

ARTICLE VIII.

PRACTICE OF MEDICINE.

SECTION 140. Qualifications.

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Definitions.— As used in this article

University means University of the State of New York.

Regents means board of regents of the University of the State of New York.

Board means a board of medical examiners of the state of New York.

Medical examiner means a member of a board of medical examiners of the state of New York.

Medical school means any medical school, college, or department of a university, registered by the regents as maintaining a proper medical standard and as legally incorporated.

Medicine means medicine and surgery.

Physician means physician and surgeon.

New. L. 1893, ch. 661.

§ 140. **Qualifications.**—No person shall practice medicine after September first, eighteen hundred and ninety-one, unless previously registered and legally authorized or unless licensed by the regents and registered as required by this article; nor shall any person practice medicine who has ever been convicted of a felony by any court, or whose authority to practice is suspended or revoked by the regents on recommendation of a state board.

Revised from L. 1887, ch. 647, §§ 1, 6, and L. 1890, ch. 507, § 9.
See note under § 153, *post*.

§ 141. **State boards of medical examiners.**—There shall continue to be three separate state boards of medical examiners of seven members each, each of whom shall hold office for three years from August first of the years in which appointed. One board shall represent the Medical Society of the State of New York, one the Homeopathic Medical Society of the State of New York and one the Eclectic Medical Society of the State of New York. Each of these three societies shall at each annual meeting nominate twice the number of examiners to be appointed in that year on the board representing it. The names of such nominees, shall be annually transmitted under seal by the president and secretary prior to May first to the regents, who shall, prior to August first appoint from such lists the examiners required to fill any vacancies that will occur from expiration of term on August first. Any other vacancy, however, occurring, shall likewise be filled by the regents for the unex-

pired term. Each nominee before appointment, shall furnish to the regents proof that he has received the degree of doctor of medicine from some registered medical school and that he has legally practised medicine in this state for at least five years. If no nominees are legally before them from a society the regents may appoint from members in good standing of such society, without restriction. The regents may remove any examiner for misconduct, incapacity or neglect of duty.

Revised from L. 1889, ch. 529, tit. 3, § 6, and L. 1890, ch. 507, § 1.

§ 142. Certificate of appointment; oath; powers.— Every medical examiner shall receive a certificate of appointment from the regents and before beginning his term of office shall file with the secretary of state the constitutional oath of office. Each board, or any committee thereof, may take the testimony and proofs concerning all matters within its jurisdiction. Each board may, subject to the regents' approval, make all by-laws and rules not inconsistent with law needed in performing its duties; but no by-law or rule by which more than a majority vote is required for any specified action by the board shall be amended, suspended or repealed by a smaller vote than that required for action thereunder.

Revised from L. 1890, ch. 507, § 2.

§ 143. Expenses.— From the fees provided by this article, the regents may pay all proper expenses incurred by its provisions except compensation to medical examiners; and any surplus at the end of any academic

year shall be apportioned among the three boards pro rata according to the number of candidates whose answer papers have been marked by each.

Revised from L. 1890, ch. 507, § 3.

§ 144. **Officers; meetings; quorum; committees.**— Each board shall annually elect from its members a president and a secretary for the academic year, and shall hold one or more meetings each year pursuant to call of the regents, who may also call joint meetings of the three boards or of their officers. At any meeting a majority shall constitute a quorum; but questions prepared by the boards may be grouped and edited, or answer papers of candidates may be examined and marked by committees duly authorized by the boards and by the regents.

Revised from L. 1890, ch. 507, § 4.

§ 145. **Admission to examination.**— The regents shall admit to examination any candidate who pays a fee of twenty-five dollars and submits satisfactory evidence, verified by oath, if required, that he

1. Is more than twenty-one years of age;
2. Is of good moral character;
3. Has the general education required preliminary to receiving the degree of bachelor or doctor of medicine in this state;
4. Has studied medicine not less than four full school years of at least nine months each, including four satisfactory courses of at least six months each, in four differ-

ent calendar years in a medical school registered as maintaining at the time a satisfactory standard. New York medical schools and New York medical students shall not be discriminated against by the registration of any medical school out of the state, whose minimum graduation standard is less than that fixed by statutes for New York medical schools. The regents may, in their discretion, accept as the equivalent for any part of the third and fourth requirement, evidence of five or more years' reputable practice, provided that such substitution be specified in the license, and as the equivalent of the first year of the fourth requirement evidence of graduation from a registered college course, provided that such college course shall have included not less than the minimum requirements prescribed by the regents for such admission to advanced standing. The regents may also in their discretion admit conditionally to the examination in anatomy, physiology and hygiene, and chemistry, applicants nineteen years of age certified as having studied medicine not less than two full years of at least nine months each, including two satisfactory courses of at least six months each, in two different calendar years, in a medical school registered as maintaining at the time a satisfactory standard, provided that such applicants meet the second and third requirements.

