

CHAPTER 448

MEDICAL EXAMINING BOARD

448.01	Definition.	448.12	Examination.
448.02	Practice.	448.13	Certificate.
448.03	Application.	448.14	Revocation.
448.04	Temporary educational certificates.	448.15	Penalties.
448.05	Examination.	448.16	Exceptions.
448.06	License; civil liability exemption.	448.17	Investigation; hearing.
448.065	Resident license.	448.18	Revocation.
448.07	Annual registration of physicians.	448.19	Injunction to enforce chapter 448.
448.08	Itinerants.	448.20	Midwifery.
448.09	Physical therapy.	448.21	Penalty.
448.10	Podiatry; practice.	448.22	Malpractice.
448.11	Application.	448.23	Fee splitting between physicians and others.

448.01 Definition. In this chapter, "examining board" means medical examining board.

448.02 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 the sick as the term "treat the sick" is defined in s. 445.01 (1) (a), without a license or certificate of registration from the examining board, except as otherwise specifically provided by statute.

(2) (a) No person without a license or certificate of registration from the examining board shall have the right to testify in a professional capacity on a subject relating to medical treatment, as a medical or osteopathic physician or practitioner of any other form or system of treating the sick, as defined in s. 445.01. A medical or osteopathic physician, licensed to practice in another state, may testify as the attending or examining physician or surgeon to the care, treatment, examination or condition of sick or injured persons whom he has treated in the ordinary course of his professional practice for the sickness or injury which is the subject of the judicial inquiry in any action or proceeding in which he is called as a witness.

(b) A court may permit any person to testify as an expert on a medical subject in any action or judicial proceeding where proof is offered satisfactory to the court that such person is qualified as such expert.

(3) No person not possessing a license to practice medicine and surgery, osteopathy, or osteopathy and surgery, under s. 448.06, 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 examining board, after a hearing, finds 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.

Unlicensed foreign graduate physicians who act as surgical assistants or helpers at the operating table directly aiding a licensed surgeon in surgical procedures are practicing surgery without a license. Licensed surgeons who permit such unlicensed persons to act as surgical assistants or helpers are parties to a crime and are guilty of unprofessional conduct. 59 Atty. Gen. 228.

448.03 Application. (1) APPLICATION FOR PERMANENT LICENSE TO PRACTICE MEDICINE AND SURGERY. Application may be made at the time and place designated by the examining board or at a regular meeting. Applicants for license to practice medicine 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 shall present to the examining board a diploma from a reputable medical or osteopathic college with standards of education and training substantially equivalent to the university of Wisconsin medical school, approved and recognized by the examining board. Before approving and recognizing any such college or school, the ex-

448.03 MEDICAL EXAMINING BOARD

3786

aming board shall conduct an investigation and during the course thereof shall hold a public hearing, with notice to all interested parties, at which any person may be heard. The examining board may designate an agent, including one or more examining board members, to conduct a portion or all of such investigation to determine the facts upon which the examining board shall make its findings. The findings and any action taken by the examining board with reference to approval or recognition of a school or college may be reviewed as provided in ch. 227. The applicant shall also present satisfactory evidence of having completed a college course in physics, chemistry and biology, substantially equivalent to the premedical course at the university of Wisconsin. Each applicant shall file a verified statement that he is familiar with the state health laws and the rules of the department of health and social services relating to communicable diseases. The application shall be accompanied by a fee, to be fixed by the examining board at not more than \$100. An immigrant applicant shall present satisfactory evidence that he has been accepted as an immigrant by the United States, or that he has been permitted to enter or remain in this country under a special act of congress, and if his professional education was completed in a foreign college, the application shall be accompanied by a fee of \$100. Applicants shall pay also the cost of translation into English for the examining board of documents and papers in a foreign language.

(2) FOREIGN APPLICANTS. Where an applicant is a graduate of a foreign medical school which has not been approved or recognized by the examining board under sub. (1), but the examining board has reason to believe that the applicant may have professional qualifications, as of the date of his application, through recognized postgraduate work done in this country, or through professional experience, or both, which have given him premedical training substantially equivalent to that offered in the premedical course at the university of Wisconsin, or professional training substantially equivalent to that of the medical school of that university, or both, as provided in sub. (1), the examining board may make such further inquiry, including a personal interview, as satisfies the examining board that he has such equivalent premedical and medical training. If a majority of the examining board is so satisfied, it may waive the educational prerequisites imposed by sub. (1), and admit the applicant to examination under s. 448.05. If the applicant has established his professional qualifica-

