

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 For laws on this subject prior to L. 1893, ch. 661, see schedule of laws repealed by L. 1895, ch. 626, *post*.

- SECTION** 166. Examinations.
167. Degrees.
168. Licenses.
169. Registration.
169a. Examination fees.
169b. Revocation of licenses.
169c. Construction of this article.
169d. Penalties.

§ 160. **Definitions.**— As used in this article, the terms university, regents and physicians have respectively the meanings defined in article eight of this chapter. Board, where not otherwise limited, means the board of dental examiners of the state of New York. Registered medical or dental school means a medical or dental school, college or department of a university, registered by the regents as maintaining a proper educational standard and legally incorporated. Examiner, where not otherwise qualified, means a member of the board. State dental society means the dental society of the state of New York.

Preamble to article IX added by L. 1895, ch. 626. As amended by L. 1896, ch. 297, and L. 1898, ch. 355. Numbered § 160 by L. 1901, ch. 215.

§ 161. **State dental society.**— The dental society of the state of New York is continued, and shall be composed of eight delegates from each district society divided into four classes of two delegates, each to be elected annually, and of two delegates from each incorporated dental school of the state to be elected annually. The state dental society shall annually meet on the second Wednesday of May, or at such other time and at such place

as may be determined on in the by-laws of the society or by resolution, at the preceding annual meeting. Twenty members shall be a quorum. The society shall elect annually a president, vice-president, secretary and treasurer, who shall hold their offices for one year, and until others shall be chosen in their places, and may elect not more than sixteen permanent members at any annual meeting from among eminent dentists of the state, who shall have all the privileges of delegate members. The society may elect honorary members from any state or country not eligible to regular membership, who shall not be entitled to vote or hold any office in the society.

Added by L. 1901, ch. 215.

§ 162. **District dental societies.**—The existing district dental societies are continued. In any judicial district in which a district dental society is not now incorporated, fifteen or more dentists of such district authorized to practice dentistry in this state may become a district dental society of such district, by publishing a call for a meeting of the dentists of the district to be held at a time and place mentioned therein within the district, in at least one newspaper in each county of the district, at least once a week for at least four weeks immediately preceding the time when such meeting is to be held, and by meeting at the time and place specified in such notice with such dentists authorized to practice dentistry in the district as may respond to such call, and by making and filing with the secretary of the state

dental society a certificate, to be executed and acknowledged by the dentists so meeting, or by at least fifteen of them, which shall set forth that such meeting has been held pursuant to such notice, the corporate name of the society, which shall be the district dental society of the judicial district where located, the names and places of residence of the officers of the society for the first year, or until the first annual meeting, which officers shall be a president, vice-president, secretary and treasurer, the time and place of the annual meeting of the society, the general objects and purposes of the association and the names of eight delegates to the state society divided into four classes of two delegates each, to hold office until the first, second, third and fourth annual meeting thereafter, respectively. And thereon the persons executing such certificate and all other dentists in good standing and authorized to practice dentistry in such district, who shall subscribe to its by-laws, shall be a corporation by the name expressed in such certificate.

Added by L. 1901, ch. 215.

§ 163. **Powers of dental societies.**—Every licensed and registered dentist in the judicial district in which such society is formed, shall be eligible to membership in the district society of the district where he resides or practices dentistry. Every district society shall at every annual meeting choose two delegates to the state dental society, each to serve four years, and may fill all vacancies occurring in their respective delegations in the state

society. Every district dental society shall at its annual meeting appoint not less than three nor more than five censors to continue in office for one year and until others are chosen, who shall constitute a district board of censors. The dental societies of the respective districts of the state shall have power to make all needful by-laws not inconsistent with the laws of this state for the management of their affairs and property and the admission and expulsion of members; providing, that no by-law of any district society shall be repugnant to or inconsistent with the by-laws of the state society. Said societies may purchase and hold real and personal estate for the purposes of their incorporation; provided that the property of a district society shall not exceed in value five thousand dollars, and the property of the state society shall not exceed in value twenty-five thousand dollars.

Added by L. 1901, ch. 215.

§ 164. **Licentiates.**— Only the following persons shall be deemed licensed to practice dentistry:

1. Those duly licensed and registered as dentists in this state prior to the first day of August, eighteen hundred and ninety-five, pursuant to the laws in force at the time of their license and registration.

2. Those duly licensed and registered after the first day of August, eighteen hundred and ninety-five, pursuant to the provisions of this chapter.

As amended by L. 1895, ch. 626. Renumbered from § 160 by L. 1901, ch. 215.

