

CHAPTER 191.

[S. B. 815.]

RELATING TO CITIES OF THE FIRST CLASS.

AN ACT authorizing cities of the first class to construct auxiliary water systems for fire protection purposes, and to assess property benefited thereby to pay for the same.

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

SECTION 1. That any city of the first class within the State of Washington shall have the authority to construct auxiliary water systems within the limits of such city for the purpose of protecting property within such city against fire.

Auxiliary
water
systems.

SEC. 2. That any such city may provide for the levying and collecting of assessments on property benefited by such auxiliary water system, for the purpose of paying for the same, or any portion thereof, in the manner provided by law for the levy and collection of assessments for other local improvements.

Special
assessments.

Passed by the Senate March 9, 1909.

Passed by the House March 11, 1909.

Approved March 17, 1909.

CHAPTER 192.

[H. B. 144.]

REGULATING THE PRACTICE OF MEDICINE.

AN ACT for the regulation of the practice of medicine and surgery, osteopathy, and other systems or modes of treating the sick or afflicted, in the State of Washington, and for the appointment of a board of medical examiners, in the matter of said regulation, and declaring an emergency.

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

SECTION 1. The Governor shall appoint a board of medical examiners to be known as the Board of Medical Examiners of the State of Washington, consisting of nine members, who shall be appointed as follows: Five mem-

Schools recognized. Term.

bers from the regular profession, two from the homeopathic profession, and two from the osteopathic profession. The osteopathic members shall be graduates only of a regular osteopathic college. The appointment of each member shall be for a term of three years, and until his successor is appointed and qualified: *Provided*, That no member shall serve more than two consecutive terms. It shall require the affirmative vote of a majority of the members of said board to carry any motion or resolution, to adopt any rule, to pass any measure, or to authorize the issuance of any certificate as in this act provided.

Oath.

SEC. 2. Each member of said board shall, before entering upon the duties of his office, take the constitutional oath of office, and shall, in addition, make oath that he is a graduate in medicine and surgery or osteopathy, and a licensed practitioner of medicine and surgery, or of osteopathy, of this state: *Providing*, That the osteopathic members of the board first appointed under this act shall not have been licensed by any previous examining board of this state. The president and secretary shall be empowered to administer the oath of office.

Officers of board.

SEC. 3. Said board shall be organized on or before the second Tuesday of June, 1909, by electing from its members a president, vice-president, secretary and treasurer, who shall hold their respective positions during the pleasure of said board. Said [board] shall hold its regular meetings on the first Tuesday of January and July of each year, alternating between the eastern and western part of the State of Washington. Special meetings of the board may be held at such time and place as the board may designate.

Who may be licensed without examination.

SEC. 4. Any person who treats the sick or afflicted may register his or her diploma with the board of medical examiners, and receive a license to practice his or her respective mode of treatment, by paying a fee of ten dollars, which fee shall go towards defraying the expenses of said board: *Provided*, That he or she show evidence satisfactory to said board that he or she has been legally engaged in such practice prior to the passage of this act, in the

State of Washington, and is a graduate of a legally incorporated school or college teaching the system or mode of treatment which the applicant intends or claims to follow, wherein the course comprises actual attendance and completion of two years of ten months each, or four terms of five months each, and the curriculum of study includes instruction in the following branches, to-wit: Anatomy, physiology, chemistry and toxicology, bacteriology, gynecology and obstetrics, histology, hygiene, pathology and general diagnosis; or by having been in continuous practice in one locality in this state for the past two years; and all such persons shall be granted thirty days after the organization of said board to make such application and furnish such evidence, after which time all persons desiring to treat the sick shall first take the examination as provided by this law.

It shall be the duty of every holder of a license from the State Board of Medical Examiners to exhibit his or her license to any resident of this state who may request to see the same, and any person refusing or failing so to do, or who shall exhibit any such license as his or her own, in response to such request, when such license has not been issued to him or her, shall be guilty of a misdemeanor.

License to be exhibited.

