rules 11.3, 11.4, and 11.5, above, if, after notice and opportunity for hearing, the Board finds that the licensee has failed to maintain competence in the knowledge and skills of a podiatrist, the Board may require examination as a condition of license renewal.

11.7 CHANGE OF NAME OR ADDRESS

All podiatrists are responsible for notifying the Board within 10 days of any change of name or address. A Vermont-licensed, out-of-state podiatrist who intends to re-locate his or her practice to Vermont shall notify the Board 30 days in advance of the intended start date of the Vermont practice.

IV. COMPLAINT PROCEDURE FOR PHYSICIANS, PODIATRISTS, AND PHYSICIAN ASSISTANTS

PART 12. Initiating a Complaint.

12.1 FORM OF COMPLAINT; FILING

Anyone wishing to make a complaint of unprofessional conduct against a physician, podiatrist, or physician assistant may file a written complaint with the Board. The Board provides a printed complaint form for this purpose. Use of a form is preferred, but not required. A complaint must be signed. Also included with the complaint form is a release of medical records form.

The Board may open an investigation on its own initiative to evaluate instances of possible unprofessional conduct that may come to its attention. 26 V.S.A. §1355(a); 3 V.S.A. §129(b).

12.2 VERIFICATION

The Board will verify the Vermont license number of the practitioner against whom the complaint has been filed. If the respondent is licensed in Vermont, the complaint will be docketed and investigated.

If the Board determines that the respondent does not hold a valid Vermont medical license, and the complaint alleges unprofessional conduct, the matter will be preliminarily investigated by the Board. If the respondent appears to have provided medical care or surgery or has held himself or herself out as a doctor, physician, surgeon, or other provider of medical care, the matter shall be referred to the Office of the Attorney General for possible criminal prosecution based on such unlicensed practice.

12.3 DOCKETING

As soon as a written complaint against a licensee reaches the Board, it will be date-stamped, assigned a coded number, and docketed. A permanent file will be opened and all original documents will be retained in this master file.

PART 13 Notice.

13.1 NOTICE TO THE INVESTIGATING COMMITTEE AND TO THE ATTORNEY GENERAL

The Board has three standing committees for the investigation of complaints, each having at least three physicians and one public members. Complaints are divided between the three committees based on geography; therefore the committees are called the North Committee, the Central Committee and the South Committee. Once a committee has been assigned to investigate a complaint, the Board will send a copy of the letter of complaint and any accompanying material to the members of that committee and to the Assistant Attorney General.

13.2 NOTICE TO COMPLAINANT

The Board will send the complainant a standard letter of acknowledgment stating that the complaint has been received by the Board, that it will be investigated in conjunction with the Attorney General's Office, that a medical release form signed by the patient who is the subject of the complaint must be filed with the Board, that the complainant may expect to be notified of the status of the complaint, and that further inquiries or material should be sent to the North, Central or South Committee at the address of the Board. Included with this letter will be a copy of the applicable grounds of unprofessional conduct set out in Vermont Statutes.

13.3 NOTICE TO RESPONDENT

The Board will send the respondent a copy of the complaint, a copy of a release of medical records signed by the patient or authorized person, a copy of the grounds of unprofessional conduct, and a standard letter stating that:

- (a) This complaint has been lodged against him or her;
- (b) The letter is not a notice of a formal hearing;
- (c) The matter will be investigated by a committee of the Board working with the Attorney General's Office; and
- (d) Respondent's answer should be addressed to the North, Central or South Committee at the address of the Board and filed with the Board within 10 days of the date of the letter.

PART 14. Investigation.

14.1 INVESTIGATING COMMITTEE

A standing investigating committee or one specially appointed, and an assistant attorney general, will investigate each complaint and recommend disposition to the Board. The committee shall be assisted by an investigator from the Board.

14.2 INVESTIGATIVE PLAN

After the file is received, the committee will discuss the complaint and plan the investigation. All complaints shall be investigated.

14.3 STATUS REPORTS

The committee shall report on the progress of the investigation to the Board at each successive meeting until there is a recommendation for final disposition. These status reports will not disclose the substance of the investigation but will inform the Board only that the investigation is ongoing.

PART 15. Recommendation as to Disposition.

15.1 COMMITTEE RECOMMENDATION

Once the committee is satisfied that the investigation is complete, it shall present its recommendation for final disposition to the Board at a regularly scheduled meeting. The committee may recommend one of five possible dispositions depending on the results of the investigation: concluding the investigation, settlement, specification of charges, interim suspension, or summary suspension.