5. Has either received the degree of bachelor or doctor of medicine from some registered medical school, or a diploma or license conferring full right to practice

medicine in some foreign country, unless admitted conditionally to the examinations as specified above, in which case all qualifications, including the full period of study, the medical degree and the final examinations in surgery, obstetrics, pathology and diagnosis and therapeutics, including practice and materia medica must be met. The degree of bachelor or doctor of medicine shall not be conferred in this state before the candidate has filed with the institution conferring it the certificate of the regents that before beginning the first annual medical course counted toward the degree unless matriculated conditionally as hereinafter specified, (three years before the date of the degree) he had either graduated from a registered college or satisfactorily completed a full course in a registered academy or high school; or had a preliminary education considered and accepted by the regents as fully equivalent; or held a regent medical student certificate, granted before this act took effect; or had passed regents examinations as hereinafter provided. A medical school may matriculate conditionally a student deficient in not more than one year's academic work or twelve counts of the preliminary education requirement, provided the name and deficiency of each student so matriculated be filed at the regents office within three months after matriculation, and that the deficiency be made up before the student begins the second annual medical course counted toward the degree. Students who had matriculated in a New York medical school before June five, eighteen hundred and

ninety, and students who had matriculated in a New York medical school before May thirteenth, eighteen hundred and ninety-five, as having entered before June five, eighteen hundred and ninety, on the prescribed three years study of medicine, shall be exempt from this preliminary education requirement.

A medical student certificate may be earned without notice to the regents of the conditional matriculation either before the student begins the second annual medical course counted towards the degree or two years before the date of the degree for matriculants in any registered medical school, in the four cases following:

1. For matriculants prior to May ninth, eighteen hundred and ninety-three, for any twenty counts, allowing ten for the preliminaries, not including reading and writing;

2. For matriculants prior to May thirteen, eighteen hundred and ninety-five, for arithmetic, elementary English, geography, spelling, United States history, English composition and physics, or any fifty counts, allowing fourteen for the preliminaries;

3. For matriculants prior to January first, eighteen hundred and ninety-six, for any twelve academic counts;

4. For matriculants prior to January first, eighteen hundred and ninety-seven, for any twenty-four academic counts;

But all matriculants, after January first, eighteen hundred and ninety-seven, must secure forty-eight academic counts, or their full equivalent, before beginning the first

annual medical course counted toward the degree, unless admitted conditionally, as hereinbefore specified when the deficiency must be made up before the student begins the second annual medical course counted toward the degree.

Revised from L. 1889, ch. 529, tit. 3, §§ 7, 8; L. 1889, ch. 468, §§ 1, 2; L. 1890, ch. 499, and L. 1890, ch. 507, § 8. As amended by L. 1895, ch. 636; L. 1896, ch. 111; L. 1901, ch. 646, and L. 1902, ch. 243.

§ 146. **Questions.**—Each board shall submit to the regents, as required, lists of suitable questions for thorough examinations in anatomy, physiology and hygiene, chemistry, surgery, obstetrics, pathology and diagnosis, and therapeutics including practice and materia medica. From these lists the regents shall prepare question papers for all these subjects, which at any examination shall be the same for all candidates, except that the examination may be divided as provided in section one hundred and forty-five and except that in therapeutics, practice and materia medica all the questions submitted to any candidate shall be chosen from those prepared by the board selected by that candidate and shall be in harmony with the tenets of that school as determined by its state board of medical examiners.

Revised from L. 1890, ch. 507, § 5. As amended by L. 1901, ch. 646.

§ 147. **Examinations and reports.**—Examinations for license shall be given in at least four convenient places in this state and at least four times annually, in accordance

with the regents' rules, and shall be exclusively in writing and in English. Each examination shall be conducted by a regents' examiner who shall not be one of the medical examiners. At the close of each examination the regents' examiner in charge shall deliver the questions and answer papers to the board selected by each candidate, or to its duly authorized committee, and such board, without unnecessary delay, shall examine and mark the answers and transmit to the regents an official report, signed by its president and secretary, stating the standing of each candidate in each branch, his general average and whether the board recommends that a license be granted. Such report shall include the questions and answers and shall be filed in the public records of the university. If a candidate fails on first examination, he may after not less than six months' further study, have a second examination without fee. If the failure is from illness or other cause satisfactory to the regents they may waive the required six months' study.