SEC. 5. Said board may from time to time adopt such rules as may be necessary to enable it to carry into effect the provisions of this act.

Rules of board.

SEC. 6. Three forms of certificates shall be issued by said board under the seal thereof, and signed by the president and secretary: First, a certificate authorizing the holder thereof to practice medicine and surgery; second, a certificate authorizing the holder thereof to practice osteopathy; third, a certificate authorizing the holder thereof to practice any other system or mode of treating the sick or afflicted not referred to in this section.

Three kinds of certificates.

In order to procure a certificate to practice medicine and surgery, the applicant for such certificate must file with said board at least two weeks prior to a regular meeting thereof, satisfactory testimonials of good moral character, and a diploma issued by some legally chartered med-

Requisites of application for certificate.

ical school, the requirements of which shall have been at the time of granting such diploma in no particular less than those prescribed by the Association of American Medical Colleges for that year, or satisfactory evidence of having possessed such diploma, and he must file with such diploma an application sworn to before some person authorized to administer oaths, and attested by the hand and seal of such officer, if he have a seal, stating that he is the person named in said diploma, that he is the lawful holder thereof, and that the same was procured in the regular course of instruction and examination, without fraud or misrepresentation. The said application shall be made upon a blank furnished by said board, and it shall contain such information concerning the medical instruction and the preliminary education of the applicant as said board may by rule provide. Applicants who have failed to meet the requirements must be rejected. Applicants for a certificate to practice osteopathy shall be subject to the above regulation, except that in place of a diploma hereinbefore referred to, they shall be required to file a diploma from a legally chartered college of osteopathy, having a course of instruction of at least twenty months, requiring actual attendance, and after 1909, of three years of nine months each, and including the studies examined upon under this act. Applicants for a certificate to practice any other system or mode of treatment not in this act referred to shall be subject to the above regulations, except that in the place of the diplomas hereinbefore referred to, they shall be required to file a diploma from a legally chartered college of the system or mode of treatment which the applicant claims or intends to follow.

Osteopaths.

Other schools.

Subjects of examination.

In addition to the requirements above set forth, such applicants for a certificate must be personally examined by said board as to their qualifications. The examination shall be conducted in the English language, shall be practical in character and designed to discover the applicant's fitness to practice his profession, and shall be, in whole or in part, in writing on the following fundamental subjects, to-wit: Anatomy, histology, gynecology, pathology, bacteriology, chemistry and toxicology, phys-

iology, obstetrics, general diagnosis and hygiene. Examinations in each subject shall consist of not less than ten questions, none of which shall relate to treatment, answers to which shall be marked upon a scale of zero to ten. But all applicants must obtain not less than sixty per cent. in any one subject: *Provided*, That applicants who can show at least ten years of reputable practice shall be granted a credit of five per cent. upon the general average, and five per cent. additional for each subsequent ten years of such practice.

The examination papers shall form a part of the records of the board and shall be kept on file by the secretary for a period of one year after each examination. In said examination the applicant shall be known and designated by number only, and the name attached to the number shall be kept secret until after the board has finally voted upon the application.

Examination papers.

SEC. 7. Each applicant on making application shall pay the secretary of the board a fee of twenty-five dollars (\$25.00), which shall be paid to the treasurer of the board by said secretary and used to defray the expenses and compensation of said board. In case the applicant's credentials are insufficient, or in case he does not desire to take the examination, the sum of fifteen dollars (\$15.00) will be returned on application.

Fee.

SEC. 8. Said board shall keep an official record of all its proceedings, a part of which record shall consist of a register of all applicants for certificates under this act, with the result of each application. Said record shall be evidence of all the proceedings of said board which are set forth therein.

Records of board.

