

CHAPTER 147.

TREATING THE SICK.

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147.01 Definitions. (1) The "basic science law" is sections 147.01 to 147.12, inclusive, and as used therein:

(a) To "treat the sick" is to examine into the fact, condition, or cause of human health or disease, or to treat, operate, prescribe, or advise for the same, or to undertake, offer, advertise, announce, or hold out in any manner to do any of said acts, for compensation, direct or indirect, or in the expectation thereof.

(b) "Disease" includes any pain, injury, deformity, or physical or mental illness or departure from complete health and proper condition of the human body or any of its parts.

(c) The "basic sciences" are anatomy, physiology, pathology and diagnosis.

(d) The "board" is the state board of examiners in the basic sciences.

(2) Sections 147.01 to 147.12, inclusive, shall not apply to or affect persons making application for examination or registered or licensed or holding a certificate, or otherwise authorized or to be authorized under chapter 152, or to optometrists.

Note: "Physiotherapy" is treating sick and practice of medicine. 20 Atty. Gen. 107.

147.02 Practice. No person shall treat, or attempt to treat, the sick unless he shall have a certificate of registration in the basic sciences, and shall have recorded the same with the county clerk in the manner provided in section 147.14, and shall have complied with all other requirements of law. This section shall not affect the exemptions provided by subsections (1) and (2) of section 147.19, nor shall it be construed to require a certificate of registration in the basic sciences for the practice of nursing by persons registered under chapter 149.

Note: Astigmatism, headaches and partial paralysis known as "blind staggers" constitute "disease" within the statute prohibiting the treatment of the sick without a certificate of registration in the basic sciences. *Nickell v. State*, 205 W 614, 233 NW 508.

147.03 Board. The governor, with the advice and consent of the senate, shall appoint the state board of examiners in the basic sciences. The board shall consist of three lay educators, none of whom shall be on the faculty of any department teaching methods of treating the sick. The term of office shall be six years. A vacancy shall be filled for the unexpired term. The first appointments shall be for terms expiring April 1, 1927, 1929 and 1931, respectively. The board shall within thirty days of appointment organize by the election of a president, secretary and treasurer. The compensation of the members of the board shall be ten dollars for each day actually spent and actual and necessary expenses.

147.04 Other boards. No examining board for any branch of treating the sick shall admit to its examinations or license or register any applicant unless such applicant first present a certificate of registration in the basic sciences. Any such board may by rule accept such certificate in lieu of examination in those subjects.

147.05 Application. Application for a certificate of registration in the basic sciences shall be made to the board of examiners in the basic sciences, accompanied by sufficient and satisfactory evidence of good moral character and preliminary education equivalent to graduation from an accredited high school of this state, and a fee of ten dollars. If the applicant was on February 1, 1925, attending a professional school, high school education shall not be required.

Note: Applicant for certificate of registration in basic sciences who attended professional school prior to February 1, 1925, but who was not attending such school on that date is not excepted from requirement of high school education under this section.

"Professional school" means school teaching basic sciences, namely anatomy, physiology, pathology and diagnosis and does not include school teaching massage and hydrotherapy. 22 Atty. Gen. 297.

147.06 Examination. Examination shall be in the basic sciences only, shall be conducted not less than four times a year at such times and places as the board shall fix, and shall be both written and by demonstration or other practical test. No applicant shall be required to disclose the professional school he may have attended or what system of treating the sick he intends to pursue.

147.07 Certificate. If the candidate attains a grade of seventy-five per cent in each subject, he shall receive a certificate in the basic sciences, signed by the president and secretary. If he fails in one subject only, he may be re-examined in that subject at any examination within one year without further examination fee. If he fails in two or more subjects he shall not be again examined until after the lapse of one year, and then only upon application anew and in all subjects. If the applicant states that his practice is to be confined to one organ or set of organs, his examination and certificate shall be limited accordingly.

Note: Applicant for limited basic science certificate under 147.07 who requests examination on spinal column only is entitled to such limited examination if he has qualifications prescribed by 147.05, and particular method of treating sick which he proposes to follow is immaterial. 32 Atty. Gen. 340.

147.08 Reciprocity. The board may issue certificate to an applicant who presents sufficient and satisfactory evidence of having passed examinations in the basic sciences before a legal examining board or officer of another state, or of a foreign country, if the standards are as high as those of this state, and upon payment of a fee of fifteen dollars.

