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THE

MEDICAL LAW

LAWS OF 1892

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Enacted by the Maryland Legislature.

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Practitioners of Medicine.

CHAPTER 296, LAWS OF 1892.

CHAPTER 296.

AN ACT to repeal and re-enact with additions and amendments sections thirty-nine, forty, forty-one, forty-two, forty-three, forty-four, forty-five, forty-six and forty-seven of article forty-three, of the Code of Public General Laws, title "Health," sub-title "Practitioners of Medicine," and to add additional sections thereto to be designated as sections forty-nine, fifty, fifty-one and fifty-two.

SECTION 1. *Be it enacted by the General Assembly of Maryland,* That sections 39, 40, 41, 42, 43, 44, 45, 46 and 47 of Art. 43, of the Code of Public General Laws, title, "Health," sub-title "Practitioners of Medicine," be and the same are hereby repealed and re-enacted with amendments and additions, and that new sections be added to said article to be designated as sections 49, 50, 51 and 52, so that the said title shall read as follows :

39. Every person not now practicing medicine, and surgery, who shall hereafter begin to practice medicine and surgery in any of its departments, except dentistry, in the State of Maryland, shall possess the qualifications required by this act.

40. From and after the first Tuesday in June, Eighteen hundred and ninety-two, there shall be and continue to be two separate boards of medical examiners for the State of Maryland, one representing the Medical and Chirurgical Faculty of the State of Maryland, and one representing the Maryland State Homeopathic Medical Society of the State of Maryland. Each board shall consist of seven members, and each of said members shall serve for a term of four years, or until their successors are appointed and qualified, each board to have exclusive rights to examine, pass upon the qualifications of, and license its own applicants, said members of the first or old school board to be appointed by the Medical and Chirurgical Faculty of Maryland, of which two shall be from the counties of the Eastern Shore, and five from the Western Shore, of which latter number two shall be from the counties west of the Blue Ridge Mountains; and said second or Homeopathic Board to be composed of seven physicians appointed by the Maryland State Homeopathic Medical Society, of which three shall be residents of Baltimore, and four of the State at large; the appointees shall be physicians actually engaged in the practice of medicine, and of recognized ability and honor; the term of office of each board shall commence on the first Tuesday in June, Eighteen hundred and ninety-two. No member of any college or university, and no physician having a pecuniary interest in the trade of pharmacy, shall be ap-

pointed to serve as a member of either of said boards ; vacancies occurring in such for unexpired terms shall be filled by the board, in accordance with the foregoing provisions of this section, and for expired term in same manner as for first appointees.

41. That each board of medical examiners shall meet within thirty days after receiving official notice of their appointment. At the first meeting of each of the boards respectively, an organization shall be effected by the election, from their own membership, of a president and secretary, for the purpose of examining applicants for license ; each of said boards of medical examiners shall hold one or more stated or special meetings in each year, due notice of which shall be made public, at such times and places as may be determined by the members thereof respectively ; at said stated or special meetings a majority of the members of the board shall constitute a quorum thereof. Each of said boards of medical examiners shall keep an official register of all applicants for examination for a license to practice medicine and surgery in this State, said register for license shall show the name, age and last place of residence of each candidate, the school from which he or she may have graduated, and whether such applicant was rejected or licensed under this act ; but such matters shall not be written in said register or made public until after the examination.

42. At the first meeting of an examining

board, or at a stated or special meeting held subsequently, suitable provisions shall be made by each of the examining boards to prepare a schedule of written examinations upon anatomy, physiology, chemistry, surgery, practice of medicine, materia medica and therapeutics, obstetrics, gynecology, pathology, medical jurisprudence, and hygiene, and shall require the same standard of excellence from all candidates. In the department of therapeutics and practice the questions shall be in harmony with the tenets of the school selected by the candidate; the standard of acquirements therein to be established by each board for itself. Whenever members of any board are necessarily absent from meetings held for the examination of applicants for license, suitable temporary provisions shall be made for thorough examination in each and all of the aforesaid subjects by the members present. The examination shall be fundamental in character and such as can be answered in common by all schools of practice. The votes of all the examiners present shall be "yes" or "no," written with their signature upon the backs of the examination papers of each candidate for the respective branches.