SEC. 9. Every person holding a certificate authorizing him to practice medicine and surgery or osteopathy or any other system or mode of treating the sick or afflicted, in this state, must have it recorded in the office of the county clerk of the county in which the holder of said certificate is practicing his profession, and the fact of such recording shall be endorsed on the certificate by the

Certificate recorded in county.

county clerk recording the same. Every such person, on each change of his residence, must have the certificate recorded in the county to which he shall have changed his residence. The absence of such record shall be *prima facie* evidence of the want of possession of such certificate. And any person holding a certificate to practice medicine and surgery or osteopathy, or any other system or mode of treating the sick or afflicted in this state, or to attempt to practice medicine or surgery or osteopathy, or any other system or mode of treating the sick or afflicted, in this state, without first having filed his certificate with the county clerk as herein provided shall be deemed guilty of a misdemeanor.

Failure to file a misdemeanor.

SEC. 10. The county clerk shall keep in a book provided for the purpose, a complete list of the certificates recorded by him, with the date of the record; and said book shall be open to public inspection during his office hours.

Clerk's record.

SEC. 11. Said board must refuse a certificate to any applicant guilty of unprofessional conduct; but before such refusal the applicant must be cited by citation, signed by the secretary of the board, and sealed with its seal. No such citation shall be issued except upon a sworn complaint filed with the secretary of the board, charging the applicant with having been guilty of unprofessional conduct, and setting forth the particular act constituting such unprofessional conduct. On filing of such complaint the secretary must forthwith issue a citation and make the same returnable at the next regular session of said board, occurring at least thirty days next after filing the complaint. Such citation shall notify the applicant of the time and place when and where the matter of said unprofessional conduct shall be heard, the particular unprofessional conduct with which the applicant is charged, and that the applicant shall file his written answer, under oath, within twenty days next after service upon him of said citation, or default will be taken against him, and his application for a certificate refused. The attendance of witnesses at such hearing shall be compelled by subpoenas

License refused for unprofessional conduct.

Citation to applicant.

issued by the secretary of the board under its seal; and said secretary shall in no case refuse to issue any such subpœna, upon a fee of twenty cents being paid him for each subpœna. Said citation and said subpœnas shall be served in accordance with the statutes of this state then in force as to the service of citations and subpœnas generally and all provisions of the statutes of this state then in force relating to subpœnas are hereby made applicable to the subpœnas provided for therein. If any person refuses to obey a subpœna served upon him in accordance with the statutes of this state then in force providing for the manner of serving subpœnas, the fact of such refusal shall be certified by the secretary of said board, under the seal thereof, to the superior court of the county in which the service was had and the said court shall thereupon proceed to hear said matter in accordance with the statutes of this state then in force as to contempt of process of the court, and should said court find that the subpœna had been legally served and that the party so served has wilfully disobeyed the same, it shall proceed to impose such penalty as provided in cases of contempt of court. In all cases of alleged unprofessional conduct arising under this act, testimonies of witnesses may be taken, the same as in civil cases, and all the provisions of the statutes of this state then in force as to the taking of testimony are hereby made applicable to the taking of depositions under this act. If the applicant shall fail to file with the secretary of said board his answer, under oath, to the charges made against him, within twenty days after service on him of said citation or within such further time as the board may give him, and the charges on their face be deemed sufficient by the board, default shall be entered against him and his application refused. If the charges on their face be deemed sufficient by the board, and issue be joined thereon by answer, the board shall proceed to determine the matter, to that end, shall hear such evidence as may be adduced before it; and if it appear to the satisfaction of the board that the applicant is guilty as charged, no certificate shall be issued to him. No certifi-

Subpoenas.

Contempt.

Manner of taking evidence.

Defaults.

Limitation
of actions.