tions by examination in another state with which the examining board has reciprocity, a written examination for such applicant may be waived under s. 448.06 (1). In the course of making such additional inquiry, it may in each instance ask the dean of any medical school approved and recognized by it to examine, or have examined, the premedical and medical qualifications of such applicant, and to state in writing whether such applicant, at the time of his examination, had received such premedical and medical school training, or its equivalent, as would meet the present standards for graduation of the professional school headed by such dean. If in the opinion of such examiner the applicant has had the equivalent of a full course of premedical and medical training offered by the school of which the examiner is a faculty member, his statement shall so state. Unless the dean designated by the examining board to make such examination of qualifications, or a faculty member appointed by him reports affirmatively, the examining board shall not exempt such applicant from the educational prerequisites imposed by sub. (1). In lieu of the foregoing inquiry into the premedical and medical qualifications of such an applicant the examining board may accept, either in whole or in part, the marks received by such applicant in examinations conducted by the educational council for foreign medical graduates. The fee for examining the preprofessional and professional qualifications of such applicant shall be based upon the time required of the examining board, or its designated agent. In no event shall it be less than \$100 nor more than \$300. An applicant who satisfies all requirements of this subsection, and who, additionally, presents the evidence required of an immigrant applicant for permanent license under sub. (1), shall be issued a temporary license to practice medicine, which shall expire 2 years after its date of issue. Such temporary 2-year license may be renewed twice. The holder of such a license who is in good standing with the examining board at the end of such period shall be issued a permanent license, under s. 147.17 (1) [448.06 (1)] upon obtaining citizenship and provided he was a continuous resident of the state during such period.

(3) TEMPORARY LICENSE. An applicant for a permanent license by examination to practice medicine and surgery who is a graduate of the medical college of Wisconsin, inc. or any of its predecessors, or of the university of Wisconsin medical school, or who is already licensed to practice medicine and surgery in another state and desires licensure by reciprocity in Wiscon-

sin, and who, more than 30 days prior to the date set by the examining board for the holding of its next examination for licensure, has met all the requirements of sub (1), in the case of graduates of the medical college of Wisconsin, inc. or any of its predecessors, or of the university of Wisconsin medical school, or who has met all the requirements of s. 448.06 (1) except examination by the board in the case of an applicant already licensed in another state, or an honorably discharged commissioned physician of the medical corps of one of the armed services or of the federal health service of the United States, who files a sworn and authenticated copy of his discharge, and whose application for license has been accepted by any 2 officers of the examining board, may, at his request, and on the written findings of the examining board, acting through any 2 of its officers, that an emergency need exists for medical personnel in a particular area, be granted a temporary license to practice medicine and surgery in the particular area as to which such findings were made. In determining that an emergency exists, such officers shall consider the particular health standards of the area, and the possible detrimental effects resulting from not filling the reported need for additional medical personnel. Such temporary license will expire by its terms 30 days after the next examination for a permanent license is given or on the date following his examination on which the examining board grants or denies such applicant a permanent license, whichever occurs first; but the temporary license shall automatically expire on the first day the examining board begins its examination of applicants after issuing such license, unless its holder submits to examination on such date. The holder of a temporary license shall not be entitled to the refund of the fee which accompanied his application for permanent licensure as required by sub (1), whether or not he takes the examination for permanent licensure. To the extent necessary to give effect to its provisions, but only while a temporary license granted under this subsection remains in force, this subsection shall be construed as suspending all provisions of the statutes which require permanent licensure for the practice of medicine and surgery, and as suspending the operation of ss. 445.02 and 445.03 as to any temporary licensee, if prior to the time he was granted a temporary license hereunder, the holder thereof had applied for a certificate of registration in the basic sciences and paid the fee provided by s. 445.06, and the basic sciences examining board had accepted such application. A temporary li-

cence shall be issued only once to the same person. The fee for such license is \$25. In its discretion, the examining board may grant a temporary license for a period not to exceed 90 days to a nonresident physician who is serving on a full-time or temporary basis in a camp or other recreational facility or to a physician temporarily maintaining the practice of a sick or disabled physician. In either case, the physician to whom such a temporary license is granted must satisfy the examining board that he is needed in the area in which he wishes to serve and that he is licensed in a state with which the examining board has medical reciprocity. For cause shown to the satisfaction of the examining board, his temporary license in the discretion of the examining board may be renewed for additional periods of 90 days each in the case of a physician serving on a temporary basis. The fee for such temporary license is \$25. An applicant who is a graduate of a foreign medical school and who, because of a noteworthy professional attainment, is invited to serve on the academic staff of a medical school in this state as a visiting professor, may be issued a temporary license to practice medicine and surgery if he is found to be of good moral and professional character by the board. Such temporary license shall expire 2 years after its date of issuance and remain in force only while the holder is serving full time on the academic staff of a medical school. The temporary license may be renewed not more than twice at the discretion of the board. The fee for such temporary license is \$25.