43. That all persons commencing the practice of medicine or surgery in any of its branches after the passage of this act by the General Assembly shall make a written application for license to the president of either board of medical examiners which said ap-

plicant may elect, together with satisfactory proof that the applicant is more than twenty-one years of age, is of good moral character, has obtained a competent common school education, and has either received a diploma conferring the degree of Doctor of Medicine from some legally incorporated medical college in the United States or a diploma or license conferring the full right to practice all the branches of medicine and surgery in some foreign country and has also both studied medicine three years and attended three courses of lectures, in different years in some legally incorporated medical college or colleges prior to the granting of said diploma or foreign license ; provided, that two courses of medical lectures, both of which shall be either begun or completed within the same calendar year, shall not satisfy the above requirement, provided, that this condition shall not apply to students who shall be in their second year in a medical college, nor physicians who shall be practicing medicine at the time of the passage of this act. Such proof shall be made, if required, upon affidavit, upon the making of said application and proof and payment of fee as provided ; the president of the board to whom such application was made, if satisfied with the same, shall direct the secretary thereof to issue to said applicant an order for examination, and when said applicant shall have passed an examination as to proficiency satisfactory to said board, the president shall grant to such

applicant a license to practice medicine and surgery in the State of Maryland.

44. That all examinations shall be conducted in such manner that the name, school of graduation and preparatory training of said applicant shall not be made known to the board of examiners until his examination papers have been graded. An applicant receiving a majority of the votes of the board before whom the applicant appears shall be considered to have passed a satisfactory examination and entitled to the license of said board.

45. That a fee of ten dollars shall be paid to the secretary of the board before whom the applicant appears, before such examination is had, which said fee shall be applied by said board towards paying the expenses of said board.

46. That the board shall refuse to grant a license to any applicant who may be radically deficient in his examination in any essential branch; provided, that in case of failure of any such examination the candidate, after the expiration of one year from his rejection, shall have the privileges of another examination by the board to which application was first made.

CHAPTER 217, LAWS OF 1894.

CHAPTER 217.

AN ACT to repeal and re-enact Sec. 47, of Art. 43, of the Code of Public General Laws, entitled "Health," sub-title "Practitioners of Medicine," and to add additional sections thereto, to be designated as Sections 53, 54, 55, 56, 57, 58, 59 and 60 of said article.

SECTION 1. *Be it enacted by the General Assembly of Maryland,* That Sec. 47, of Art. 43, of the Code of Public General Laws, title "Health," sub-title "Practitioners of Medicine," be, and the same is hereby repealed and re-enacted, that new sections be added to said article, to be designated as Sections 53, 54, 55, 56, 57, 58, 59 and 60, so as to read as follows :

47. That every license to practice medicine and surgery, issued pursuant to the provisions of this Act, shall be subscribed by the president and secretary of the board before whom the applicant has passed. It shall also have affixed to it by the person authorized to affix the same, the seal of said Medical and Chirurgical Faculty of Maryland, or of the Maryland State Homeopathic Medical Society, as the license may require, every such license to be in the following form and to the following effect :

To all whom it may concern, greeting :

Be it known that — on the — day of —, A. D. — having offered as satisfactory proof that — was more than twenty-one years of age, and had received a proper preliminary education; we, therefore, gave a written order for the examination of said — before one of the board of medical examiners of the State of Maryland; that the said — was fully examined before the said board and found proficient and qualified to practice medicine and surgery in the State of Maryland as a physician and surgeon, and have caused the names of the president and secretary of our board to be subscribed and the seal of our society to be affixed hereto.

Witness our hand, and the seal of our society, this — day of — A. D. President, — ; — Secretary.

(Seal of Society).

53. From and after the first day of July, 1894, no person shall practice medicine or surgery in the State of Maryland unless he or she shall be duly registered as a physician or surgeon in accordance with the provision of this act.

