

belong to the same political party. No person shall be eligible for membership on the board who is a member of any political party executive committee, or with the exception of the state director of health, who holds any public office or public employment under the federal government or under the government of this State, or any of its political subdivisions, or who is an appointee or employee of the state board of health. All members shall be eligible for reappointment.

In making appointments to the board, the governor shall, so far as may be possible and practicable, select the several members from different geographical sections of the State.

No member may be removed from office except for official misconduct, incompetence, neglect of duty or gross immorality: Provided, however, that the expiration or revocation of the professional license of a member of the board shall be cause for his removal: Provided further, that the state director of health shall cease to be a member of the medical licensing board upon the expiration or termination of his appointment as state director of health.

§ 2865(2). [2] Powers and Duties.—The medical licensing board of West Virginia shall assume, carry on, and succeed, to all the duties, rights, powers, obligations and liabilities heretofore belonging to, exercised by, or assumed by the public health council, with regard to the licensure of physicians and surgeons, chiropractors and chiropractists.

The medical licensing board shall examine all qualified applicants for license to practice medicine and surgery, chiropody and chiropractic, and it shall license all such applicants who are qualified under applicable statutes and who pass any examination that may be required by statute or by any legally adopted rule or regulation.

The said board shall have the power to make such examination of all applicants appearing before it for any type of license as may be necessary to determine that the applicant is qualified. The said board shall also have the power to revoke or suspend any license issued by it, for cause, after having given the person whose license is sought to be revoked or suspended, an opportunity to be heard in the manner provided by section eight [§ 2844] article one, chapter thirty of this Code. It shall have the power to reinstate any license revoked or suspended by it.

The said board is authorized and empowered to hold and conduct hearings and investigations on the issuance, suspension, revocation, or reinstatement of licenses.

The said board shall have the power to hire, fix the compensation of, and discharge such employees as are necessary for the performance of the powers and duties vested in the said board by law.

§ 2865(3). [3] Organization and Offices.—The board shall organize by electing from among its members, a chairman, who shall serve as such for a period of two years. Such chairman shall have the power to act for and in the name of the board in all matters within the lawful powers of the board and duly authorized by a majority of its members.

An office shall be established and maintained by the board in the city of Charleston. In addition, the board may establish and maintain such other offices within the State as it may deem necessary or expedient.

§ 2865(4). [4] **State Director of Health to Act as Secretary of Medical Licensing Board.**—The state director of health, in addition to being a member of the medical licensing board, shall act as its secretary and shall be in charge of its offices and responsible to the board for the maintenance of the said offices, and the preparation of application forms, licenses, reports and all other papers or documents which may be required by the board in the performance of its duties. He shall, together with the chairman of the board, sign all licenses, reports and other documents.

§ 2865(5). [5] **Collections and Expenditures; Disposition of Funds.**—All moneys collected by the medical licensing board under the provisions of this chapter shall be deposited in the state treasury as provided by law, and shall be there credited to a special fund to be known as the "Medical Licensing Board Special Fund". All moneys in such special fund shall be expended only for the administration of the provisions of this article and for payment of costs and expenses necessarily incurred by the board in exercising the powers granted to it, and in performing the duties imposed upon it by law.

§ 2866. []
2867. []
2868. []
2869. []

2869(1). []
2870. []

2871. []
2872. []
2873. []

2874. []
2875. []

§ 2866.
—Any person
State shall be
and shall be

§ 2867.
term "practi-
strued to m
method. To
in any way
engage in th
article: Pro
exception o
dentists, de
physicians a
registered a
profession a
and occupat
qualified to
this State b
surgery in t
navy or ma
as such; no
ministration
gratuitously
laws shall
be used wh
no person
practices.

§ 2868.
licensing b
license to
of license
said certifi
the director

ARTICLE 3. PHYSICIANS AND SURGEONS

- § 2866. [1] Evidence of qualification to practice and license required.
2867. [2] Who deemed practitioner; limitations of article.
2868. [3] Examination by medical licensing board.
2869. [4] Who permitted to practice medicine and surgery in this State; licensing of licensed practitioners from other states; permits to practice in prescribed areas.
2869(1). [4a] Biennial registration of physicians and surgeons.
2870. [5] Examinations; certificates; adherents of particular schools or theories of medicine.
2871. [6] Refusal to issue, suspension or revocation of license.
2872. [7] Fees.
2873. [8] Division of fees by physicians or surgeons; penalties; revocation of certificate.
2874. [9] Practicing without license; other offenses; penalties.
2875. [10] False diploma of graduation from medical school; penalty.