Revised from L. 1890, ch. 507, § 6.

§ 148. **Licenses.**— On receiving from a state board an official report that an applicant has successfully passed the examinations and is recommended for license, the regents shall issue to him, if in their judgment he is duly qualified therefor, a license to practice medicine. Every license shall be issued by the university under seal and shall be signed by each acting medical examiner of the board selected and by the officer of the university who

approved the credential which admitted the candidate to examination, and shall state that the licensee has given satisfactory evidence of fitness as to age, character, preliminary and medical education and all other matters required by law, and that after full examination he has been found properly qualified to practice. Applicants examined and licensed by other state examining boards registered by the regents as maintaining standards not lower than those provided by this article and applicants who matriculated in a New York state medical school before June 5, 1890, and who received the degree M. D., from a registered medical school before August 1, 1895, may without further examination, on payment of ten dollars to the regents and on submitting such evidence as they may require, receive from them an indorsement of their licenses or diplomas conferring all rights and privileges of a regents' license issued after examination.

If any person, whose registration is not legal because of some error, misunderstanding or unintentional omission, shall submit satisfactory proof that he had all requirements prescribed by law at the time of his imperfect registration and was entitled to be legally registered, he may on unanimous recommendation of a state board of medical examiners receive from the regents under seal a certificate of the facts which may be registered by any county clerk and shall make valid the previous imperfect registration.

Before any license is issued it shall be numbered and

recorded in a book kept in the regents' office, and its number shall be noted in the license. This record shall be open to public inspection, and in all legal proceedings shall have the same weight as evidence that is given to a record of conveyance of land.

Revised from L. 1890, ch. 507, § 7.

§ 149. **Registry.**— Every license to practice medicine shall, before the licensee begins practice thereunder, be registered in a book kept in the clerk's office of the county where such practice is to be carried on, with name, residence, place and date of birth, and source, number and date of his license to practice. Before registering, each licensee shall file, to be kept in a bound volume in a county clerk's office an affidavit of the above facts, and also that he is the person named in such license, and had, before receiving the same, complied with all requisites as to attendance, terms and amount of study and examinations required by law and the rules of the university as preliminary to the conferment thereof; that no money was paid for such license, except the regular fees paid by all applicants therefor; that no fraud, misrepresentations or mistake in any material regard was employed by any one or occurred in order that such license should be conferred. Every license, or if lost a copy thereof legally certified so as to be admissible as evidence, or a duly attested transcript of the record of its conferment shall before registering, be exhibited to the county clerk, who, only in case it

was issued or indorsed as a license under seal by the regents, shall indorse or stamp on it the date and his name preceded by the words: "Registered as authority to practice medicine in the clerk's office of . . . county." The clerk shall thereupon give to every physician so registered a transcript of the entries in the register with a certificate under seal that he has filed the prescribed affidavit. The licensee shall pay to the county clerk a total fee of one dollar for registration, affidavit and certificate.

Revised from L. 1887, ch. 647, § 3, and L. 1890, ch. 507, § 9.

§ 150. **Registry in another county.**—A practicing physician having registered a lawful authority to practice medicine in one county, and removing such practice or part thereof to another county, or regularly engaging in practice or opening an office in another county, shall show or send by registered mail to the clerk of such other county, his certificate of registration. If such certificate clearly shows that the original registration was of an authority issued under seal by the regents, or if the certificate itself is indorsed by the regents as entitled to registration, the clerk shall thereupon register the applicant in the latter county, on receipt of a fee of twenty-five cents, and shall stamp or indorse on such certificate, the date and his name preceded by the words, "Registered also in . . . county," and return the certificate to the applicant.

Revised from L. 1887, ch. 647, § 4.

§ 151. **Certificate presumptive evidence; unauthorized registration and license prohibited.**—Every unrevoked certificate and indorsement of registry, made as provided in this article, shall be presumptive evidence in all courts and places, that the person named therein is legally registered. Hereafter no person shall register any authority to practice medicine unless it has been issued or indorsed as a license by the regents. No such registration shall be valid unless the authority registered constituted at the time of registration, a license under the laws of the state then in force. No diploma or license conferred on a person not actually in attendance at the lectures, instruction and examinations of the school conferring the same, or not possessed at the time of its conferment, of the requirements then demanded of medical students in this state as a condition of their being licensed so to practice, and no registration not in accordance with this article shall be lawful authority to practice medicine, nor shall the degree of doctor of medicine be conferred *causa honoris* or *ad eundum* nor if previously conferred shall it be a qualification for such practice.