147.09 Previous practice. Any person who, on February 1, 1925, was regularly licensed or registered in the state of Wisconsin to treat the sick need not be registered under the basic science law. Any person who, on February 1, 1925, was not registered or licensed in the state of Wisconsin to treat the sick, but nevertheless on that date was lawfully engaged in this state in treating the sick, shall be registered upon presenting to the board, within sixty days after this section goes into effect, an application therefor, with sufficient and satisfactory evidence that he was, on such date, lawfully engaged in this state in treating the sick, and is of good moral character, and upon the payment of a registration fee of five dollars. The certificate shall recite registration solely as a person who, on February 1, 1925, was lawfully engaged in this state in treating the sick. Such certificate shall be in force only when filed with the county clerk in the manner provided in section 147.14.

Note: Basic science law providing that persons previously engaged in treating sick should be registered upon application within sixty days of passage of act, does not authorize board to consider application not presented until 1932. 21 Atty. Gen. 500. Whether there has been substantial compliance with this section is primarily question of fact for state board of examiners in basic sciences. 27 Atty. Gen. 784.

147.10 Revocation. Certificate of registration in the basic sciences shall be subject to revocation for the causes and in the manner provided in section 147.20.

147.11 Review. The action of the board in granting or denying a certificate shall be subject to review by appeal in the manner provided in chapter 227, and any state examining board for any branch of treating the sick may take such appeal as a party aggrieved. [1943 c. 375 s. 57]

147.12 Administration. The board shall keep a complete record in which shall be entered all applications, examinations, registrations, fees, decisions, orders and proceedings. It shall from time to time from lists furnished by the state civil service commission, appoint such competent and recognized experts as shall be necessary to assist in the examinations, and necessary clerks. They shall receive such compensation as the board shall fix. On or before August first of each year, the board shall file with the governor a report of all receipts, disbursements and transactions for the preceding fiscal year. The disbursements of the board shall not exceed the fees received.

147.13 Examiners. (1) The governor shall appoint the "Wisconsin State Board of Medical Examiners," consisting of eight members. The appointment of each member shall be for four years. No instructor, stockholder, member of, or person financially interested in any school, college or university having a medical department, or of any school of osteopathy, shall be eligible. Three members shall be allopathic, two homeopathic, two eclectic and one osteopathic, and all shall be licentiates of the board.

(2) The board shall meet regularly on the second Tuesday of January at Madison and on the last Tuesday of June at Milwaukee, and at such other times and places as it wills. It shall elect annually at its June meeting a president and a secretary-treasurer. The

president or secretary may administer oaths. The secretary-treasurer shall furnish such bond as the board shall require, and shall receive all moneys and pay the same into the state treasury.

(4) The board shall employ necessary assistants and fix their compensation.

(5) The board shall have a common seal, and keep a record of its proceedings and a register of applications, and licenses and certificates of registration issued. It shall make annual report of its proceedings to the governor on June thirtieth, including detailed statement of money received and expense of operation.

(6) The board shall investigate complaints of violation of this chapter, notify prosecuting officers, and institute proceedings. [1931 c. 67 s. 169a; 1941 c. 49 s. 94; 1943 c. 155]

Note: Vaccination against smallpox is one licensed only to practice osteopathy and "practice of medicine" as that term is used surgery. 29 Atty. Gen. 148. in 147.13 to 147.18 and may not be done by

147.14 Practice. (1) No person shall practice or attempt or hold himself out as authorized to practice medicine, surgery, or osteopathy, or any other system of treating bodily or mental ailments or injuries of human beings, without a license or certificate of registration from the state board of medical examiners, except as otherwise specifically provided by statute, nor unless he shall record the same with the county clerk of the county in which he resides and pay a fee of fifty cents for such recording. Nonresidents shall file such license or certificate in each county in which they shall practice. The clerk shall enter in a book kept for that purpose the date of the license or certificate, the name of the licensee, school or practice shown, and the date of the recording.

(2) No person violating subsection (1) of this section shall have the right to collect by law any compensation for professional services, or to testify in a professional capacity as a medical or osteopathic physician or practitioner of any other form or system of treating the afflicted, or as an insanity expert; except that a court in a criminal action may receive the testimony of any person as an expert and that practitioners in medicine, surgery or osteopathy licensed in other states may testify as experts in this state when such testimony is necessary to establish the rights of citizens or residents of this state in a judicial proceeding and expert testimony of licensed practitioners of this state sufficient for the purpose is not available.