54. Every person who was practicing medicine in the State of Maryland on or before the first day of June, 1892, shall be entitled to be registered as a physician or surgeon, or both, upon application to the Clerk of the Circuit Court of the county in which he or she may reside, or to the Clerk of the Circuit Court of Baltimore City, if the applicant shall reside in

Baltimore City, and such application shall be in writing, signed by the applicant, who shall state, under oath, that he or she was, in fact, a practitioner of medicine or surgery in the State of Maryland on or before the first day of June, 1892, and, thereupon, it shall be the duty of said clerk to register such application, and the name of such applicant, as physician or surgeon, or both, in a book to be kept for such purpose, and a certified copy of such entry of registration, under the seal of the court, shall be legal evidence of such registration in all the courts of the State.

55. All persons who have commenced to practice medicine or surgery in the State of Maryland since the first day of June, 1892; or who shall hereafter commence to practice medicine or surgery in the State, shall not be entitled to be registered in the Registry of Physicians and Surgeons, as required by law, except upon filing with the Clerk of the Circuit Court of the county or city in which he or she shall reside, a license from one of the duly constituted boards of examiners of this State, in accordance with the terms of sec's 47 and 48 of this article, except that physicians and surgeons who have come into this State since the first day of June, 1892, or who shall hereafter come into the State to follow the practice of medicine and surgery, may receive a license, which shall entitle them to be registered as physicians and surgeons, in accordance with law, upon application to one of the duly constituted boards of medical examiners in ac-

cordance with the provisions of sec. 56 of this Act.

56. Physicians and surgeons of good moral and professional standing, who have come into this State with intent to follow the practice of medicine and surgery within this State, since the first day of June, 1892, or who shall hereafter come into the State, being graduates of a medical college or university of good standing, and who have been practitioners of medicine or surgery for more than ten years prior to the date of the application, may make application to the president of the board of medical examiners of this State, which application shall be under, and shall state where and how long said applicant has been engaged in the practice of medicine and surgery, and from what medical college, university or other institution of learning he or she has graduated; and thereupon the said board of medical examiners shall have the authority and discretion to require said applicant to undergo an examination, in accordance with the provisions of secs. 41 to 47 inclusive of this Act, or may require said applicant to submit to a special examination, the terms and methods of which shall be prescribed by the said Board of Medical Examiners; and, upon paying the fee for examination, as set out in sec. 45, of this article, after the examination and the determination of said Board thereupon, that said applicant is qualified to practice medicine and surgery, and that he is entitled to a license, a license shall be issued to him to

the same effect as the form of license set out in sec. 47, of this article, which license shall then be filed and recorded as provided by sec. 47 of this article, and it shall then be the duty of the clerk of the court to register the name of the person so licensed as a physician or surgeon, or both, in accordance with the provisions of this Act.

57. All persons whose licenses have been heretofore filed and recorded in accordance with sec. 48 of this article shall be held to be duly registered physicians and surgeons within the provisions of sec. 53, of this article, and all persons who shall hereafter receive and file licenses to be recorded in accordance with said sec. 48, shall be registered as physicians and surgeons under said section and the fee to be paid for such registration and the registration of the application to the clerk, or the license therewith, as the case may require, shall be one dollar.

58. If any person shall unlawfully obtain and procure himself to be registered as a physician or surgeon, either by false and untrue statement contained in his application to the clerk of the court, as required by this Act, or by presenting to said clerk a false or untrue license, or are fraudulently obtained by false and fraudulent statements made to one of said Boards of Medical Examiners, he or she shall be declared guilty of a misdemeanor and shall be fined not less than fifty dollars, nor more than five hundred dollars, and shall forfeit all rights and immunities obtained or

conferred upon him by virtue of such registration, as physician or surgeon.

59. Any person who, after the first day of July, 1894, shall practice, or attempt to practice, medicine or surgery in this State, without being registered in accordance with the provisions of this Act, shall be guilty of a misdemeanor, and shall be fined not less than ten dollars nor more than two hundred dollars for each offence.

60. The provisions of this Act shall not apply to any midwife, or person who may render gratuitous services in case of emergency.

Section 2. *And be it enacted*, That this Act shall take effect from the date of its passage.

Approved April 6, 1894.

48. Any person receiving a license from either of the said boards shall file the same, or a certified copy thereof, with the clerk of the Circuit Court of the county or city in which he or she may practice, and it shall be the duty of said clerk to register the name of such person, and the president of the board signing the same in a book kept for the purpose, as a part of the records of his office; and the number of the book and the page therein containing said recorded copy shall be noted in the body of the license. Said records shall be open to public inspection, under proper restrictions as to their safe keeping, and in all legal proceedings shall have the same weight as evidence that is given to the record of the conveyances of land; the fee for each regis-

tration shall be one dollar, to be paid by the person whose license is registered.