§ 165. **State board of dental examiners.**— The existing division of the state board of dental examiners shall be divided into four classes and their terms of office shall continue except that said terms shall expire on the thirty-first day of July in each year. Before the day when the official terms of the members of any of said classes shall expire, the regents shall appoint their successors, to serve for the term of four years from said day. Such appointment shall be made from nominations in number twice the number of the outgoing class made by such society to the regents prior to the second Tuesday in June of each year. In default of such nominations, the regents shall appoint such examiners from the legally qualified dentists in the state belonging to the state dental society. The regents, in the same manner, shall also fill vacancies in the board that may occur. All nominations and appointments shall be so made that every vacancy in the board shall be filled by a resident of the same judicial district in which the last incumbent of the office resided. The board shall elect at its annual meeting from its members a president and a secretary and shall hold one or more meetings each year pursuant to call of the regents. No person shall be appointed an examiner unless he shall have received a dental degree from a body lawfully entitled to confer the same, and in good standing at the time of its conferment, and shall have been engaged within the state during not less than five years prior to his appointment in the actual and lawful practice of dentistry. Nor shall any person

connected with a dental school as professor, trustee or instructor be eligible to such appointment. Cause being shown before them the regents may remove an examiner from office on proven charges of inefficiency, incompetency, immorality or unprofessional conduct.

As amended by L. 1895, ch. 626; L. 1896, ch. 297, and L. 1901, ch. 215. Formerly § 161.

§ 166. **Examinations.**— The regents shall admit to examination any candidate who shall pay the fee herein prescribed and submit 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 a preliminary education equivalent to graduation from a four year high school course registered by the regents, or an education accepted by the regents as fully equivalent.
4. Subsequently to receiving such preliminary education either has been graduated in course with a dental degree from a registered dental school, or else, having been graduated in course from a registered medical school with a degree of doctor of medicine, has pursued thereafter a course of special study of dentistry for at least two years in a registered dental school and received therefrom its degree of doctor of dental surgery, or else holds a diploma or license conferring full right to practice dentistry in some foreign country and granted by some registered authority. Provided that any person who then being a bona fide student of den-

tistry in this state under private preceptorship was entitled to file on or before the thirty-first day of July eighteen hundred and ninety-five with the secretary of the state dental society a certificate of study under private preceptorship may at any time prior to the first day of January nineteen hundred and four upon sworn proof of such fact file such a certificate with the regents and thereupon be admitted to examination before the board. Any member of the board may inquire of any applicant for examination concerning his qualifications and may take testimony of any one in regard thereto, under oath, which he is hereby empowered to administer.

As amended by L. 1895, ch. 626; L. 1896, ch. 296; L. 1901, ch. 215, and L. 1902, ch. 210. Renumbered from § 162.

§ 167. **Degrees.**— No degree in dentistry shall be conferred in this state except the degree of doctor of dental surgery. Said degree shall not be conferred upon any one unless he shall have satisfactorily completed a course of at least three years in a registered dental school, or having been graduated in course from a registered medical school with the degree of doctor of medicine shall have pursued satisfactorily thereafter a course of special study of dentistry for at least two years in a registered dental school; nor shall said degree be conferred upon any one, unless prior to matriculation in the institution conferring his professional degree, or before beginning the second course of lectures counted toward such degree he shall have filed with

said institution a regents' certificate that he has received the required preliminary education evidenced as aforesaid; provided further, however, that the regents may confer upon all persons who shall have received the degree of master of dental surgery under the laws of this state, prior to the taking effect of this act, the degree of doctor of dental surgery in lieu of said master's degree.

As amended by L. 1895, ch. 626, and L. 1901, ch. 215. Renumbered from § 162.

§ 168. Licenses.— On certification by the board of dental examiners that a candidate has successfully passed its examinations and is competent to practice dentistry, the regents shall issue to him their license so to practice pursuant to the rules established by them. On the recommendation of the board, the regents may also, without the examination hereinbefore provided for, issue their license to any applicant therefor who shall furnish proof satisfactory to them that he has been duly graduated from a registered dental school and has been thereafter lawfully and reputably engaged in such practice for six years next preceding his application; or who holds a license to practice dentistry in any other of the United States granted by a state board of dental examiners, endorsed by the dental society of the state of New York, provided, that in either case his preliminary and professional education shall have been not less than that required in this state. Every license, so issued shall state on its face the grounds on which it is

granted and the applicant may be required to furnish his proofs on affidavit.

As amended by L. 1895, ch. 626; L. 1898, ch. 355, and L. 1901, ch. 215. Renumbered from § 162.