(3) No person not possessing a license to practice medicine and surgery, osteopathy, or osteopathy and surgery, under section 147.17, shall use or assume the title "doctor" or append to his name the words or letters "doctor," "Dr." "specialist," "M. D.," "D. O." or any other title, letters or designation which represents or may tend to represent him as a doctor in any branch of treating the sick.

(4) No person shall practice medicine, surgery, or osteopathy, or any other system of treating bodily or mental ailments or injuries of human beings, under any other Christian or given name or any other surname than that under which he was originally licensed or registered to practice in this or any other state, in any instance in which the Wisconsin state board of medical examiners shall, after a hearing, find that practicing under such changed name operates to unfairly compete with another practitioner or to mislead the public as to identity or to otherwise result in detriment to the profession or the public. This subsection does not apply to a change of name resulting from marriage or divorce. [1939 c. 184; 1943 c. 372; 1945 c. 13]

Note: The evidence in this case sustained a conviction on the charge of unlawfully and wilfully assuming the title of "doctor." Nickell v. State, 205 W 614, 238 NW 508.

It is a violation of this section for a person not licensed to practice medicine or optometry to cause the letters "M.D." to be appended to his name on the door of his office and to supervise the business of examining and treating eyes. The state may prove the commission of the offense on any date substantially corresponding with the date charged. Hawkins v. State, 205 W 620, 238 NW 511.

Section 147.15 making previous internship a condition of being licensed to practice medicine, is a legal sanction of the performance of such duties as are usually and ordinarily performed by internes; and the performance of such duties does not constitute unlawful "practice of medicine," or representation that the interne is authorized to "practice" medicine. Nickley v. Eisenberg, 206 W 265, 239 NW 426.

Trial court's determination that citizen suing surgeons for damages had in good faith attempted to secure aid of Wisconsin doctors but had been unable to do so, and that therefore he could call as witness practitioner licensed to practice in another

state, is conclusive, in absence of showing that there was an abuse of discretion. Paulsen v. Gundersen, 218 W 578, 260 NW 448.

The holder of the degree of "doctor of chiropractic" conferred by a school in another state is not entitled thereby to describe himself as such in his practice. On entering the state to practice, he becomes subject to its laws, including subsection (3). State v. Michaels, 226 W 574, 277 NW 157.

In a prosecution for using and assuming the title of "doctor" the defendant's application for extra gasoline-ration coupons, on which the defendant's profession was stated as physician, made 2 months before the facts occurred on which the prosecution was based, was admissible as showing a general and continuing intent to do the very thing the defendant was accused of doing. State v. Neukom, 245 W 372, 14 NW (2d) 34.

Physician diagnosing cases for compensation but not prescribing or administering remedies is practicing medicine and may not lawfully do so without a license. 19 Atty. Gen. 97.

Subsection (3) prohibits licensed optometrist from using title "Doctor of Ocular Science." Optometry is practice of medicine, and optometrists treat sick, as these terms

are used in medical practice act. 20 Atty. Gen. 687.

Civil action may be brought to prohibit unlawful practice of medicine and unlawful use of title of "doctor." Form of complaint submitted. 24 Atty. Gen. 143.

Practicing medicine without license is not felony. 24 Atty. Gen. 451.

Subsection (3) precludes use of title of

"Dr." by optometrist in his advertising. 27 Atty. Gen. 319.

Person licensed to practice osteopathy and surgery under (1) is considered to be physician and surgeon. 27 Atty. Gen. 379.

Osteopathy may not administer injections for cure of arthritis. Person licensed to practice osteopathy and surgery may administer anaesthetic in connection with operation. 29 Atty. Gen. 420.

