

CHAPTER 147

PHYSICIANS AND SURGEONS, OSTEOPATHS

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147.01 BOARD OF MEDICAL EXAMINERS. The Minnesota state board of medical examiners shall consist of eight members, residents of the state of Minnesota, appointed by the governor as hereinafter provided (a) seven of whom shall hold a degree of doctor of medicine and be licensed to practice medicine under Minnesota Statutes 1961, Chapter 147 and (b) one of whom shall hold a degree of doctor of osteopathy and either be licensed to practice osteopathy under Minnesota Statutes 1961, Sections 148.11 to 148.16; prior to May 1, 1963, or be licensed to practice medicine under Minnesota Statutes 1961, Chapter 147. The term of office of each of the seven members who shall be serving on the board on May 1, 1963, shall continue for the term for which each was appointed and until his successor shall qualify, one such member's term continuing until May 1, 1963; one such member's term continuing until May 1, 1964; one such member's term continuing until May 1, 1965; one such member's term continuing until May 1, 1966; one such member's term continuing until May 1, 1967; one such member's term continuing until May 1, 1968; and one such member's term continuing until May 1, 1969. The term of the initial member of the board appointed pursuant to clause (b) of the first sentence of this section shall expire on May 1, 1970. The term of office of each member appointed to the board on the expiration of each of the foregoing terms shall commence as of May 1 and shall continue for a period of eight years and until his successor shall qualify. Upon the expiration of the term of any member, the governor shall appoint a successor to the member whose term expires. Each year the council of the Minnesota state medical association, at least 30 days prior to May first, shall recommend to the governor three doctors of medicine qualified to serve on the board with respect to each membership which is then filled by a doctor of medicine and the term of which shall expire on May 1 of such year. Each year in which the term of a doctor of osteopathy expires, the Minnesota state osteopathic association shall recommend to the governor three doctors of osteopathy qualified to serve on the board. From the list of persons so recommended the governor may appoint one member to the board for the above prescribed term of eight years. Within 60 days after the occurrence of any vacancy in the board, the council of the Minnesota state medical association, if the vacancy be with respect to a membership vacated by a doctor of medicine, or the Minnesota state osteopathic association, if the vacancy be with respect to a membership vacated by a doctor of osteopathy, shall recommend to the governor three doctors of medicine qualified to serve on the board if the recommendation be by the Minnesota state medical association or three doctors of osteopathy qualified to serve on the board if the recommendation be by the Minnesota state osteopathic association. From the list of persons so recommended the governor, within 30 days after receiving such recommendation, may appoint one member to the board for the unexpired term occasioned by such vacancy and any appointment thereto to fill a vacancy shall be made within 90 days after the occurrence of such vacancy for the balance of the unexpired term. The board shall elect from among its number a president, a vice-president, and a secretary-treasurer, who shall each serve for one year, or until his successor is elected and qualifies. The board shall have authority to prescribe such rules and regulations relative to the examination of applicants for license to practice medicine, surgery, and ob-

stetrics as may be found necessary. The members of the board shall have authority to administer oaths and the board, in session, to take testimony as to matters pertaining to the duties of the board. Six members of the board shall constitute a quorum for the transaction of business. The board shall have a common seal, which shall be kept by the secretary, whose duty it shall be to keep a record of all proceedings of the board, including a register of all applicants for license under this chapter, giving their names, addresses, ages, educational qualifications, and the result of their examination. These books and registers shall be prima facie evidence of all the matters therein recorded. The board shall hold examinations at least once each year.

[*RL s 2295; 1921 c 68 s 1; 1927 c 188 s 1; 1963 c 45 s 1; 1967 c 416 s 1*] (5706)

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 has either completed four entire sessions of not less than 36 weeks each at a medical or osteopathic school recognized by the board, or is currently enrolled in the fourth such session. 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, 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 before, or five years after being granted the degree of M.D., M.B., 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.

Subd. 2. Licensing. After such examination of the applicant, and upon proof (a) that he has received the degree of M.D., M.B., or D.O., from a medical or osteopathic school recognized by the board, and (b) that he has satisfactorily completed either one year of graduate training in an institution approved for internship training by the board or other graduate training approved by the board, the board, if six members thereof consent, shall grant him a license to practice medicine.