- (a) **Concluding the Investigation:** if, after investigating the complaint, the committee and the assistant attorney general are convinced that the alleged misconduct does not constitute unprofessional conduct, then the committee must recommend that the Board conclude the investigation. A concluded investigation may be reopened if new evidence is received or an additional complaint is made.
- (b) **Settlement:** when an investigation demonstrates a case of unprofessional conduct, the committee may recommend disposition, as provided in 3 VSA § 809(d). The committee shall explore the possibility of stipulated settlements and consent orders.
 - (1) Recommended settlements should include a concession of wrongdoing by the licensee, terms and conditions, an understanding that this concession may be relied on by the Board in case the licensee is later found to have engaged in unprofessional conduct, and an understanding

that this final disposition of the complaint is public and that the Board shall notify the Federation of State Medical Boards Board Action Data Bank, the National Practitioner Data Bank and the Healthcare Integrity and Protection Data Bank, and may notify other states of its contents.

- (2) When a stipulated settlement is filed with the Board, the complainant shall be provided with a copy of the stipulation and notice of any stipulation review scheduled before the Board. The complainant shall have the right to be heard at any stipulation review.
 - (3) The entire agreement as drafted by the committee and the assistant attorney general will be expressly conditioned on acceptance by the Board.
- (c) **Recommendation of Specification Of Charges**: if the complaint alleges unprofessional conduct within the meaning of the statute and the committee believes a settlement cannot be reached or is not warranted on the facts, the committee shall recommend the filing of a specification of charges with the Board, setting out the allegations against the licensee in accordance with 3 V.S.A. §809. The assistant attorney general will draft the charges and file them with the Board. The Board secretary shall prepare the charges for service by signing them. The charges, together with a notice of hearing, shall be served upon the Respondent.
- (d) **Summary Suspension**: the committee may find that certain alleged misconduct poses so grave a threat to the public health, safety, or welfare that emergency action must be taken. In such a case, the committee will request a special meeting of the hearing panel, and recommend that the Board order summary suspension of the respondent's license, pending a hearing under the authority of 3 VSA §814(c). If the Board orders summary suspension, a hearing will be scheduled as soon as practical, and the assistant attorney general will present the case against the suspended licensee.
- (e) **Interim Suspension**: grounds for entry of such an order are as follow:
- (1) **Criminal Convictions**: the committee shall consider any criminal conviction for which a licensee may be disciplined under 26 V.S.A. §1354(30) as an unprofessional conduct complaint and may request that the Board immediately suspend the respondent's license under the authority of 26 V.S.A. §1365. Upon receipt of the certified copy of the judgment of conviction, the Board may order an interim suspension pending a disciplinary hearing before the Board.
 - (A) The disciplinary hearing shall not be held until the judgment of conviction has become final, unless respondent requests that the disciplinary hearing be held without delay. The sole issue to be determined at the hearing shall be the nature of the disciplinary action to be taken by the Board.
 - (B) The respondent, within 90 days of the effective date of the order of interim suspension, may request a hearing concerning the interim suspension at which respondent shall have the burden of demonstrating why the interim suspension should not remain in effect. The interim suspension shall automatically terminate if respondent demonstrates that the judgment of conviction has been reversed or otherwise vacated.
 - (2) **Out-of-State Discipline**: the committee shall consider certain out-of-state disciplinary action as set forth in 26 V.S.A. §1366 as an unprofessional conduct complaint and may request that the Board immediately suspend the respondent's license under authority of that statute.
 - (A) Upon receipt of the certified copy of the order or statement regarding the relevant out-of-state disciplinary action, the Board may order an interim suspension pending a disciplinary hearing before the Board.
 - (B) The respondent, within 90 days of the effective date of the order of interim suspension, may request a hearing concerning the interim suspension at which respondent shall have the burden of demonstrating why the interim suspension should not remain in effect. The interim suspension shall automatically terminate if respondent demonstrates that the out-of-state disciplinary action has been reversed or vacated.

15.2 BOARD DISAGREEMENT WITH INVESTIGATING COMMITTEE'S RECOMMENDATION

Although the Board must hold a hearing after a specification of charges has been filed, the Board may decline other recommendations by the investigating committee for the disposition of complaints. If the investigating committee recommends concluding the investigation, after hearing the committee's rationale and after an opportunity for questions, the Board may vote to ask the Committee to continue its investigation and to examine unexplored aspects of the alleged misconduct.

If the investigating committee recommends a disposition in the form of a settlement, the Board may vote to ask the committee to change the terms of the recommended settlement. If a settlement is not accepted by the Board within a reasonable time, a disciplinary hearing shall be scheduled.

PART 16. Disciplinary Proceedings.

16.1 SPECIFICATION OF CHARGES; NOTICE; FAILURE TO APPEAR; DEFAULT

- (a) The Board commences disciplinary proceedings by serving a specification of charges and a notice of hearing upon the respondent. The hearing is scheduled no sooner than 30 days after service. Notice shall tell the respondent that he or she may file a response within 20 days of service;
- (b) Notice shall be sent to the respondent or other person or entity entitled to notice by certified mail, return receipt requested, with restricted delivery to addressee only. If service cannot be accomplished by certified mail, the Board will make reasonable attempt to accomplish service by regular mail or by personal service within the state, if feasible. A continuance may be granted upon request. Copies of the notice shall be sent to the complainant, the assistant attorney general, and the respondent's attorney;
- (c) If the respondent does not respond to charges or appear at a hearing, after proper notice, the allegations of the charges shall be treated as proven, and the Board may take disciplinary action. Upon a request by the respondent and a showing of good cause, the Board may remove a default and schedule a new hearing.