147.15 Application. Application may be made at the time and place designated by the board or at a regular meeting. Applicants for license to practice medicine and surgery or osteopathy and surgery shall present satisfactory evidence of good moral and professional character, and of having completed a preliminary education equivalent to graduation from an accredited high school of this state, and also a diploma from a reputable professional college. Applicants for license to practice medicine and surgery, in addition to having a diploma from a reputable professional college approved and recognized by the board, shall present also satisfactory evidence of having completed a college course in physics, chemistry, biology, and either German or French, the equivalent of the premedical course at the University of Wisconsin, and if the professional college from which a diploma is presented does not require for graduation a hospital internship of at least 12 months in addition to a 4 years' course, a certificate of completion of such internship in a reputable hospital. Applicants for license to practice osteopathy and surgery, on and after the last Tuesday of June, 1948, in addition to having a diploma from a reputable professional college approved and recognized by the board, shall present also satisfactory evidence of having completed 2 years college work including physics, chemistry, biology and English, in an institution accredited by the University of Wisconsin. Each applicant shall file a verified statement that he is familiar with the state health laws and the rules and regulations of the state board of health relating to communicable diseases. The application shall be accompanied by a fee, to be fixed by the board at not more than \$20 and \$5 additional for license if issued. An immigrant applicant shall present satisfactory evidence of having first citizenship papers, and if his professional education was completed in a foreign college, the application shall be accompanied by a fee of \$50, and the further fee of \$5 upon issuance of license shall not be required; however, any applicant who by reason of his nationality is ineligible to citizenship and who is a graduate of a reputable professional college in this country prior to the taking effect of this section and is possessed of all other necessary qualifications to secure a license shall be issued a license provided at least one of his parents shall have been a native of the state of Wisconsin. Applicants shall pay also the cost of translation into English by the board of documents and papers in a foreign language. [1933 c. 290; 1935 c. 457; 1941 c. 180]

Note: Where an applicant for a license to practice medicine is a graduate of a medical school which is reputable or was so at the time of his graduation, and his application is denied by the state board solely on the ground that the school was not reputable, the applicant's remedy is to mandamus the board to grant him a license and not to mandamus the board to grant him a further hearing. State ex rel. Blank v. Gramling, 219 W 196, 262 NW 614.

Successful passing of examination in basic sciences under 147.06 does not entitle person to take examination to practice medicine and surgery under 147.15, where state board of medical examiners has decided not to approve professional college of which such person is graduate prior to time of application to take examination to practice medicine and surgery. 26 Atty. Gen. 110.

147.16 Examination. Having complied with section 147.15, the applicant shall be examined in anatomy, physiology, general diagnosis, pathology, histology, chemistry, hygiene and sanitation. All applicants shall be given the same examination in the foregoing subjects, so far as practicable. Applicants for license to practice medicine and surgery, or osteopathy and surgery, shall be further examined in the branches usually taught in reputable professional colleges. [1935 c. 457]

Note: This section contemplates that applicants for licenses to practice medicine and surgery or osteopathy and surgery in Wisconsin are to be examined by Wisconsin state board of medical examiners rather than by some out-of-state board or agency and that all applicants are to be given same examina-

Burden is upon applicant for license to practice medicine to establish that he is graduate of reputable professional college, whether such college is domestic or foreign. 26 Atty. Gen. 420.

Work done by internes during twelve months' internship required of applicant for license to practice medicine does not constitute practice of medicine, but after completing such internship license is required for work done by internes or resident physicians. 26 Atty. Gen. 504.

Reputability of medical school does not depend upon whether its examinations are conducted by its own faculty or by some outside agency, and authority to grant diplomas or degrees is not dependent upon such factor. 27 Atty. Gen. 648.

tion as far as possible. However, board is not prohibited from availing itself of examinations conducted by national board of medical examiners provided practice is such that it can still be said to be examination of board and there is no great dissimilarity between examinations. 27 Atty. Gen. 412.

147.17 License. (1) If six members find the applicant for license qualified, it shall issue a license to practice medicine or surgery, or osteopathy and surgery, signed by the

president and secretary and attested by the seal. A copy of the applicant's statement of familiarity with health laws and rules shall then be forwarded to the state board of health. The board may license without examination a person holding a license to practice medicine and surgery, or osteopathy and surgery, in another state, if in such state the requirements imposed are equivalent to those of this state, upon presentation of the license and a diploma from a reputable professional college approved and recognized by the board, or an honorably discharged surgeon of the army or navy, or of the federal public health service, upon filing of a sworn and authenticated copy of his discharge. Fee for license without examination shall be fixed by the board at not less than the reciprocity fee in the state whose license the applicant presents, and in no case less than fifty dollars. A person licensed before 1916 to practice osteopathy, shall be licensed to practice surgery upon presenting satisfactory evidence of having completed a course in surgery at a reputable osteopathic college, requiring not less than twenty months' actual attendance, and the regular examination of the board in surgery, and being found qualified by six members. The board may deny the application of one not twenty-one years of age. No certificate of registration shall be considered equivalent to a license.