§ 2866. [1] **Evidence of Qualification to Practice and License Required.**
—Any person practicing or offering to practice medicine and surgery in this State shall be required to submit evidence that he is qualified so to practice, and shall be licensed as hereinafter provided.

§ 2867. [2] **Who Deemed Practitioner; Limitations of Article.**—The term "practice medicine and surgery," as used in this article, shall be construed to mean the treatment of any human ailment or infirmity by any method. To open an office for such purpose or to announce to the public in any way a readiness to treat the sick or afflicted shall be deemed to engage in the practice of medicine and surgery within the meaning of this article: Provided, however, that the provisions of this article, with the exception of sections eight and ten (§§ 2873, 2875), shall not apply to dentists, dental hygienists, nurses, optometrists, chiropodists, osteopathic physicians and surgeons, midwives, or chiropractors, regularly licensed or registered as such under the provisions of this chapter applicable to such profession and occupations, in the practice of their respective professions and occupations; nor to physicians or surgeons living in other states and duly qualified to practice medicine therein who shall be called in consultation into this State by a physician or surgeon legally entitled to practice medicine and surgery in this State; nor to commissioned officers of the United States army, navy or marine hospital service when in the actual discharge of their duties as such; nor to the practice of the religious tenets of any church in the administration to the sick or suffering by mental or spiritual means, whether gratuitously or for compensation: Provided, that sanitary and public health laws shall be complied with: And provided further, that no practices shall be used which may be dangerous or detrimental to life or health and that no person shall be denied the benefits of accepted medical and surgical practices.

§ 2868. [3] **Examination by Medical Licensing Board.**—The medical licensing board of West Virginia shall examine all qualified applicants for license to practice medicine and surgery in this State, and issue certificates of license to all applicants who are legally entitled to receive the same; and said certificates shall be signed by the chairman of the said board and by the director of health as secretary thereof.

§ 2869. [4] **Who Permitted to Practice Medicine and Surgery in This State; Licensing of Licensed Practitioners From Other States; Permits to Practice in Prescribed Areas.**—The following persons and no others shall hereafter be permitted to practice medicine and surgery in this state: (a) All such persons as shall be legally entitled to practice medicine and surgery in this state at the time of the adoption of this act; (b) all such persons as shall be graduates of class "A" medical schools, as classified by the Council on Medical Education and Hospitals of the American Medical Association, the American Association of Medical Colleges, the American Institute of Homeopathy and the National Eclectic Medical Association, and then only from such schools, when so classified, as require, as a condition to entrance upon the study of medicine, at least two years of academic work of collegiate grade in a standard college of arts and sciences of equal rank with the college of arts and sciences in the West Virginia university, and who shall pass an examination before the medical licensing board and shall receive a certificate therefrom as hereinafter provided; and (c) all such persons as shall be graduates of foreign medical schools whose diplomas have been authenticated by the medical licensing board, and whose premedical education shall meet the requirements of clause (b) above, and who, being citizens of the United States, shall have resided in this state for at least three years immediately preceding application for license, and who shall be recommended by the medical societies of the counties in this state in which they respectively reside as possessing the learning and experience requisite to the practice of medicine and surgery, and who shall pass an examination before the medical licensing board and shall receive a certificate therefrom as hereinafter provided: Provided, however, that the said board, or a majority of them, may accept in lieu of an examination of applicants under clause (b) above, the certificate of the national board of medical examiners, or the certificate of license to practice medicine and surgery legally granted by the state board of registration or examination or licensing board of another state, territory, or any foreign country, whose standard of qualification for the practice of medicine and surgery is equivalent to that of this state, and grant to such applicant a certificate of license to practice medicine and surgery in this state, provided such state, territory, or foreign country accords like privileges to licentiates of this state: Provided further, that whenever in the judgment of the medical licensing board a condition exists in which medical service may be required, the said board is authorized to grant permits for the practice of medicine to qualified physicians in prescribed areas, and such permits shall be subject to revocation when the agreement, under which they were issued, has been violated; (d) any person who shall have graduated from a medical school on or after January first, one thousand nine hundred thirty-nine, and who has met all the requirements of law pertaining to education and training entitling such person to an examination by, and subsequent license from, the appropriate state board or agency for the practice of medicine and surgery in this state, except that such medical school was not at the time of such graduation a class "A" medical school as defined by statute in such case, shall nevertheless, be entitled to take such examination and upon passing be issued such license in those cases wherein such medical school has, prior to the thirty-first day of December, one thousand nine hundred forty-eight, been classified as such class "A" medical school.

