

the probate court is deemed closed if no document has been filed in the proceeding for a period of 15 years, except in the cases of wills filed for safe-keeping and those containing wills of decedents not adjudicated upon.

Approved May 25, 1971.

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CHAPTER 485—S.F.No.344

[Coded in Part]

*An act relating to basic sciences and physicians and surgeons, osteopaths; amending Minnesota Statutes 1969, Sections 146.12; 147.02, Subdivision 1; 147.09; and 147.10; amending Minnesota Statutes 1969, Chapter 147, by adding a section; and repealing Minnesota Statutes 1969, Section 147.02, Subdivision 3.*

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Minnesota Statutes 1969, Section 146.12, is amended to read:

**146.12 BASIC SCIENCES; LICENSES.** No examining board for any branch or system of healing, now existing or hereafter established, shall admit to its examinations or license or register any applicant for examination by such board unless such applicant first presents to it a certificate of registration in the basic sciences, or unless such applicant is an applicant for licensure under chapter 147, in which case such applicant must present to the Minnesota state board of medical examiners a certificate of registration in the basic sciences at any time prior to licensure. Any such board shall not require of the applicant another examination in any of the basic sciences.

Sec. 2. Minnesota Statutes 1969, Section 147.02, Subdivision 1, is amended to read:

**147.02 EXAMINATION; LICENSING; REVOCATION.** Subdivision 1. **EXAMINATION.** A person not authorized to practice medicine in the state and desiring so to do shall apply to the secretary of the state board of medical examiners for examination and pay a fee of \$75 for the use of the board, which in no case shall be refunded. At a time appointed, or at the next regular examination, he shall prove (a) that he is of good moral character, and (b) that he is either a graduate of a medical or osteopathic school approved by the board after a study of its curriculum, faculty, facilities, accreditation, and other relevant data, or is currently enrolled in the final year of study

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at such school. The applicant shall be examined (a) in the clinical sciences, including but not limited to surgery, medicine, obstetrics and gynecology, and (b) in such other branches as the board shall deem advisable. The examination shall be both scientific and practical and thoroughly test the fitness of the candidate. The board may, in its discretion, issue a temporary permit to practice medicine to ~~a doctor of medicine or a doctor of osteopathy~~ qualified to take said examination physician eligible for licensure under section 147.03, upon the payment of a fee of \$40, which temporary permit shall be valid only until the next ~~regular examination and~~ meeting of said board. In regard to the examination in clinical sciences, the board may (a) prepare, administer, and grade the examination itself or, in its discretion, may (b) recognize and approve a similar examination prepared, administered, and graded by the national board of medical examiners or, may (c) administer a recognized and approved examination prepared and graded by the national board of medical examiners. Certification of passage by the national board or the medical school from which the applicant graduated may be accepted as evidence that the applicant has passed the national board examination. If the state board determines that the applicant has not satisfactorily passed the national board's examination ~~within one year~~ three years before, or five years after being granted the degree of M.D. or D.O., the board may, in its discretion, examine the applicant, using its own examination or that of the national board. All applicants shall be known to the board members or examiners only by number, without names, or other method of identification on examination papers by which board members or examiners may be able to identify such applicants, until the final grades of all the examination papers have been determined, and the licenses granted or refused.

Sec. 3. Minnesota Statutes 1969, Chapter 147, is amended by adding a section to read:

**[147.021] REFUSAL TO GRANT LICENSE, SUSPENSION OR REVOCATION OF LICENSE.** Subdivision 1. The board may refuse to grant a license to, or may suspend, revoke, condition, limit, qualify or restrict the license, whether granted under chapter 147 or under Minnesota Statutes 1961, Sections 148.11 to 148.16, prior to May 1, 1963, of any person whom such board, after a hearing, adjudges unqualified or who the board determines after such a hearing is any one or more of the following:

(a) a person who fails to demonstrate the qualifications or satisfy the standards for a license contained in chapter 147 or rules and regulations of the board. The burden of proof shall be upon the applicant to demonstrate such qualifications or satisfaction of such standards.