(2) Any person holding a certificate of registration in accordance with the provisions of chapter 87 of the laws of 1899, who shall have been engaged in the practice of medicine, surgery or osteopathy since July 1, 1899, shall be granted a license without examination upon presenting said certificate to the board with the application for such license and a fee of five dollars and surrender said certificate on the issuance of said license. [1935 c. 457]

Note: The refusal of the state board of medical examiners to permit an applicant for a license to practice medicine to be present at a hearing while representatives of the medical school from which he was graduated presented their evidence as to the reputation of such school, was not a denial of due process, where the applicant and the medical school were notified of the hearing and the evidence presented by them was received at the hearing; the applicant not being entitled as of right to be present before the board when witnesses were being heard. State ex rel. Blank v. Gramling, 219 W 196, 262 NW 614.

The powers of the board and especially its discretionary power are examined at length in State ex rel. Dubin v. State Board of M. Examiners, 222 W 227, 268 NW 116.

Board of medical examiners may not accept for reciprocity diplomate of Na-

tional Examining Board. 22 Atty. Gen. 610, 23 Atty. Gen. 303.

State board of medical examiners cannot delegate its powers to national board of medical examiners as to setting standards and giving examinations to applicants under 147.15 to 147.18.

State board has broad discretion in determining reputation of professional schools, and where it is impossible for board to determine whether college is reputable, burden is upon applicant to prove its reputation. 25 Atty. Gen. 459.

147.17 (1) which provides state board of medical examiners may issue licenses by reciprocity does not authorize issuance of licenses by mail vote of individual board members. Board can act only in regular or special meeting as provided in 147.13 (2). 28 Atty. Gen. 659.

147.175 Annual registration of physicians. (1) Every person licensed to and engaged in or entering upon the practice of medicine and surgery, osteopathy, or osteopathy and surgery, in this state, shall, in the month of January of each year, register with the secretary of the Wisconsin state board of medical examiners, upon a form to be furnished by the board. The registration form, to be signed by each registrant, shall contain his name, his residence address, the name of the place and the address at which he is engaged in practice, and any other relevant information for the purpose of identifying the registrant which the board may prescribe. Persons licensed or relicensed in this state to practice medicine and surgery, osteopathy, or osteopathy and surgery, subsequent to January 31 of a given year shall register as required by the terms of this section within 30 days after being so licensed. Any registrant who, subsequent to registering, shall change the address or place of his residence or professional office, or who shall open an additional office, shall, within 30 days thereafter, notify the board in writing of such change and furnish his new residence or professional address. The secretary of the board, on or before December 1 of each year, shall mail or cause to be mailed to every person registered hereunder the registration form above required. Each person registered hereunder shall display his proper registration certificate conspicuously in his office at all times.

(2) Each registrant shall pay for such registration a fee to be fixed by the Wisconsin state board of medical examiners for each given year, which fee shall not exceed \$3 in any year; provided that those who register after January 31 of a given year, shall likewise pay whatever fee has been fixed for that year.

(3) On or before March 10 in each year the secretary of the Wisconsin state board of medical examiners shall certify to the state board of health, which shall cause to be published and mailed to each person registered hereunder, a printed list of those so registered, which list shall be divided according to the branch of healing in which the registrant is licensed. The secretary of the board shall also cause to be mailed a copy of such published list to the secretary of state, the district attorney of each county, each local board of health, the sheriff of each county, the chief of police of each community, and to any other public official who may request or have need thereof.

(4) Every registration made as provided in this section shall be presumptive evidence in all courts and other places that the person named therein is legally registered for the year covered by such registration.

(5) No registration shall be permitted by the secretary of the Wisconsin state board of medical examiners in the case of any person who has been found guilty of any of the unprofessional acts described in section 147.20, and upon conviction for any of said offenses, the registration of any such person shall be deemed automatically annulled upon receipt by the secretary of the board of a certified copy of the information, verdict and judgment, as provided in section 147.20 (3), subject to such registrant's right of appeal. A registrant whose license has been revoked and subsequently restored under the provisions of section 147.20 (4) shall be registered by the board upon tendering a certified copy of the order of the trial court restoring his license, together with an application for registration and the registration fee.