History: 1971 c. 153, 211.

448.04 Temporary educational certificates. (1) Application for a temporary educational certificate may be made to the examining board by a person having training in medicine and surgery satisfactory to the examining board for purposes of this section. Such certificate shall entitle the holder to take postgraduate educational training in a teaching hospital which maintains standards for this training prescribed by the examining board, which standards shall be commensurate with those of nationally recognized accrediting organizations. Such certificate may be issued for a period not to exceed one year, and, in the discretion of the examining board, may be renewed annually for not more than 4 years. The fee for such certificate shall be fixed by the examining board at not more than \$10 per annum, which amount shall also be paid for each renewal thereof. Not more than 100 such certificates shall be issued in any one year and no more than 500, including renewal certificates, shall be outstanding at

any one time. The holder of such a certificate may, under the direction of a person licensed to practice medicine and surgery in this state, perform services requisite to the training authorized by this section. Acting under such direction, the holder of such certificate shall also have the right to prescribe drugs other than narcotics, and to sign any certificates, reports or other papers for the use of public authorities which are required of or permitted to one licensed to practice medicine and surgery. The holder of such a certificate shall confine his training and practice within the hospital in which he is taking such postgraduate education. Neither he nor the hospital may receive any fees or other income for his services from any patients treated by him during the course of such training.

(2) The purpose of this section is solely to provide opportunities in this state for the postgraduate education of certain persons having training in medicine and surgery satisfactory to the examining board, without compliance with the licensure requirements of this chapter. Nothing herein contained shall be construed as changing in any respect the requirements for licensure to practice medicine and surgery in this state. The violation of the provisions hereof by the holder of such a certificate shall constitute cause for the revocation thereof. To the extent found applicable and appropriate, all holders of such certificates shall be subject to all provisions of this chapter, and to any penalties applicable to those with a temporary or permanent license to practice medicine and surgery in this state.

448.05 Examination. Having complied with s. 448.03, the applicant shall be examined in medicine and surgery, and further examined in the subjects taught in reputable professional colleges.

448.06 License; civil liability exemption.

(1) If 6 members find the applicant for license qualified, it shall so notify him and shall grant a license to practice medicine and surgery, signed by the chairman and secretary of the examining board and attested by the seal upon receiving satisfactory evidence that the applicant has completed a hospital internship of at least 12 months in a reputable medical or osteopathic hospital. Before granting a license by reciprocity, the examining board shall conduct an investigation as provided in s. 448.03 to determine whether the requirements for licensure in the state in which the applicant for reciprocity is licensed are equivalent to those of this state. If it finds that the requirements in another

state are equivalent to those of this state, the examining board may grant a license to practice medicine and surgery without written examination to a person holding a license to practice medicine and surgery, or osteopathy and surgery, in such other state, upon presentation of the license and a diploma from a reputable professional college approved and recognized by the examining board, or an honorably discharged commissioned physician of the medical corps of one of the armed services or of the federal health service of the United States, upon filing of a sworn and authenticated copy of his discharge. In lieu of its own examination, the examining board may accept, either in whole or in part, the certificate of the national board of medical examiners or of the Flex examination. Fee for license with or without written examination shall be fixed by the examining board at not less than the reciprocity fee in the state whose license the applicant presents, and in no case less than \$100. The examining board may deny the application of one not 18 years of age. No certificate of registration shall be considered equivalent to a license.

(3) A person licensed to practice osteopathy and surgery may apply to the examining board to be examined in materia medica and pharmacology as may be required by the examining board. Such applicants shall be given the same examination in materia medica and pharmacology as is given to applicants from medical colleges at any regular meeting of the examining board. Such application shall set forth the date such person was licensed to practice, the number of years and place or places in which he has practiced together with a statement from a reputable osteopathic college that applicant has successfully completed a refresher course approved by the examining board in materia medica and pharmacology consisting of not less than 64 hours of lectures and 60 hours of laboratory work while in actual attendance at such college; if the applicant is unsuccessful he may apply for reexamination at any subsequent meeting of the examining board. The application shall be accompanied by a fee of \$20. Upon successfully passing such examination and payment of a fee of \$5 and upon surrender of the old license the examining board shall issue a new license to practice medicine and surgery.