(b) a person who makes misleading, deceptive, untrue or fraudulent representations in the practice of medicine or who

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employs a trick or scheme in the practice of medicine or fraud or deceit in obtaining a license to practice medicine.

(c) a person who is convicted of a felony in the courts of this state or any other state, territory or country. Conviction as used in this subdivision shall include a conviction of an offense which if committed in this state would be deemed a felony without regard to its designation elsewhere, or a criminal proceeding where a finding or verdict of guilt is made or returned but the adjudication of guilt is either withheld or not entered thereon.

(d) a person whose license to practice medicine has been revoked, suspended, annulled or with regard to whom disciplinary action has been taken or whose application for a license has been denied by the proper licensing authority of another state, territory or country.

In clauses (c) and (d) a copy of the judgment or proceeding under the seal of the clerk of the court or of the administrative agency which entered the same shall be admissible into evidence without further authentication and shall constitute prima facie evidence of the contents thereof.

(e) a person who advertises in any manner, either in his own name or under the name of another person or concern, actual or pretended, in any newspaper, pamphlet, circular, or other written or printed paper or document, professional superiority to or greater skill than that possessed by another doctor of medicine or another doctor of osteopathy licensed to practice medicine under chapter 147, or the positive cure of any disease, or the curing of venereal diseases, the restoration of "lost manhood," the treatment of private disease, peculiar to men or women, or advertises or holds himself out to the public in any manner as a specialist in diseases of the sexual organs, or diseases caused by sexual weakness, self-abuse, or excessive indulgences, or advertises any medicine or any means whereby the monthly periods of women may be regulated or the menses reestablished, or is employed by or is in the service of any person, concern, actual or pretended, so advertising, or in any manner creates a fear of private diseases.

(f) a person who violates a lawful rule or regulation promulgated by the board or violates a lawful order of the board, previously entered by the board in a disciplinary hearing.

(g) a person who engages in any unethical, deceptive or deleterious conduct or practice harmful to the public in which proceeding proof of actual injury need not be established.

(h) a person who procures, aids, or abets in the procuring of a criminal abortion.

(i) a person who violates a statute or law of this state or of any other state or of the United States, without regard to its designation

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as either felony or misdemeanor, which statute or law relates to the practice of medicine or in part regulates the practice of medicine.

(j) a person who has been adjudged mentally incompetent, mentally ill or mentally deficient by a court of competent jurisdiction, within or without this state. Such adjudication shall automatically suspend a license for the duration thereof unless the board orders otherwise.

(k) a person who is guilty of immoral or unprofessional conduct. Unprofessional conduct shall include any departure from or the failure to conform to the minimal standards of acceptable and prevailing medical practice in which proceeding actual injury to a patient need not be established; or the commission by a physician of any act contrary to honesty, justice or good morals, whether the same is committed in the course of his practice or otherwise, and whether committed within or without this state.

(l) a person who is unable to practice medicine with reasonable skill and safety to patients by reason of illness, senility, drunkenness, excessive use of drugs, narcotics, chemicals or any other type of material or as a result of any mental or physical condition. A physician affected under this clause shall at reasonable intervals be afforded an opportunity to demonstrate that he can resume the competent practice of medicine with reasonable skill and safety to patients.

In any proceeding under this clause, neither the record of proceedings nor the orders entered by the board shall be used against a physician in any other proceeding.

(m) a person who willfully betrays a professional secret.

(n) a person who is convicted of an offense involving moral turpitude.

(o) a doctor of osteopathy who fails to identify his school of healing in the professional use of his name by one of the following terms: osteopathic physician and surgeon, doctor of osteopathy, or D.O.

Subd. 2. A suspension, revocation, condition, limitation, qualification or restriction of a license shall be in effect pending determination of an appeal unless the court, upon petition and for good cause shown, shall otherwise order.