(6) The provisions of this section shall not be applicable to any physician while serving in the armed forces of the United States or of an allied government.

(7) If any subsection, paragraph or provision of this section, or its application to any person or circumstance shall be held unconstitutional, such decision shall not affect the constitutionality of any other subsection, paragraph or provision of this section or its application to other persons or circumstances. [1943 c. 155]

147.18 Itinerants. Itinerant practitioners of medicine, surgery or osteopathy or of any form or system of treating the afflicted shall obtain an annual license in addition to the regular license or certificate of registration, and shall pay therefor two hundred fifty dollars per annum. Persons practicing medicine, surgery or osteopathy or professing or attempting to treat or heal ailments or injuries of the human body who go from place to place at regular or irregular intervals less frequently than once a week, are itinerant practitioners.

147.185 Massage license. The board of medical examiners may issue certificates of registration to practice massage or hydrotherapy. The applicant therefor shall present satisfactory evidence of good moral and professional character, and of having completed a preliminary education equivalent to graduation from an accredited high school of this state, and of the completion in a scientific or professional school of an adequate course in physiology, descriptive anatomy, pathology and hygiene, and shall file a verified statement that he is familiar with the state health laws and the rules and regulations of the state board of health relating to communicable diseases. The application shall be accompanied by a fee to be fixed by the board at not more than twenty dollars and five dollars additional for certificate if issued. The applicant shall be examined by the board in physiology, descriptive anatomy, pathology and hygiene, and shall be further examined in massage or hydrotherapy under the supervision of the board, by a registered practitioner in massage or hydrotherapy selected by the board and receiving the same compensation as board members. If a majority of the board find the applicant qualified, it shall issue a certificate of registration to practice massage or hydrotherapy, signed by the president and secretary and attested by the seal, which certificate shall authorize practice in massage or hydrotherapy or educational gymnastics, but not the treatment of a specific disease, except upon the advice of a licensed medical physician. A copy of the applicant's statements of familiarity with health laws and rules shall be forwarded to the state board of health. The provisions of section 147.15, relating to immigrant applicants and translations, shall apply to application under this section.

Note: In an action for injuries sustained as a result of a massage, expert testimony was unnecessary to show that the masseur who administered the massage to the plaintiff neglected to follow the accepted custom and practice of masseurs in the vicinity, where such masseur conceded the impropriety and the dangerous quality of a massage applied in the manner testified to by the plaintiff. *Tetting v. Hotel Pfister, Inc.*, 221 W 141, 266 NW 249.

This section is applicable to practice of massage for therapeutic purposes but does not extend to athletic rubs given by clubs in connection with athletics or physical exercise. 26 Atty. Gen. 61.

Applicant for examination for masseur's license is not required to have certificate of registration in basic sciences. 26 Atty. Gen. 591.

Licensed physician may operate establishment for practice of massage and hydrotherapy without obtaining massage license under this section. Foreign license to practice medicine and surgery confers no privilege to practice any branch of healing art in this state. 28 Atty. Gen. 685.

Graduate registered nurse desiring to open massage parlor exclusively for women for reducing purposes only is not exempt from requirements of this section. 29 Atty. Gen. 297.

Licensed beauty parlor operator using electrical device which is designed for purpose of stimulating muscles and thereby reducing excess flesh is not required to have massage license under 147.185, since 159.01 (1) is controlling. 29 Atty. Gen. 440.

147.19 Exceptions. (1) Sections 147.14 to 147.18, shall not apply to commissioned surgeons of the army, navy, federal health service, or to medical or osteopathic physicians of other states or countries in actual consultation with resident licensed practitioners of

this state, nor to the gratuitous prescribing and administering of family remedies or treatment rendered in an emergency.

(2) None of the provisions of this chapter or the laws of the state regulating the practice of medicine or healing shall be construed to interfere with the practice of Christian Science, or with any person who administers to or treats the sick or suffering by mental or spiritual means, nor shall any person who selects such treatment for the cure of disease be compelled to submit to any form of medical treatment.