cate shall be refused on the grounds of unprofessional conduct unless the applicant has been guilty of such conduct within two years next preceding his application. Whenever any holder of a certificate herein provided for is guilty of unprofessional conduct, as the same is defined in this act, and said unprofessional conduct has been brought to the attention of the board granting said certificates, in the manner hereinafter pointed out, or whenever a certificate has been procured by fraud or misrepresentation, or issued by mistake, it shall be their duty to, and they must, revoke the same at once, and the holder of said certificate shall not be permitted to practice medicine and surgery, or osteopathy, or any other system or mode of treating the sick or afflicted in this state. But no such revocation shall be made unless such holder is cited to appear and the same proceedings are had as is hereinbefore provided in this section in case of refusal to issue certificates. Said secretary in all cases of revocation shall enter on his register the fact of such revocation and shall certify the fact of such revocation under the seal of the board, to the county clerk of the counties in which the certificate of the person whose certificate has been revoked is recorded; and said clerk must thereupon write upon the margin or across the face of his register of certificate of such person, the following: "This certificate was revoked on the day of," giving the day, month and year of revocation in accordance with certification to him by secretary. The record of such revocation so made by said county clerk shall be *prima facie* evidence of the fact thereof, and of said regularity of all the proceedings of said board in the matter of said revocation. From the time of the revocation of a certificate the holder thereof shall be disqualified from practicing medicine or surgery, osteopathy, or any other system or mode of treating the sick or afflicted, in this state.

Revocation
of license.

"Unprofessional conduct."

The words "unprofessional conduct," as used in this act, are hereby declared to mean:

First. The procuring, or aiding or abetting in procuring a criminal abortion.

Second. The wilfully betraying of a professional secret.

Third. All advertising of medical business which is intended or has a tendency to deceive the public or impose upon credulous or ignorant persons, and so be harmful or injurious to public morals or safety.

Fourth. All advertising of any medicine or of any means whereby the monthly periods of women can be regulated or the menses re-established if suppressed.

Fifth. Conviction of any offense involving moral turpitude, in which case the record of such conviction shall be conclusive evidence.

Sixth. Habitual intemperance.

Seventh. The personation of another licensed practitioner of a like or different name.

SEC. 12. In any case of the refusal or revocation of a license by said board under the provisions of this act, said board shall file a brief and concise statement of the grounds and reasons for such refusal or revocation in the office of the secretary of said board, which said statement, together with the decision of said board, in writing, shall remain of record in said office.

Reasons for
revocation
to be filed.

SEC. 13. In any case of the refusal or revocation of a license by said board under the provisions of this act, the applicant whose application shall be so refused, and the licentiate whose license shall be so revoked by said board, shall have the right to appeal from the decision so refusing or revoking such license within thirty days after the filing of such decision in the office of the secretary of said board, as hereinbefore in this act provided. Such appeal shall be to the superior court in and for the county in which was held the last general meeting of said board, prior to the refusal of such license, in the case of such refusal; and to the superior court in and for the county in which the hearing was had upon which such license was revoked, in case of such revocation. In any case a person desiring to take such appeal shall serve or cause to be served, upon the secretary of said board, a written notice of such appeal, which shall contain a state-

Appeals
from board.

ment of the grounds of such appeal, and shall file in the office of such secretary an appeal bond, with good and sufficient surety, to be approved by said secretary, to the State of Washington, conditioned for the speedy prosecution of such appeal, and the payment of such cost as may be adjudged against him upon such appeal. Said secretary shall within ten (10) days after the service of said notice of appeal, and the filing and approval of said appeal bond, transmit to the clerk of the superior court to which such appeal is taken, a certified copy, under the seal of said board, of the decision of said board, and the grounds thereof in the case of the refusal of the license; and in addition thereto, a certified copy under such seal of the complaint in the case of the revocation of a license, together with the bond and notice of appeal. The clerk of such court shall thereupon docket such appeal causes, and they shall stand for trial in all respects as ordinary civil actions, and like proceedings be had thereon. Upon such appeal said cause shall be tried *de novo*. Either party may appeal from the judgment of said superior court to the supreme court of the state in like manner as in civil actions within sixty (60) days after the rendition and entry of such judgment in said superior court. If such judgment shall be in favor of the party appealing from the decision of said board, and in case said examining board does not appeal from said judgment within said sixty (60) days, then, and in that case, said board shall, at the end of said sixty (60) days, and immediately upon the expiration thereof, issue to such successful party the usual license to practice medicine and surgery in this state, and in addition thereto, shall reinstate upon the records of said board the name of such successful applicant, in case of the revocation of his license by such board. In case of such appeal to the supreme court by said board, no such license shall be issued nor reinstatement be required until the final determination of said cause, and as hereinafter provided. In case the final decision of the supreme court be against said medical examining board, then, and in that case, said

Records
certified.