Subd. 3. Refusal to grant license; suspension or revocation of license. The board may refuse to grant a license to, or may suspend or revoke the license of, whether granted under Minnesota Statutes 1961, Chapter 147 or under Minnesota Statutes 1961, Sections 148.11 to 148.16, prior to May 1, 1963, any person guilty of immoral, dishonorable, or unprofessional conduct, but subject to the right of the applicant or licentiate to appeal to the district court in the county in which the principal office of the board is located on the questions of law and fact.

The words "immoral, dishonorable, or unprofessional conduct," as used in Minnesota Statutes 1961, Chapter 147, shall mean: (1) Procuring, aiding, or abetting a criminal abortion; (2) Advertising 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 Minnesota Statutes 1961, 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 advertising or holding 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 the advertising of any medicine or any means whereby the monthly periods of women can be regulated or the menses reestablished, or being employed by or in the service of any person, concern, actual or pretended, so advertising, or in any manner creating a fear of private diseases; (3) The obtaining of any fee, or offering to accept a fee, on the assurance or promise that a manifestly incurable disease can be or will be cured; (4) Wilfully betraying a professional secret; (5) Habitual or excessive indulgence in the use of drugs, including but not limited to narcotics as defined in either 26 U.S.C.A., section 4731, or Minnesota Statutes, Section 618.01, barbiturates, hallucinogenic drugs, amphetamine, benzedrine, dexedrine, or other sedatives, depressants, stimulants, or tranquilizers; (6) Excessive indulgence in the use of alcoholic liquors; (7) Conviction for wilfully violating any narcotic law; (8) Conviction of an offense involving moral turpitude; (9) Conviction of a felony; (10) Conduct unbecoming a person licensed to practice medicine or osteopathy, as the case may be, or detrimental to the best interest of the public; (11) The failure of a doctor of osteopathy 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.; and (12) The employment of fraud or deception in applying for a license to practice medicine or in passing the licensure examination.

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 525.75 to 525.79, or 526.09 to 526.11. The license remains suspended until the licensee is restored to 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.

[R L s 2296; 1909 c 474 s 1; 1927 c 188 s 2; 1937 c 203 s 1; 1953 c 290 s 1; 1959 c 346 s 1; 1963 c 45 s 2; 1967 c 416 s 2] (5707)

147.03 LICENSES; BOARDS OF OTHER STATES, NATIONAL BOARD.

The state board of medical examiners, either with or without examination may grant a license to any physician licensed to practice by a similar board of another state or the national board of medical examiners or the national board of examiners for osteopathic physicians and surgeons who holds a certificate of registration showing that an examination has been made by the proper board, in which an average grade of not less than 75 percent was awarded to the holder thereof, the applicant and holder of such certificate having been at the time of the examination the legal possessor of a diploma from a medical or osteopathic college in good standing in this state, which diploma may be accepted in lieu of an examination as evidence of qualification. In case the scope of the examination was less than that prescribed by this state, the applicant may be required to submit to an examination in such subjects as have not been covered. The applicant shall pay a fee of \$100, which in no case shall be refunded.

A certificate of registration or license issued by the proper board of any state may be accepted as evidence of qualification for registration in this state; provided the holder thereof was, at the time of such registration, the legal possessor of a diploma issued by a medical or osteopathic college in good standing in this state and that the date thereof was prior to the legal requirements of the examination test in this state.