§ 169. **Registration.**— Every person practicing dentistry in this state and not lawfully registered before this section takes effect, shall register in the office of the clerk of the county where his place of business is located, in a book kept by the clerk for such purpose, his name, age, office and post-office address, date and number of his license to practice dentistry and the date of such registration, which registration he shall be entitled to make only upon showing to the county clerk his license or a duly authenticated copy thereof, and making an affidavit stating name, age, birthplace, the number of his license and the date of its issue; that he is the identical person named in the license; that before receiving the same he complied with all the preliminary requirements of this statute and the rules of the regents and board as to the terms and the amount of study and examination; that no money, other than the fees prescribed by this statute and said rules, was paid directly or indirectly for such license, and that no fraud, misrepresentation or mistake in a material regard was employed or occurred in order that such license should be conferred. The county clerk shall preserve such affidavit in a bound volume and shall issue to every licentiate duly registering and making such affidavit, a certificate of registration in his county, which shall include a tran-

script of the registration. Such transcript and the license may be offered as presumptive evidence in all courts of the facts stated therein. The county clerk's fee for taking such registration and affidavit and issuing such certificate, shall be one dollar. A practicing dentist having registered a lawful authority to practice dentistry in one county of the state 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. Any person who having lawfully registered as aforesaid shall thereafter change his name in any lawful manner shall register the new name with marginal note of the former name; and shall note upon the margin of the former registration the fact of such change and a cross reference to the new registration. A county clerk who knowingly shall make or suffer to be made upon the book of registry of dentists kept in his office any other entry than is provided for

in this section shall be liable to a penalty of fifty dollars to be recovered by the state dental society in a suit in any court having jurisdiction.

As amended by L. 1895, ch. 626; L. 1896, ch. 206, and L. 1901, ch. 215. Renumbered from § 162.

§ 169a. **Examination fees.**— Every applicant for license to practice dentistry shall pay a fee of not more than twenty-five dollars: From the fees provided by this article the regents may pay all proper expenses incurred by them under its provisions, and any surplus at the end of any academic year shall be paid to the society nominating the examiners to defray its expenses incurred under the law.

As amended by L. 1895, ch. 626, and L. 1901, ch. 215. Renumbered from § 162.

§ 169b. **Revocation of licenses.**— If any practitioner of dentistry be charged under oath before the board, with unprofessional or immoral conduct, or with gross ignorance, or inefficiency in his profession, the board shall notify him to appear before it at an appointed time and place, with counsel, if he so desires, to answer said charges, furnishing to him a copy thereof. Upon the report of the board that the accused has been guilty of unprofessional or immoral conduct, or that he is grossly ignorant or inefficient in his profession, the regents may suspend the person so charged from the practice of dentistry for a limited season, or may revoke his license. Upon the revocation of any license, the fact shall be noted upon the records of the regents and the

license shall be marked as cancelled, of the date of its revocation. Upon presentation of a certificate of such cancellation to the clerk of any county wherein the licensee may be registered, said clerk shall note the date of the cancellation on the register of dentists and cancel the registration. A conviction of felony shall forfeit a license to practice dentistry, and upon presentation to the regents or a county clerk by any public officer or officer of a dental society of a certified copy of a court record showing that a practitioner of dentistry has been convicted of felony, that fact shall be noted on the record of license and clerk's register, and the license and registration shall be marked canceled. Any person who, after conviction of a felony shall practice dentistry in this state, shall be subject to all the penalties prescribed for the unlicensed practice of dentistry, providing that if such conviction be subsequently reversed upon appeal and the accused acquitted or discharged, his license shall become again operative from the date of such acquittal or discharge.

As amended by L. 1895, ch. 626; L. 1896, ch. 296, and L. 1901, ch. 215. Renumbered from § 162.

§ 169c. **Construction of this article.**—This article shall not be construed to prohibit an unlicensed person from performing merely mechanical work upon inert matter in a dental office or laboratory, or the student of a licensee from assisting the latter in his performance of dental operations while in the presence and under the personal supervision of his instructor; or a student in

an incorporated dental school or college from performing operations for purposes of clinical study under the supervision and instruction of preceptors; or a duly licensed physician from treating diseases of the mouth or performing operations in oral surgery. But nothing in this article shall be construed to permit the performance of independent dental operations by an unlicensed person under cover of the name of a registered practitioner or in his office. Nor shall anything in this article be construed to require of students already matriculated in registered dental or medical schools when this act shall take effect, or students matriculated in such schools before the first day of January, nineteen hundred and five, any other or higher qualification for the dental license or degree than was demanded by existing laws as interpreted by the regulations of the regents at the date of their matriculation.

As amended by L. 1895, ch. 626, and L. 1901, ch. 215. Renumbered from § 163.