Appeals to
supreme
court.

court shall make such order in the premises as may be necessary, and said board shall act accordingly: *Provided*, That in no case shall an appeal bond be required of said board, nor shall any costs be adjudged or taxed against the same.

SEC. 14. Any person who shall practice or attempt to practice, or hold himself out as practicing medicine and surgery, osteopathy, or any other system or mode of treating the sick or afflicted in this state, without having, at the time of so doing, a valid, unrevoked certificate as provided in this act, shall be guilty of a misdemeanor. In each such conviction the fine shall be paid, when collected, to the State Treasurer, and shall constitute a special fund for the prosecution of illegal practitioners as defined in this act, the said fund to be paid to the said board upon warrants drawn therefor by its secretary, and the said board is authorized to prosecute all persons guilty of a violation of the provisions of this act.

Practicing without license a misdemeanor.

Fines paid into special fund.

SEC. 15. Every person filing for record, or attempting to file for record, the certificate issued to another, falsely claiming himself to be the person named in such certificate, or falsely claiming himself to be the person entitled to the same, shall be guilty of a felony, and, upon conviction thereof, shall be subject to such penalties as are provided by the laws of this state for the crime of forgery.

False representation a felony.

SEC. 16. Any person assuming to act as a member of the State Board of Medical Examiners without so being, or who shall sign, or subscribe, or issue, or cause to be issued, or seal, or cause to be sealed, a certificate authorizing any person to practice medicine or surgery, or osteopathy, or any other system or mode of treating the sick or afflicted, in this state, shall be guilty of a misdemeanor.

Acting as member of board without right a misdemeanor.

SEC. 17. Any person who holds a license from the board of medical examiners heretofore existing, under the provisions of any laws of this state, past or present, shall be entitled to practice medicine and surgery in this state the same as if issued under this act: *Provided, however*, That all licenses herein mentioned may be revoked for unprofessional conduct, in the same manner and upon the same grounds as if issued under this act.

Licenses heretofore issued valid.

Laws to be
observed.

SEC. 18. All persons granted licenses or certificates under this act, shall be subject to the state and municipal regulations relating to the control of contagious diseases, the reporting and certifying to births and deaths, and all matters pertaining to public health; and all such reports shall be accepted as legal.

Persons and
systems not
included.

SEC. 19. Nothing in this act shall be construed as to inhibit service in the case of emergency, or to the domestic administration of family remedies; nor shall this act apply to any commissioned medical officer in the United States army, navy, or marine hospital service, in the discharge of his official duties; nor to any licensed dentist when engaged exclusively in the practice of dentistry; nor shall this act apply to any practitioner from any other state or territory in which he resides: *Provided*, That such practitioner shall not open an office or appoint a place of meeting patients or receive calls within the limits of this state. Nor shall this act be construed to discriminate against any particular school of medicine or surgery or osteopathy, or any system or mode of treating the sick or afflicted, or to interfere in any way with the practice of religion: *Provided*, That nothing herein shall be held to apply or to regulate any kind of treatment by prayer.

Systems
authorized
only to be
practiced.

SEC. 20. All persons receiving a certificate or license under this act shall use no deception in the use of titles of his or her mode of treating the sick, but shall use only such titles as are designated by his or her diploma; or those not having a diploma shall use only such title as he or she holds license to practice. Any person violating this section of this act shall be guilty of a misdemeanor.

Certificate
and license
same.

SEC. 21. The words "certificates" and "licenses" shall be known as interchangeable terms in this act.

Repeals.

SEC. 22. All acts, or parts of acts, in any wise conflicting with the provisions of this act, are hereby repealed.

Emergency.

SEC. 23. An emergency exists and this act shall take effect immediately.

Passed by the House February 19, 1909.

Passed by the Senate March 8, 1909.

Approved March 18, 1909.