[1905 c 236 s 1; 1913 c 139 s 1; 1919 c 251 s 1; 1927 c 188 s 3; 1953 c 290 s 2; 1963 c 45 s 3] (5709)

147.031 EXAMINATIONS AND LICENSES OF OSTEOPATHS. Subdivision

1. Any doctor of osteopathy licensed by the state board of osteopathy under Minnesota Statutes 1961, Sections 148.11 to 148.16, desiring to obtain a license to practice medicine shall apply to the secretary of the board and pay a fee of \$50 for the use of the board, which in no case shall be refunded. The applicant shall be examined in the subjects that the board then examines applicants under section 147.02 in which he was not examined by the state board of osteopathy prior

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to the issuance to him of a license under Minnesota Statutes 1961, Sections 148.11 to 148.16, prior to May 1, 1963. All applicants shall be known to the board members or examiners only by number, without names, or other methods 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. After such examination, the board, if six members thereof consent, shall grant such doctor of osteopathy a license to practice medicine. The board may refuse to grant such a license to any person guilty of immoral, dishonorable, or unprofessional conduct, as defined in Minnesota Statutes 1961, Chapter 147, but subject to the right of the applicant to appeal to the district court in the county in which the principal office of the board is located on the questions of law and fact.

Subd. 2. Any such doctor of osteopathy may, until so granted a license to practice medicine, continue to practice osteopathy as taught in reputable colleges of osteopathy, including the use and administration, in connection with the practice of obstetrics, minor surgery, and toxicology only, of anesthetics, narcotics, antidotes, and antiseptics subject to the same state and federal restrictions and limitations as are by law applicable to physicians licensed to practice medicine and shall have the same rights and powers and be subject to the same duties as physicians licensed to practice medicine with reference to matters pertaining to the public health, including the reporting of births and deaths. The board shall by regulation determine what constitutes minor surgery, anesthetics, narcotics, antidotes, and antiseptics.

Subd. 3. No person who is not on May 1, 1963, licensed by the state board of osteopathy under Minnesota Statutes 1961, Sections 148.11 to 148.16, shall engage in the practice of osteopathy or by use of titles or initials indicating degrees, or in any other way, hold himself out as so engaged.

Subd. 4. Every person who shall violate any provisions of this section shall be guilty of a gross misdemeanor.

Subd. 5. The board shall investigate suspected violations of this section and institute proceedings thereunder.

[1963 c 45 s 4]

147.04 RETALIATORY PROVISIONS. If by the laws of any state or the rulings or decisions of the appropriate officers or boards thereof, any burden, obligation, requirement, disqualification, or disability is put upon physicians registered in this state or holding diplomas from medical colleges in this state which are in good standing therein, affecting the right of these physicians to be registered or admitted to practice in that state, then the same or like burdens, obligations, requirements, disqualification, or disability may be put upon the registration in this state of physicians registered in that state or holding diplomas from medical colleges situated therein.

[1905 c 236; 1913 c 139 s 2; 1959 c 346 s 2] (5710)

147.05 SUPPLIES; SECRETARY, EXECUTIVE SECRETARY, BOND, COMPENSATION; BOARD MEMBER'S COMPENSATION. The state board of medical examiners shall provide blanks, books, certificates, and such stationery and assistance as is necessary for the transaction of the business pertaining to the duties of such board and all money received by the secretary shall be paid into the state treasury as provided for by law, to be kept in a separate fund which shall be under the control, and for the use, of the board. The board may employ, discharge, and fix the compensation of an executive secretary, in the unclassified service, to perform duties prescribed by the board. The secretary and executive secretary of the board shall each give a bond in the sum of \$10,000 to the state of Minnesota for the faithful performance of his duties. Each member of the board shall receive as compensation for his services the sum of \$50 per day, to be fixed by the board for each day he is in actual attendance at examinations, and, regular and special meetings of the board, and the secretary and other members of the board shall receive all expenses actually and necessarily incurred by them in attending such meetings and examinations. The secretary shall receive a salary of not to exceed \$9,600 per annum, the amount thereof and the manner of payment to be fixed by the board. The salary and expenses of the members of the board shall be paid as determined by the board by the state treasurer on warrants signed by the president or secre-

tary, or other authorized person, drawn by the state auditor on the state treasurer on the funds of said board.