(4) Whenever the statutes authorize or require a practitioner of medicine to do or perform an act or to issue any statement, affidavit or certificate such statute shall be construed to include those practitioners of osteopathy and surgery who hold such new license to practice medicine and surgery.

(5) Sections 448.03, 448.05 and 448.06 (3) and (4) shall not be construed to abrogate the existing rights, privileges and immunities of any person licensed to practice osteopathy or osteopathy and surgery who do not hold a license to practice medicine and surgery.

(6) A license to practice medicine and surgery granted to an osteopathic applicant shall not authorize the holder to use the title of "doctor of medicine" nor the letters "M.D."

(7) No person licensed under this section, who in good faith renders emergency care at the scene of an emergency, is liable for any civil damages as a result of acts or omissions by such person in rendering the emergency care. For the purpose of this subsection, the scene of an emergency are those areas not within the confines of a hospital or other institution which has hospital facilities, or a physician's office.

History: 1971 c. 213 s. 5.

448.065 Resident license. (1) Any person accepted in a resident training program in a hospital which maintains standards for training residents acceptable to the examining board may make application for a resident's license under this section. A resident's license shall be equivalent to a permanent license to practice medicine and surgery. Section 448.06 except for the fee prescribed therein applies to licenses, granted by the examining board under this section.

(2) Application for licenses under this section shall be as provided in s. 448.03 (1), except that the fee shall be \$10 and the applicant shall provide the examining board with a certificate showing that he has been accepted in a resident training program as provided in sub. (1). The findings and any action taken by the examining board with reference to acceptance of resident training programs may be reviewed in accordance with ch. 227.

(3) All fees paid under this section shall be credited toward a subsequent application of the licensee under this section for a permanent license to practice medicine and surgery. The license issued under this section shall be renewable annually for a fee of \$10, at the discretion of the examining board, but no license may be renewed more than 5 times.

History: 1971 c. 40 s. 93.

448.07 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 January of each year, register with the examining board, upon a form to be

furnished by the department. 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 examining board prescribes. 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 this section within 30 days after being so licensed. The secretary of the examining 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 medical examining board for each given year, which fee shall not exceed \$10 in any year. Those who register after January 1 of a given year shall pay whatever fee has been fixed for that year. The annual registration fee shall be independent of and in addition to any examination or licensing fee authorized by any other provision of this chapter.

(3) On or before March 10 in each year the secretary of the examining board shall cause to be published and mailed to each person registered hereunder a copy of the register required by s. 15.40 (2) (e), which shall be divided according to the branch of healing in which the registrant is licensed. The secretary of the examining board shall also cause a copy of such published list to be mailed 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. The examining board may make additional copies available for general distribution at a charge of \$1 per copy.

(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 examining board in the case of any person who has been found guilty of any of the unprofessional acts described in s. 448.18, 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 examining board of a

certified copy of the information, verdict and judgment, as provided in s. 448.18 (3), subject to such registrant's right of appeal. A registrant whose license has been revoked and subsequently restored under the provisions of s. 448.18 (4) shall be registered by the examining 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) This section shall not be applicable to any commissioned physicians of the medical corps of one of the armed services of the United States or of an allied government.

448.08 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 \$250 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.

448.09 Physical therapy. (1) PRACTICE OF PHYSICAL THERAPY. (a) The practice of physical therapy is the treatment of disease as defined in s. 445.01 by the use of physical, chemical and other properties of heat or cold, light, water, electricity, massage, and therapeutic exercises, including posture and rehabilitation procedures, but the use of Roentgen rays and radium for any purposes, and the use of electricity for surgical purposes, including cauterization, are not included in the practice of physical therapy.

(b) No person shall practice or hold himself out as authorized to practice physical therapy, nor shall any person designate himself as a physical therapist, physiotherapist, physical therapy technician, or use the initials "P.T.", "P.T.T.", or "R.P.T." or any other letters, words, abbreviations or insignia indicating that he is a physical therapist, without certificate of registration issued by the examining board nor unless he practices under a prescription and the direct supervision of a person licensed to practice medicine and surgery. Nothing in this section shall prohibit any person licensed or registered, in this state, under another law, from engaging in the practice for which he is licensed or registered.