Revised from L. 1887, ch. 647, §§ 5, 9.

§ 152. **Construction of this article.**— This article shall not be construed to affect commissioned medical officers serving in the United States army, navy or marine hospital service, while so commissioned; or any one while actually serving on the resident medical staff of any

legally incorporated hospital; or any legally registered dentist exclusively engaged in practicing dentistry; or any manufacturer of artificial eyes, limbs or orthopedic instruments or trusses in fitting such instruments on persons in need thereof; or any lawfully qualified physician in other states or countries meeting legally registered physicians in this state in consultation; or any physician residing on a border of a neighboring state and duly authorized under the laws thereof to practice medicine therein, whose practice extends into this state, and who does not open an office or appoint a place to meet patients or receive calls within this state; or any physician duly registered in one county called to attend isolated cases in another county, but not residing or habitually practicing therein. This article shall be construed to repeal all acts or parts of acts authorizing conferment of any degree in medicine, *causa honoris* or *ad eundem*, or otherwise than on students duly graduated after satisfactory completion of a preliminary and medical course not less than that required by this article, as a condition of license.

Revised from L. 1887, ch. 647, §§ 6, 7, and L. 1890, ch. 507, § 10.

§ 153. Penalties and their collection.— Any person who, not being then lawfully authorized to practice medicine within this State and so registered according to law, shall practice medicine within this State without lawful registration or in violation of any provision of this article; and any person who shall buy, sell, or fraudulently obtain any medical diploma, license, record, or registra-

tion, or who shall aid or abet such buying, selling or fraudulently obtaining, or who shall practice medicine under cover of any medical diploma, license, record, or registration illegally obtained, or signed, or issued unlawfully or under fraudulent representations or mistake of fact in a material regard, or who, after conviction of a felony, shall attempt to practice medicine, or shall so practice, and any person who shall append the letters M. D. to his or her name, or shall assume or advertise the title of doctor (or any title which shall show or tend to show that any of the branches of medicine), in such a manner as to convey the impression that he or she is a legal practitioner of medicine, or the person assuming or advertising the same is a practitioner of any of its branches without having legally received the medical degree, or without having received a license which constituted at the time an authority to practice medicine under the laws of this State then in force, shall be guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not more than two hundred and fifty dollars, or imprisonment for six months for the first offense, and on conviction of any subsequent offense, by a fine of not more than five hundred dollars or imprisonment for not less than one year, or by both fine and imprisonment. Any person who shall practice medicine under a false or assumed name, or who shall falsely personate another practitioner of a like or different name, shall be guilty of a felony. When any prosecution under this article is made on the complaint of any incorpo-

rated medical society of the State, or any county medical society of such county entitled to representation in a State society, the fines when collected shall be paid to the society making the complaint, and any excess of the amount of fines so paid over the expense incurred by the said society in enforcing the medical laws of this State, shall be paid at the end of the year to the county treasurer.

Revised from L. 1887, ch. 647, §§ 6, 7. As amended by L. 1895, ch. 398, § 1.

A person convicted of a felony, whether before or after the passage of the Public Health Law, is within the provisions of section 140, prohibiting the practice of medicine by any person "who has ever been convicted of a felony," and section 153, making such practice by any person "after conviction of a felony," a misdemeanor. *People v. Hawker*, 152 N. Y. 234; 46 N. E. 607; 12 N. Y. Cr. 257.

PENAL CODE PROVISIONS.

§ 357. **Acts of intoxicated physician.**— A physician or surgeon or person practicing as such, who, being in a state of intoxication, administers any poison, drug or medicine, or does any act as a physician or surgeon, to another person, by which the life of the latter is endangered, or his health seriously affected, is guilty of a misdemeanor.

ARTICLE IX.*

DENTAL SOCIETIES AND THE PRACTICE OF DENTISTRY.

SECTION 160. Definitions as used in this article.

- 161. State dental society.
- 162. District dental societies.
- 163. Powers of district dental societies.
- 164. Licentiates.
- 165. State board of dental examiners.

* The whole of article IX was amended by L. 1895, ch. 626. For laws on this subject prior to L. 1893, ch. 661, see schedule of laws repealed by L. 1895, ch. 626, *post*.