[1905 c 236 s 1; 1913 c 139 s 4; 1921 c 68 s 2; 1949 c 424 s 1; 1953 c 290 s 3; 1959 c 346 s 3; 1967 c 416 s 3] (5712)

147.06 LICENSING OF ITINERANT PHYSICIANS BY STATE BOARD. Any physician practicing medicine, surgery, or obstetrics, or professing or attempting to treat, cure, or heal diseases, ailments, or injuries by any medicine, appliance, or method, who, by himself, agent or employee, goes from place to place, or from house to house, or, by circular letters or advertisement, solicits persons to meet him for professional treatment at places other than his regular office or residence, shall be considered an itinerant physician. Any such itinerant physician shall, in addition to his regular license to practice medicine in this state, procure from the state board of medical examiners a license as an itinerant physician. Any physician licensed to practice in this state desiring to secure a license as an itinerant physician shall make an application therefor to the state board of medical examiners setting forth in detail such information as the board may require. The board shall examine into the application, the qualifications, character, and reputation of the applicant, and the question as to whether the public interest will be subserved by the granting of such itinerant license; and, if it shall determine that such license should be granted, it shall pass a resolution to that effect, to be spread upon its minutes; and, upon the payment of \$300 to the secretary of the board, an itinerant physician's license shall be issued to the applicant for a period of one year from the date thereof; the secretary shall forthwith pay the license fee into the state treasury for the use of the board.

The board may cancel any itinerant physician's license so issued by it upon satisfactory evidence of the incompetency or gross immorality of the licensee.

[1911 c. 260 s. 1; 1917 c. 362 s. 1] (5713)

147.07 OFFENSES. Any person practicing medicine as an itinerant physician, as defined in section 147.06, without first having procured such license therefor, shall be guilty of a gross misdemeanor. Nothing in section 147.06 shall be considered to prevent any physician, otherwise legally qualified, from attending patients in any part of the state to whom he shall be called in the regular course of business, or in consultation with other physicians. Nothing in section 147.06 shall preclude licensed dentists or optometrists from the practice of their profession.

[1917 c. 362 s. 1] (5714)

147.08 RECORD OF LICENSES; REPORT TO SECRETARY. Before engaging in the practice of medicine or osteopathy, the holder of every license issued under Minnesota Statutes 1961, Chapter 147, or Minnesota Statutes 1961, Sections 148.11 to 148.16, prior to May 1, 1963, shall file the same for record with the clerk of the district court in the county where he resides. Upon removal to another county, he shall there file his license in like manner before engaging in practice therein. Such clerk shall keep, in the record book of such licenses, an index thereof, showing the type of license and the date and page of record, and in January each year shall furnish to the secretary of the board a list of licenses so filed. Upon notice to the clerk of the death or removal of a licensee, or of the revocation of a license, he shall note the same upon the record of such license.

[R L s 2298; 1963 c 45 s 5] (5715)

147.09 EXEMPTIONS. This chapter shall not apply to commissioned surgeons of the United States army or navy, 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.

[R. L. s. 2299] (5716)

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 persons who endeavor to prevent or cure disease or suffering exclusively by mental or spiritual means or by prayer.

[*R L s 2300; 1927 c 188 s 4; 1963 c 45 s 6*] (5717)

147.11 SPLITTING FEES UNLAWFUL. It shall be unlawful for any physician or surgeon to divide fees with, or to promise to pay a part of his fee to, or pay a commission to, any other physician or surgeon or person who calls him in consultation or sends patients to him for treatment or operation.

[*1917 c. 365 s. 1*] (5718)

147.12 PUNISHMENT FOR VIOLATION. Any physician or surgeon who pays or receives any money prohibited by section 147.11 shall be punished by a fine of not to exceed \$100 or by imprisonment in the county jail for not to exceed 90 days.

[*1917 c. 365 s. 2*] (5719)

147.13 REVOCATION OF LICENSE. In case a physician or surgeon shall be convicted of violating any of the provisions of section 147.11, the state board of medical examiners, upon a first conviction, may, and, upon a subsequent conviction, shall, revoke the license of the person so convicted, but such revocation shall be subject to the right of the person whose license has been so revoked to appeal to the district court of the proper county on questions of law and fact.