147.195 State medical grievance committee. The state health officer, the secretary of the state board of medical examiners, and the attorney-general or deputy attorney-general are hereby constituted ex officio a state medical grievance committee, to investigate, hear, and act upon practices by persons licensed to practice medicine and surgery under section 147.17, that are inimical to the public health. The state health officer shall be chairman of the committee. Meetings of the committee shall be held at the call of the chairman. Any member thereof shall have power to subpoena and swear witnesses, and take evidence. The committee shall have power to warn and to reprimand, when they find such practice, and to institute criminal action or action to revoke license when they find also probable cause therefor under criminal or revocation statute, and the attorney-general may aid the district attorney in the prosecution thereof. The records of said committee shall be kept by and be in the custody of the chairman thereof. No member of said committee shall receive any extra compensation therefor, nor other than his actual expenditures in attending upon his duties thereon. [1935 c. 70]

147.20 Revocation. (1) The words "immoral or unprofessional conduct" as used in this section mean: (a) Procuring, aiding or abetting a criminal abortion; (b) 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 the curing of venereal diseases, the restoration of "lost manhood," the treatment and curing of private diseases peculiar to men or women, or the 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 in any diseases of a like nature or produced by a like cause, or the advertising of any medicine or any means whereby the monthly periods of women can be regulated or the menses re-established, if suppressed, or being employed by or in the service of any person, or concern, actual or pretended so advertising; (c) 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 permanently cured; (d) wilfully betraying a professional secret; (e) indulging in the drug habit; (f) conviction of an offense involving moral turpitude.

(2) Upon verified complaint in writing to the district attorney charging the holder of a license or certificate of registration from the state board of medical examiners or the state board of examiners in chiropractic with having been guilty of immoral or unprofessional conduct or with having procured his certificate or license by fraud or perjury, or through error, the district attorney shall bring civil action in the circuit court against the holder and in the name of the state as plaintiff to revoke the license or certificate. The court may appoint counsel to assist the district attorney and either party may demand a jury. No one shall be privileged from testifying fully or producing evidence, but he shall not be prosecuted or subject to penalty on account of anything about which he so does, except for perjury in so doing. If the court or the jury finds for the plaintiff, judgment shall be rendered revoking or suspending the license or certificate, and the clerk of the court shall file a certified copy of the judgment with the board of medical examiners. The costs shall be paid by the county, but if the court shall determine that the complaint made to the district attorney was wilful and malicious and without probable cause, it shall enter judgment against the person making the complaint for the costs of the action, and payment of the same may be enforced by execution against the body as in tort actions.

(3) When any person licensed or registered by the board of medical examiners or the state board of examiners in chiropractic is convicted of a crime committed in the course of his professional conduct, the clerk of the court shall file with the board of medical examiners a certified copy of the information and of the verdict and judgment, and upon such filing the board shall revoke or suspend the license or certificate. The action of the board in revoking or suspending such license or certificate may be reviewed in the manner provided in chapter 227.

(4) When a license or certificate is revoked no license or certificate shall be granted thereafter to such person. Any license or certificate heretofore or hereafter revoked may be restored by subsequent order of the trial court, but only after a first revocation, upon notice to the district attorney who prosecuted, or, in the event of his disability, his successor in office, upon written recommendation by the president of the state board of medi-

cal examiners, and upon findings by the court that the applicant for restoration of license or certificate is presently of good moral and professional character and that justice demands the restoration.

(5) When a license or certificate is suspended, it shall be suspended for a definite term, but not to exceed 2 years. The authority suspending a license may restore it at any time when satisfied that justice demands the restoration. [1945 c. 483]

Note: Certificate of registration of midwife may be revoked, for procuring criminal abortion, in civil action by district attorney even though she was acquitted in criminal prosecution. 21 Atty. Gen. 227.

Physician's license may be revoked upon civil action against physician brought by district attorney for indulging in drug habit. 21 Atty. Gen. 476.

Where license to practice medicine is revoked by board because of conviction for crime, pardon by governor does not automatically restore right to practice. 22 Atty. Gen. 942.

Revocation of medical license under (3) for commission of crime in course of professional conduct requires affirmative action by board of medical examiners and right to

practice continues until such action is taken. 26 Atty. Gen. 378.

Under (3) power to revoke physician's license because of crime committed by him in course of his professional conduct is vested in board of medical examiners and may not be redelegated by board to its president. 27 Atty. Gen. 335.

Time during which board of medical examiners may revoke license of person convicted of crime committed in course of his professional conduct is not limited by (3) or otherwise. 30 Atty. Gen. 43.

(3) and (4), relating to revocation of licenses to practice medicine and restoration thereof, where physician has been convicted of crime committed in course of his professional conduct, does not apply to federal courts. 32 Atty. Gen. 162.