A license to practice medicine is suspended if (1) a guardian of the person of a licensee is appointed by order of a probate court pursuant to sections 525.54 to 525.612, for reasons other than the minority of the licensee; or (2) the licensee is committed by order of a probate court pursuant to sections 253A.01 to 253A.21 or 526.09 to 526.11. The license remains suspended until the licensee is restored to

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capacity by a court and, upon petition by the licensee, the suspension is terminated by the board after a hearing. A license to practice medicine is also suspended when a licensee is convicted of the crime of abortion and remains suspended until, upon petition by the licensee, the suspension is terminated by the board after a hearing.

Subd. 3. In its discretion, the board may restore and reissue a license to practice medicine, but as a condition thereof may impose any disciplinary or corrective measure which it might originally have imposed.

Sec. 4. Minnesota Statutes 1969, Section 147.09, is amended to read:

**147.09 EXEMPTIONS.** This chapter shall not apply to commissioned surgeons of the United States ~~army or navy armed forces~~, to physicians from other states in actual consultation here, ~~or~~ to students practicing under the direct supervision of a preceptor while they are enrolled in and regularly attending a recognized medical school or to scientific, sanitary or teaching personnel employed by the state university, the state department of education, or by any public or private school, college, or other bona fide educational institution, or the state department of health, whose duties are entirely of a public health or educational character, while engaged in such duties.

Sec. 5. Minnesota Statutes 1969, Section 147.10, is amended to read:

**147.10 PRACTICING WITHOUT LICENSE; PENALTY.** Every person not heretofore authorized by law so to do who shall practice medicine in the state without having obtained the license herein provided for, and every person who shall so practice contrary to any provision of this chapter, shall be guilty of a gross misdemeanor. Any person shall be regarded as practicing within the meaning of this chapter who shall append the letters M.D., M.B., or D.O. to his name, or for a fee prescribe, direct, or recommend for the use of any person, any drug, or medicine or other agency for the treatment or relief of any wound, fracture, or bodily injury, infirmity, or disease; provided, a doctor of osteopathy duly licensed by the state board of osteopathy under Minnesota Statutes 1961, Sections 148.11 to 148.16, prior to May 1, 1963, who has not been granted a license to practice medicine in accordance with section 147.031 shall not be considered as practicing medicine within the meaning of this section because he appends the letters D.O. to his name so long as he confines his activities within the scope of his license and, provided further, this section shall not apply to any other persons legally authorized to practice healing or excepted from the practice of healing in this state so long as they confine their activities within the scope of their respective licenses, nor to Christian Scientists or other persons who endeavor to prevent or cure disease or suffering exclusively by mental or spiritual means or by prayer, but this section shall apply to

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persons who use hypnosis for the treatment or relief of any wound, fracture, or bodily injury, infirmity, or disease.

Sec. 6. Minnesota Statutes 1969, Section 147.02, Subdivision 3, is repealed.

Approved May 25, 1971.

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### CHAPTER 486—S.F.No.348

[Coded]

*An act relating to public welfare; establishing a mental retardation division of the department of public welfare; providing for its organization and operation.*

Be it enacted by the Legislature of the State of Minnesota:

**Section 1. [245.072] PUBLIC WELFARE; MENTAL RETARDATION DIVISION.** A mental retardation division is created in the department of public welfare which shall coordinate those laws administered and enforced by the commissioner of public welfare relating to mental retardation and mental deficiency which the commissioner may assign to the division. The mental retardation division shall be under the supervision of a director whose responsibility it shall be to maximize the availability of federal or private moneys for programs to assist mentally retarded and mentally deficient persons. The commissioner shall appoint the director who shall serve in the classified service of the state civil service. The commissioner may employ additional personnel with such qualifications and in such numbers as are reasonable and are necessary to carry out the provisions of this act.

Sec. 2. This act is effective July 1, 1971.

Approved May 25, 1971.

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### CHAPTER 487—S.F.No.399

[Not Coded]

*An act relating to the tax levy for the county building fund in the county of Olmsted.*

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