[*1917 c. 365 s. 3*] (5720)

147.16 TEMPORARY CERTIFICATE FOR GRADUATE TRAINING. The state board of medical examiners may grant, in its discretion, without examination, a temporary certificate for graduate training in medicine, surgery and obstetrics, to those applicants as furnish satisfactory proof that the applicant:

(1) Is 21 years of age or over;

(2) Is of good moral character;

(3) Has successfully completed a course in medicine, surgery and obstetrics at a medical or osteopathic school approved by the board or by an evaluating agency recognized by the board, and has received the degree of M. D., M. B., or D. O. therefrom, or has successfully completed a course in medicine, surgery and obstetrics at a medical or osteopathic school located outside of the United States and Canada and that such medical or osteopathic school is approved by the licensing authorities of the country in which such medical or osteopathic school is located and has received the degree of M. D., M. B., or D. O. therefrom;

(4) Is duly licensed to practice medicine in all of its branches in the state, territory or foreign country in which he resides, or, not being so licensed, has passed an examination or is eligible therefor and which examination is in the judgment of the board substantially equivalent to the examination given by it to applicants for a license to practice medicine in all of its branches in this state;

(5) Has been accepted as a resident physician by a hospital situated in this state, the residency training of which has been approved by an approval agency recognized by the board; provided, however, that the state board of medical examiners shall have the authority, upon its own investigation, to approve other residency training programs in medicine, surgery and obstetrics and qualified applicants therefor. Each applicant shall set forth the starting and termination dates of a period for which he has been accepted or appointed to such residency training program; and

(6) Possesses all other qualifications which are prescribed by the rules and regulations of the board for the granting such temporary authorization.

[*1957 c 206 s 1; 1963 c 45 s 7*]

147.17 POWERS UNDER TEMPORARY CERTIFICATE. Such temporary certificate for graduate training shall entitle the holder thereof, under the direction and supervision of a person licensed and duly registered to practice medicine in all of its branches in this state, to perform, within such designated hospital only, the services prescribed by and requisite to such resident physician's training program.

[*1957 c 206 s 2*]

147.18 RENEWAL OF TEMPORARY CERTIFICATE, FEE. Such temporary

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certificate may be issued for a period of not to exceed one year and in the discretion of the board, may be renewed annually for not more than four additional years. The fee for such certificate shall be fixed by the board at not more than \$15 per annum or fraction thereof and which amount shall also be paid for each renewal thereof.

[1957 c 206 s 3]

147.19 SUSPENSION OR REVOCATION OF TEMPORARY CERTIFICATE.

Any violation of the provisions of sections 147.16 to 147.20, or of the provisions of section 147.02, relating to immoral, dishonorable or unprofessional conduct by the holder of a temporary certificate of authorization is cause for suspension or revocation of a certificate.

[1957 c 206 s 4]

147.20 RESIDENT PHYSICIANS. No person shall act as a resident physician without first obtaining such temporary certificate for graduate training and any violation of this section shall be a gross misdemeanor; provided, however, that the provisions of this section shall not apply to a doctor of medicine or doctor of osteopathy duly licensed and registered in this state to practice medicine in all of its branches, nor to a doctor of medicine duly enrolled and regularly attending the graduate school of the university of Minnesota including the Mayo foundation.

[1957 c 206 s 5; 1963 c 45 s 8]

147.21 REGISTRATION FEES FOR OSTEOPATHS. Every doctor of osteopathy licensed by the state board of osteopathy under Minnesota Statutes 1961, Sections 148.11 to 148.16, prior to May 1, 1963, and not licensed to practice medicine under this chapter shall annually register with the board in the manner prescribed in section 146.13.

[1963 c 45 s 9]

147.22 TRANSFER RECORDS, ASSETS, AND POWERS. The records, assets, and powers of the state board of osteopathy are transferred to the state board of medical examiners with the exception that the powers conferred upon the state board of osteopathy by section 146.03 are hereby transferred to the member of the state board of medical examiners who holds the degree of doctor of osteopathy.

[1963 c 45 s 10]

147.23 HOSPITAL MEDICAL STAFF, MEMBERSHIP. Nothing contained in Laws 1963, Chapter 45, shall be deemed to grant to any person the right to be admitted to the medical staff of any hospital.

[1963 c 45 s 11]