§ 2869(1). [4a] **Biennial Registration of Physicians and Surgeons.**—Every person who, on or before the thirty-first day of August, one thousand nine hundred forty-nine, is licensed as a physician or surgeon to practice medicine and surgery in this State, shall, on or before the said thirty-first day of August, one thousand nine hundred forty-nine, make application to the medical licensing board for registration, and shall be registered by the said board, as the holder of such license, which registration shall before the period ending on the thirtieth day of June, one thousand nine hundred fifty-one. On or before the said thirtieth day of June, one thousand nine hundred fifty-one, and biennially thereafter, on or before the thirtieth day of June of each biennial period, every person licensed as a physician or surgeon in this State, shall apply to the said board for registration, or a renewal or registration as such license holder: Provided, that no registration shall be required of any holder of a certificate of licensure for the biennial period, or any portion thereof, during which such certificate is issued.

Each applicant for registration or renewal thereof shall remit to the board, with his application, a fee of two dollars.

The failure of any person to comply with the provisions of this section shall operate automatically, and without further proceedings, to cancel the certificate of such person, and the license issued thereunder. Continued practice by any such person after such cancellation of his certificate and license shall constitute practicing without a license, and any person so practicing shall be subject to all of the penalties provided by law for practicing without a license.

Any certificate and license cancelled pursuant to the provisions of this section, and not for any other reason, shall be reinstated by the said board upon submission to it of an application for registration by the person whose certificate has been cancelled, together with current and delinquent fees, and ten dollars reinstatement fee.

§ 2870. [5] **Examinations; Certificates; Adherents of Particular Schools or Theories of Medicine.**—The medical licensing board shall, at such times as a majority of them deem proper, hold examinations for the licensing of applicants for license to practice medicine and surgery in this State. No fewer than two examinations shall be held during the year, at such place in the State as may be determined by the medical licensing board. At such examination written and oral questions shall be submitted to the applicants, covering all the essential branches of the sciences of medicine and surgery, and the examination shall be a thorough and decisive test of the knowledge and ability of the applicant. The chairman and secretary of the board shall issue certificates to all who successfully pass the said examination and to all whose certificates said board, or a majority of them, shall accept in lieu of an examination, as hereinbefore provided. Such certificates shall be deemed licenses to practice medicine and surgery in all their branches in this State. The medical licensing board shall give reasonable notice of the time and place of holding such examinations in at least three newspapers of general circulation in this State, and all such persons wishing to present themselves for examination shall notify the secretary and comply with the rules of the board. No applicant for license to practice medicine and surgery in this State shall be rejected because of his adherence to any particular school or theory

of medicine. The medical licensing board may call to its assistance in the examination of any applicant who professes the homeopathic or eclectic school of medicine, a homeopathic or eclectic physician entitled to practice medicine in this State under this article, and such homeopathic or eclectic physician so called to the assistance of the board shall be allowed the same per diem and actual expenses incurred as are allowed the regular members of the said board.

§ 2871. [6] Refusal to Issue, Suspension or Revocation of License.—The medical licensing board may refuse to grant a certificate of license to a person guilty of a felony or gross immorality or addicted to drunkenness or the habitual use of narcotic drugs, and may suspend or revoke a certificate for like cause, or for malpractice, or for fraud in procuring the certificate; but no such refusal, suspension or revocation shall be ordered by reason of the individual belonging to or practicing in any particular school or system of medicine.