§ 169d. **Penalties.**— (a) A person who, in any county of this state, practices or holds himself out to the public as practicing dentistry, not being at the times of said practice or holding out, a dentist licensed to practice as such in this state and registered in the office of the clerk of such county, pursuant to the general laws regulating the practice of dentistry, is guilty of a misdemeanor and punishable upon conviction of a first offense by a fine of not less than fifty dollars, and upon conviction of a

subsequent offense by a fine of not less than one hundred dollars, or by imprisonment for not less than two months or by both such fine and imprisonment. Any violation of this section by a person theretofore convicted under the then existing laws of this state of practicing dentistry without license or registration, shall be included in the term a subsequent offense. Every conviction of unlawful practice or holding out subsequent to a first conviction thereof shall be a conviction of a second offense. Every practitioner of dentistry must display in a conspicuous place upon the house or in the office wherein he practices his full name. If there are more chairs than one in any office or dental parlor the name of the practitioner must be displayed on or by said chair in plain sight of the patient. Any person who shall practice dentistry without displaying his name as herein prescribed; and any proprietor, owner or manager of a dental office, establishment or parlor who shall fail so to display or cause to be displayed the name of each person employed as a practising dentist or practising as a dentist in said office, establishment or parlor, shall be guilty of a misdemeanor and punishable upon a first conviction by a fine of fifty dollars, and upon every subsequent conviction by a fine of not less than one hundred dollars, or by imprisonment for not less than sixty days, or by both fine and imprisonment.

(b) A person shall be deemed guilty of a misdemeanor, and upon every conviction thereof shall be punished by a fine of not less than two hundred and fifty

dollars, or by imprisonment for not less than six months, or by both fine and imprisonment, who

1. Shall sell or barter or offer to sell or barter any diploma or document conferring or purporting to confer any dental degree or any certificate or transcript made or purporting to be made pursuant to the laws regulating the license and registration of dentists; or,

2. Shall purchase or procure by barter any such diploma, certificate or transcript with intent that the same shall be used as evidence of the qualifications to practice dentistry of any person other than the one upon whom it was lawfully conferred or in fraud of the laws regulating such practice; or,

3. Shall, with fraudulent intent, alter in a material regard any such diploma, certificate or transcript; or,

4. Shall use or attempt to use any such diploma, certificate or transcript which has been purchased, fraudulently issued, counterfeited or materially altered either as a license or color of license to practice dentistry or in order to procure registration as a dentist; or,

5. Shall practice dentistry under a false or assumed name; or,

6. Shall assume the degree of bachelor of dental surgery, doctor of dental surgery, or master of dental surgery, or shall append the letters B. D. S., D. D. S., M. D. S., to his name, not having been duly conferred upon him by diploma from some college, school or board of examiners legally empowered to confer the same, the right to assume said titles; or shall assume any title or

append or prefix any letters to his name with the intent to represent falsely that he has received a medical or dental degree or license, or,

7. Shall falsely personate another at any examination, held by the regents or by the board, of the preliminary or professional education of candidates for dental students certificates, dental degrees or licenses, or who shall induce another to make or aid and abet in the making of such false personation, or who shall knowingly avail himself of the benefit of such false personation, or who shall knowingly or negligently make falsely any certificate required by the regents or board in connection with their examinations.

(c) Any person who in any affidavit or examination required of an applicant for examination, license or registration under the laws regulating the practice of dentistry, or under the laws, ordinances or regulations governing the regent's examinations of the preliminary education required for a dental student's certificate shall make wilfully a false statement in a material regard shall be guilty of perjury, and punishable upon conviction thereof by imprisonment not exceeding ten years.

(d) All courts of special sessions and police justices sitting as courts of special sessions shall have jurisdiction in the first instance to hear and determine all charges of misdemeanors mentioned in this act committed within their local jurisdiction, and to impose all the penalties provided for misdemeanors in this statute; provided, however, that the power of said courts and

justices to hear and determine such charges shall be divested, if before the commencement of a trial before such court or justice, a grand jury shall present an indictment against the accused person for the same offense, or if a justice of the supreme court or a county judge of the county shall grant a certificate in the manner provided by law in cases of misdemeanor, that it is reasonable that such charge be prosecuted by indictment.

(e) All fines, penalties and forfeitures of bail imposed or collected on account of violations of the laws regulating the practice of dentistry must be paid to the state dental society. Said society may prefer complaints for violations of the law regulating the practice of dentistry before any court, tribunal or magistrate having jurisdiction thereof and may by its officers, counsel and agents aid in presenting the law and the facts before such court, tribunal or magistrate in any proceeding instituted by it.

As amended by L. 1895, ch. 626; L. 1898, ch. 355, and L. 1901, ch. 215. Renumbered from § 164.