49. This act shall not apply to commissioned surgeons of the United States Army, Navy or Marine Hospital service, to physicians or surgeons in actual consultations from other States, or to persons temporarily practicing under the supervision of an actual medical preceptor.

50. Any person to whom the provisions of this Act applies, practicing or attempting to practice medicine or surgery in this State, without first having obtained the license of one of said boards of medical examiners, shall be guilty of a misdemeanor, and shall pay a fine of not less than fifty dollars, nor more than two hundred dollars for each offence, or in default of payment shall be confined in the city or county jail until the fines and costs are paid, and shall be debarred from recovering compensation for services rendered as such physician or surgeon.

51. The provisions of this Act shall not apply to any midwife or person who may render gratuitous services in case of emergency.

52. It is provided that said Board shall make a written report to the Medical and Chirurgical Faculty of Maryland and to the Maryland State Homeopathic Medical Society every two years.

Approved April 2nd, 1892.

CHAPTER 194, LAWS OF 1896.

CHAPTER 194.

AN ACT to repeal and re-enact with amendments, sections 54 and 56 of article 43 of the Code of Public General Laws, entitled "Health," sub-title "Practitioners of Medicine" and to add additional sections thereto, to be designated as sections 61, 62, 63 and 64 of said article.

SECTION 1. Be it enacted by the General Assembly of Maryland, that sections 54 and 56 of article 43 of the Code of Public General Laws, title "Health," sub-title "Practitioners of Medicine," be and the same are hereby repealed and re-enacted with amendments, and new sections, to be known as sections 61, 62, 63 and 64, are hereby enacted and added to said article, to be designated as sections 61, 62, 63 and 64, to read as follows :

54. Every person who was practicing medicine in the State of Maryland, on or before the first day of June, 1892, shall be entitled to be registered as a physician or surgeon, or both, upon making application to the president of either board of State medical examiners, which application shall be in writing, and verified by the oath of said applicant taken before any officer entitled to administer oaths under the laws of this State, and shall state

that the applicant was a duly qualified lawful practitioner of medicine, in good standing, actually engaged in the practice of such profession in said State, on or before said first day of June, 1892. And upon receiving said application, and being satisfied of the truth of said statement therein contained, said president of such board shall issue or endorse his permit for such applicant to be registered, upon a copy of such application, which permit shall also be countersigned by the secretary of said board; and any president of such board, to whom such application is addressed, may in his discretion make inquiry, and examine witnesses under oath, or receive other evidence as to the truth of the statements contained in such application, for a permit to be registered; and if the president of either of such boards of medical examiners shall act upon such application, and shall refuse the same, then no president of the other of said boards shall entertain or act upon any application of such applicant for such permit. And upon the presentation of a permit to be registered, signed by the president, and countersigned by the secretary of either of said boards of medical examiners, to the clerk of the county where the applicant may reside, or to the Clerk of the Circuit Court of Baltimore City, if said applicant shall reside in Baltimore City, it shall be the duty of the said clerk to register such application and permit, and the name of such applicant as physician or surgeon, or both, in a book to be

kept for such purpose, and a certified copy of such entry of registration, under the seal of the court, shall be legal evidence of such registration in all the courts of the State; provided, however, that the provisions of this act shall not apply to those practicing medicine in the State of Maryland prior to June, 1892, and who registered as practitioners of medicine prior to July, 1894.