§ 2872. [7] Fees.—The medical licensing board shall be entitled to a charge and collect the following fees, in addition to those provided in article one of this chapter: For granting to a licensed physician or surgeon from another state, territory or foreign country, a license to practice medicine in this State, under the provisions of section four (§ 2869) of this article, one hundred dollars; for a reciprocal indorsement, ten dollars.

§ 2873. [8] Division of Fees by Physicians or Surgeons; Penalties; Revocation of Certificates.—It shall be unlawful for any physician or surgeon in this State, directly or indirectly, to divide, or agree to divide, any fee or compensation of any sort whatsoever, charged for a surgical operation or for medical services, with any other physician, surgeon or other person who brings, sends or recommends a patient to such surgeon or physician for treatment, without the express knowledge and consent, previously had, of the person paying such fee or compensation, or against whom the same may be charged. It shall be unlawful for any physician, surgeon or other person residing in this State to accept any fee or other compensation from any other surgeon, physician or other person not residing in this State for taking, sending or recommending a patient for treatment to such non-resident physician, surgeon or other person. Any person violating the provisions of this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than one hundred nor more than one thousand dollars for each offense, and in the discretion of the court, may be imprisoned in the county jail not to exceed twelve months in addition to said fine. If any person shall be convicted of a second offense under the provisions of this section, the medical licensing board shall revoke the certificate licensing such person to practice medicine and surgery in this State.

§ 2874. [9] Practicing Without License; Other Offenses; Penalties.—Any person who shall practice or attempt to practice medicine and surgery in this State without first having been licensed for that purpose as herein provided, or who shall violate any of the provisions of this article for which no specific penalty is provided herein, shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined for every such offense not less than fifty nor more than five hundred dollars, or imprisoned in the county jail not less than one nor more than twelve months, or both fined and imprisoned,

in the discretion
as his own, the
file a false or
to any question
provided for, c
shall, upon con
one nor more
six nor more
more than five

§ 2875. [
Penalty.—Who
barter or gift,
representing th
medical school
the powers, f
whoever shall
certificate, wr
ever shall use
and fictitious
practice of me
certificate, wr
violation thereo
for a period
addition there
more than or

in the discretion of the court. And if any person shall file or attempt to file, as his own, the diploma or certificate of another, or shall file or attempt to file a false or forged affidavit of his identity, or shall wilfully swear falsely to any question which may be propounded to him on examination, as herein provided for, or to any affidavit required to be made or filed by him, he shall, upon conviction thereof, be confined in the penitentiary not less than one nor more than three years, or imprisoned in the county jail not less than six nor more than twelve months, and fined not less than one hundred nor more than five hundred dollars, at the discretion of the court.

§ 2875. [10] **False Diploma of Graduation from Medical School; Penalty.**—Whoever shall make, issue or publish for the purpose of sale, barter or gift, a certificate, diploma or other writing or document falsely representing the holder or receiver thereof to be a graduate of any particular medical school, college or educational institution of medicine, and entitled to the powers, privileges or degrees thereby pretended to be conferred, or whoever shall sell, dispose of, or offer to sell or dispose of, such diploma, certificate, writing or document containing such false representation, or whoever shall use his name, or permit it to be used, as a subscriber to such false and fictitious diploma, certificate, writing or document, or shall engage in the practice of medicine or surgery under and by virtue of such fraudulent diploma, certificate, writing or document, shall be guilty of a felony, and, upon conviction thereof, shall be punished by confinement in the state penitentiary for a period of not less than one year, nor more than three years, and in addition thereto shall be subject to a fine of not less than one hundred nor more than one thousand dollars.

N. H. DYER, M.D., M.P.H.
STATE DIRECTOR OF HEALTH



State of West Virginia

DEPARTMENT OF HEALTH

CHARLESTON 25305

November 28, 1967

Honorable Robert D. Bailey
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Mr. Bailey:

Enclosed are two copies of a Reference Page and two copies of Index Pages for The Public Health Laws of West Virginia and a Manual of Regulations of the West Virginia Board of Health. These Laws and Regulations are filed in the Odd Size File as item number 3.

Sincerely yours,

A handwritten signature in cursive script that reads "N. H. Dyer".

N. H. Dyer, M. D., M. P. H.
State Director of Health

FILED IN THE OFFICE
ROBERT D. BAILEY
SECRETARY OF STATE
THIS DATE 11/28/67