

CHAPTER 147

PHYSICIANS AND SURGEONS

147.01 BOARD OF MEDICAL EXAMINERS.

NOTE: The original laws relating to examination preliminary to admission to practice are L. 1883, c. 125.

When a resident licensed physician applies for reciprocal registration in another state, the board of medical examiners may charge five dollars for a certified copy of his license and ten dollars for a certificate of his practice record. OAG July 19, 1945 (303-a-5).

Delegation of power to medical board. 7 MLR 170.

Malpractice in abandonment of patient and using necessity of attending another patient as an excuse. 13 MLR 740.

147.02 EXAMINATION AND LICENSE; REVOCATION.

Liability of a malpracticing physician to his patient is predicated upon negligence and responsibility in the way of damages has for its sole basis personal fault. Where an employee was awarded compensation and also recovered damages from the physician selected by the employer, the employer and the insurer may not deduct from the compensation awarded the amount recovered from the physician. *McGough v McCarthy*, 206 M 1, 287 NW 857.

A doctor appointed by the court to act as examiner in an insanity proceeding and to report his findings to the court is a quasi-judicial officer and as such immune from civil suit for acts performed by him in connection with such proceedings. *Linder v Foster*, 209 M 43, 295 NW 299.

In an action for damages to compensate for injuries sustained in treating plaintiff for varicose veins, plaintiff adduced insufficient evidence of neglect when the surgeon used a recognized technique. *Simon v Larson*, 210 M 317, 298 NW 33.

Where neither testimonial nor circumstantial evidence, other than unfavorable result, was offered in support of plaintiff's claim, the evidence was not sufficient to sustain a verdict against defendant for alleged malpractice. *Johnson v Colp*, 211 M 245, 309 NW 791.

When the hospital assigns a nurse to duty with a surgeon and surrenders to the surgeon direction and control in relation to the work to be done, the nurse insofar as she serves the surgeon becomes his servant, and the hospital cannot be held for a tort of the nurse during such assignment. *St. Paul-Mercury Co. v St. Joseph's Hospital*, 212 M 558, 4 NW(2d) 637.

Hospital nurses on duty in the operating room are under control of the operating surgeon, and the hospital is relieved from any tort liability growing out of negligence attending the operation. *Wallstedt v Swedish Hospital*, 220 M 274, 19 NW(2d) 426.

In the instant case, evidence failing to establish that the injury was caused by a burn, and the evidence tending to show the injury might have resulted from causes other than any negligence on the part of the physician, the jury was warranted in finding the physician without liability. *Wallstedt v Swedish Hospital*, 220 M 274, 19 NW(2d) 426.

The state may not pay a judgment obtained against a physician serving on the staff of a state hospital. He may be reimbursed only by legislative appropriation. OAG Aug. 9, 1946 (844-G).

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147.04 RETALIATORY PROVISIONS.

Reciprocal and retaliatory provisions. 21 MLR 371.

147.05 DUTY OF SECRETARY; MONEYS, HOW PAID; COMPENSATION, EXPENSES.

State board of medical examiners has no authority to invest or otherwise dispose of its funds except by depositing them in the state treasury. United States savings bonds may not be purchased. OAG Aug. 18, 1947 (303-a).

147.10 PRACTICING WITHOUT LICENSE; PENALTY.

A hospital cannot be licensed to practice medicine. As far as the school board attempted to contract with a hospital to furnish professional services of a physician, the contract is without effect. OAG Sept. 2, 1947 (166-a-3).