16.2 DISCOVERY

After a specification of charges has been filed, the Board, or its legal counsel on its behalf, shall have authority to conduct a prehearing conference or discovery conference and to issue orders regulating discovery and depositions, scheduling, motions by the parties, and such other matters as may be necessary to ensure orderly preparation for hearing.

16.3 HEARING

The hearing will be conducted according to the contested case provisions of the Administrative Procedure Act, 3 V.S.A. §809-815. The Board may authorize its legal counsel to preside at hearings for the purpose of making procedural and evidentiary rulings. A presiding officer may administer oaths and affirmations, rule on offers of proof and receive relevant evidence, regulate the course of the hearing, convene and conduct prehearing conferences, dispose of procedural requests and similar matters, and take any other action authorized by the Administrative Procedure Act.

16.4 DECISION, ORDER, AND ENTRY; NOTICE OF DECISION; TRANSCRIPTS

Board legal counsel will prepare the written decision and order in accordance with the Board's instructions, within a reasonable time of the closing of the record in the case. The decision and order will be signed by the chair or vice-chair of the hearing panel and the Board shall enter the order. A decision and order is effective upon entry. Notice of the decision and order will be sent to the respondent by certified mail; respondent's attorney, the complainant, and the prosecuting attorney by regular mail. A transcript of the proceeding is available at cost.

PART 17. Compliance Investigation, License or Certification Reinstatement or Removal of Conditions After Disciplinary Action.

17.1 ASSIGNMENT OF COMPLIANCE INVESTIGATION.

Upon entry of an order taking disciplinary action against a licensee of the Board, a compliance investigation file will be opened. The file will be assigned to the investigative committee that was responsible for the initial investigation of unprofessional conduct. The committee shall make recommendations for action to the full board regarding compliance, requests for reinstatement, or modification or removal of conditions.

17.2 LICENSE OR CERTIFICATION REINSTATEMENT OR REMOVAL OF CONDITIONS

A person licensed or certified by the Board who has been disciplined may petition at a later date for license reinstatement or modification or removal of conditions. In addition to complying with any restrictions or conditions on reinstatement imposed by the Board in its disciplinary order, an applicant may be asked to complete a reinstatement application. An investigating committee will review such information and make a recommendation to the full Board. The Board may hold a hearing to determine whether reinstatement should be granted.

PART 18. Appeals.

18.1 APPEALS

A party aggrieved by a final decision of the Board may, within 30 days of the decision, appeal that decision by filing a notice of appeal with the director of the Office of Professional Regulation, Vermont Secretary of State's Office, as provided by 3 V.S.A. §130a. For further rules concerning appeals, see the Administrative Rules for the Office of Professional Regulation.

PART 19. Confidentiality.

19.1 CONFIDENTIALITY; ACCESS TO DOCUMENTS

All complaints shall remain confidential until charges are filed or disciplinary or other action affecting a license is taken. Only the date and nature of the complaint, a summary of the investigation, and the date the matter was closed is public information. The name of a licensee against whom a complaint of unprofessional conduct has been made is confidential during the investigative stage.

If a Specification of Charges has been filed, and the Specification of Charges has been served or a reasonable effort to serve them has been made, or if disciplinary or other action affecting a license has been taken, the following information shall be public: (1) the name and business address of the licensee and the complainant; (2) formal charges, if served or a reasonable effort to serve them has been made; (3) any exhibits admitted at a formal hearing and any transcript of the hearing; (4) the Board's findings and order; (5) any stipulations approved by the Board; and (6) the final disposition of the matter on appeal. The licensee is entitled to any information in the Board's possession, with the exception of (1) investigatory files as to matters which have not resulted in charges of unprofessional conduct; and (2) attorney work product.

Hearings before the Board are open to the public. However, in any hearing before the Board which addresses an applicant's or licensee's alleged sexual misconduct, the discovery and admission at hearing of certain evidence may be restricted. The Board may close portions of the hearing to protect the victim's identity and privacy. See 26 V.S.A. § 1360(c).

THESE RULES AMEND THE RULES EFFECTIVE NOVEMBER 1, 1995. ALL PRIOR RULES ADOPTED BY THE BOARD ARE REPEALED, EXCEPT THAT WITH RESPECT TO ANY PROCEEDING PENDING ON THE EFFECTIVE DATE HEREOF,

THE BOARD MAY APPLY ANY PROVISION OF SUCH PRIOR RULES WHERE THE FAILURE TO DO SO WOULD WORK AN INJUSTICE OR SUBSTANTIAL INCONVENIENCE.

EFFECTIVE DATE: FEBRUARY 16, 2001