56. Physicians and surgeons of good moral and professional standing who shall hereafter come into this State with intent to follow the practice of medicine and surgery within this State, being graduates of a medical college or university of good standing, or having a certificate or license from a board of medical examiners of any State where the requirements for practice are equal to those required by the board named in this article, may make application to the president of either board of medical examiners of this State, which application shall be made under oath and shall state when and how long said applicant has been engaged in the practice of medicine and surgery and from what medical college, university or other institution of learning he or she graduated. And, thereupon, the board of medical examiners shall have the authority and discretion to require applicants to undergo an examination, in accordance with provisions of sections 41 to 47, inclusive, of this article, or may require said applicant to submit to a special examination, the terms and methods of which shall be prescribed by

the board of medical examiners, and upon paying the fee for examination, as set out in section 45 of this article. After the examination and determination of said board, thereupon, that said applicant is qualified to practice medicine and surgery, and that he is entitled to a license, a license shall be issued to him to the same effect as the form of license set out in section 47 of this article, which license shall be filed and recorded as provided by section 47 of this article, and it shall then be the duty of the clerk of the court to register the name of the person so licensed as physician or surgeon, or both, in accordance with the provisions of this Act.

61. Any citizen of Maryland having information which causes him to believe that any person has been heretofore wrongfully and improperly registered as physician or surgeon, or both, upon his application to the clerk of any court may apply, by petition, to the Circuit Court of the county wherein such registration was made, or to the City Court of Baltimore City, if such registration was in Baltimore City, which petition shall be under oath, and shall state that the petitioner is informed and believes that the person named therein has heretofore been improperly and wrongfully registered as physician or surgeon, or both, upon his own application and affidavit upon the register of physicians or book kept for such purpose in any court of this State, for the reason (as said petitioner is empowered) that such person was not law-

fully practicing medicine in the State of Maryland, as a duly qualified practitioner of medicine in said State, entitled to be registered as a physician or surgeon upon his own application to the clerk of said court; and that said petitioner prays that the name of such person shall be struck from the registry of physicians aforesaid. Upon the filing of such petition the court or one of the judges thereof shall pass an order requiring the person therein alleged to be wrongfully or improperly registered to answer the same, under oath, on or before a date to be named within thirty days from the date of such order and to show cause, if any there be, why the prayer of such petition should not be granted, which order shall be served upon said last-named person; and if said petition shall not be answered within the time named, as aforesaid, or if the answer thereto shall be adjudged insufficient by the court, then the court shall pass an order directing that the name of such person alleged to be wrongfully or improperly registered shall be stricken from the registry of physicians or surgeons where the same shall have been registered, but if said petition shall be answered by the defendant, being the person against whom it is exhibited, by an answer under oath, fairly and fully denying the allegations of said petition, the issue thus raised shall be heard and determined by the court and either party may be entitled to a jury trial before a jury of the regular panel empaneled to try common

law cases in said court; and the defendant shall be competent and compellable to testify at such hearing, and upon such hearing, the court shall render judgment with costs against the unsuccessful party. And if it shall determine that said defendant was not practicing medicine in the State of Maryland on or before the date of June 1st, 1892, not being a lawful practitioner of medicine in said State, on or before said date, it shall pass an order directing the name of said defendant to be stricken from the registry of physicians or surgeons, or both, which order shall be certified by the clerk of the court wherein said defendant was registered and he shall thereupon strike his name from said registry. But the decision upon such petition shall have no force and effect in any criminal prosecution under this article.

62. The term "Practicing Medicine or a Practitioner of Medicine," when used with respect to the qualifications of a practitioner or applicant to be registered under this article, shall be construed to mean the "practice of medicine" as a profession or means of livelihood and by one duly licensed or registered. If a license or register by law at the time when such practice is alleged or claimed, or by one otherwise duly qualified to practice medicine, if other qualifications were required by law at such date.

63. It shall be the duty of the secretary of either or both of said State Boards of Medical Examiners to inquire into all violations of

law under this article and to institute all proceedings or prosecutions thereof, and all expenses incurred by any secretary of either of such boards hereunder shall be allowed and paid out of the funds acquired by or belonging to said boards respectively.

64. The said board of medical examiners shall have full control over the expenditures and disposition of the funds collected from the fees and charges authorized to be made under the terms of this article, and shall fix and allow such compensation as they may deem proper for service rendered in the performance of the duties required by this article by members of said board or others, with the full power; also to allow and discharge all proper expenses of said board, and any surplus to dispose of as said board may deem for the advantage of the practice of medicine in this State.

SEC. 2. *And be it further enacted*, That this Act shall take effect from the date of its passage.

Approved April 4, 1896.

The Maryland Medical Journal

PUBLISHED WEEKLY

\$3.00 a Year

209 PARK AVE.



BALTIMORE