147.21 Penalty. Anyone violating any provision of this chapter shall be fined not less than one hundred nor more than five hundred dollars, or imprisoned not less than sixty days nor more than one year, or both.

Note: The penalties provided by this section do not violate sec. 6, art. I, Constitution, prohibiting excessive fines and cruel and unusual punishments. *State v. Michaels*, 226 W 574, 277 NW 157.

147.22 Malpractice. Anyone practicing medicine, surgery, osteopathy, or any other form or system of treating the afflicted without having a license or a certificate of registration authorizing him so to do, shall be liable to the penalties and liabilities for malpractice; and ignorance on his part shall not lessen such liability for failing to perform or for negligently or unskillfully performing or attempting to perform any duty assumed, and which is ordinarily performed by authorized practitioners.

147.23 Chiropractic regulated. (1) No person shall practice chiropractic, or in any manner attempt or hold himself out to do so, unless he have a certificate of registration in the basic sciences and a license to practice chiropractic from the state board of examiners in chiropractic, and shall have recorded such certificate and license with the county clerk of any county in which he shall so practice or attempt or hold out to practice, and pay a fee of fifty cents for each recording.

(2) The governor, with the advice and consent of the senate, shall appoint the state board of examiners in chiropractic to consist of three chiropractors, each of whom shall have been a continuous resident of and practitioner of chiropractic in the state for the preceding three years, who is not an officer or employer, nor financially interested in any school or college of chiropractic, and who shall not be graduate of any school teaching a method of treating the sick other than chiropractic. The term of office shall be six years, and a vacancy shall be filled for the unexpired term. The first appointments shall be made within thirty days after the taking effect of this section, and shall be for terms expiring April 1, 1927, April 1, 1929, and April 1, 1931, respectively. The board shall within thirty days after appointment organize by the election of a chairman and secretary. The compensation of the members of the board shall be ten dollars for each day actually spent and actual and necessary expenses incurred in the performance of their official duties.

(3) Application for a license to practice chiropractic shall be made to the board of examiners in chiropractic, accompanied by sufficient and satisfactory evidence of good moral character, preliminary education equivalent to graduation from an accredited high school of this state, graduation from a reputable school of chiropractic having a residence course of not less than three years, consisting of not less than four thousand thirty minute class hours, certificate of registration in the basic sciences, and a fee of twenty-five dollars.

(4) Examination shall be in the subjects usually taught in such reputable schools of chiropractic, and shall be conducted at least twice a year at such times and places as the board shall determine.

(5) The board shall grant without examination a license to practice chiropractic in this state to any person who was on February 1, 1925, a reputable practitioner of chiropractic in this state, and who shall present to the board of examiners in chiropractic, prior to September 1, 1925, sufficient and satisfactory evidence of the same.

(6) Licenses to practice chiropractic shall be subject to revocation or suspension for the causes and in the manner provided in section 147.20.

(7) All licenses issued by the board shall expire on the thirty-first day of December following the issue thereof, except that any holder of a license may have the same renewed from year to year by the payment of an annual fee of five dollars; provided, that satisfactory evidence is presented to the board that said licensee in the year preceding the application for renewal has attended at least one of the two-day educational programs conducted, supervised and directed by the Wisconsin Chiropractic Association and exemption from this requirement shall be granted only upon showing satisfactory to said board that attendance at said educational programs was unavoidably prevented.

(8) The board shall keep a complete record of all applications, examinations, licenses, fees and proceedings. On or before August first of each year, the board shall file with the governor a report of all receipts, disbursements and transactions of the preceding fiscal year.

(9) No person shall practice chiropractic in this state under any other Christian or given name or any other surname than that under which he was originally licensed or registered to practice chiropractic in this or any other state in any instance in which board of examiners in chiropractic shall, after a hearing, find that practicing under such changed name operates to unfairly compete with another practitioner or to mislead the public as to identity or to otherwise result in detriment to the profession or the public. This subsection does not apply to a change of name resulting from marriage or divorce. [1931 c. 329; 1935 c. 157; 1945 c. 13, 483]

Note: One licensed only as chiropractor who uses electro-therapy violates medical practice act. 21 Atty. Gen. 646. Requirement in (7) that chiropractors attend certain educational programs is constitutional. 24 Atty. Gen. 647.