(2) APPLICATION. An applicant for a certificate of registration as a physical therapist shall file written application on forms prescribed by

the examining board and provided by the department. The applicant shall present satisfactory evidence that he is at least 20 years of age, is of good moral character, has obtained a high school education or its equivalent, and has been graduated from a school of physical therapy with standards of education and training substantially equivalent to that of the university of Wisconsin. Following the acceptance of his application for a certificate, such applicant shall present himself for examination at the next meeting of the examining board at which an examination is scheduled. The examination fee shall be an amount specified by the examining board but not to exceed \$50, which shall be paid in advance of the examination, which fee shall be independent of the annual registration fee authorized by sub. (4).

(3) EXAMINATION. The examination shall be both scientific and practical in the applied sciences of anatomy, neuroanatomy, kinesiology, physiology, pathology, psychology, physics, physical therapy, as defined in this section, applied to medicine, neurology, orthopedics, pediatrics, psychiatry, surgery and medical ethics, technical procedure in the practice of physical therapy, and such other subjects as the examining board determines to be necessary.

(4) CERTIFICATE. If the examining board finds the applicant qualified it shall grant a certificate of registration which shall expire on December 31 of each year and shall be renewed only upon application to the examining board. Each registrant shall pay for such registration a fee to be fixed by the examining board for each given year, which shall be in addition to the examination fee under sub. (2) and shall not exceed \$10 in any year without proration for a late registrant. If the applicant has failed to renew his certificate for a period of at least 5 years, the examining board shall require the applicant to take a refresher course approved by the examining board before issuing a renewal certificate if, after oral examination, the physical therapists' examining council recommends to the examining board that such refresher course is necessary. If the applicant for reregistration has been guilty of conduct that would afford a ground for revocation under s. 448.18 the examining board may so find and refuse to reregister such applicant. Every registration made under 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) **REGISTRATION WITHOUT EXAMINATION.** The examining board may grant a certificate of registration in physical therapy without examination to an applicant who presents evidence satisfactory to the examining board of having been licensed or certified as a physical therapist in another state or foreign country with standards determined by the examining board to be as high as those of this state. At the time of making such application the applicant shall pay a fee in an amount specified by the examining board but not to exceed \$50. The examining board may also grant without examination a permit to practice physical therapy for not to exceed 6 months to any person who meets the qualifications of this section upon certification that he has been assigned to this state on a temporary basis to assist in a medical emergency and upon the payment of a \$2 permit fee.

(6) **PREVIOUS PRACTICE OF MASSAGE AND HYDROTHERAPY.** Any person who, on July 11, 1953, was practicing massage and hydrotherapy in this state under a certificate of registration issued pursuant to s. 448.09 as that section existed before said date, or who had applied for a certificate of registration in massage and hydrotherapy before said date, shall have the right to continue so to practice under such certificate and the term "massage and hydrotherapy" shall be deemed to include the use of galvanic generator, diathermy, infrared ray, and ultra violet light for massage purposes. Nothing contained herein shall limit the existing authority of the examining board to revoke such certificate for cause, and in addition the examining board may require the holder of such certificate to demonstrate by examination his fitness to use the instrumentalities enumerated in this section. Lack of such fitness shall constitute cause for revocation of such certificate. No such certificate holder shall treat a specific disease except on the advice of a licensed medical physician.

(7) **CHIROPRACTIC NOT AFFECTED.** Nothing in this section shall be construed to restrict, inhibit or limit the practice of chiropractic as now practiced in this state, and as taught by accredited schools or colleges of chiropractic.

History: 1971 c. 40 s. 93; 1971 c. 125

448.10 Podiatry; practice. (1) The practice of podiatry is the diagnosis or mechanical, medical or surgical treatment, or treatment by the use of drugs, of the feet, but does not include amputations other than digits of the foot or the use of a general anesthetic unless administered by or under the direction of a person licensed to practice medicine and surgery. Diagnosis or

treatment shall include no portion of the body above the feet except that the diagnosis and treatment shall include the tendons and muscles of the lower leg insofar as they shall be involved in the conditions of the feet.

(2) No person shall practice podiatry, for compensation, directly or indirectly, or in the expectation thereof, or attempt to do so, or designate himself as a licensed podiatrist, or use the title "D.S.C.", "Dr.", or "Doctor of Surgical Chiropody", or "Doctor of Podiatry", or "Doctor", or "foot doctor", or "foot specialist" or other title or letter indicating that he is a podiatrist, or otherwise directly or indirectly represent or hold himself out as such, unless registered by the examining board. This does not prohibit a physician and surgeon licensed under this chapter from treating the feet, nor a lawfully qualified nonresident podiatrist meeting licensed podiatrists in this state in consultation. This chapter shall not apply to the construction of and commerce in footwear or sundry products related thereto, including arch supports and similar mechanical appliances.

(3) The terms "podiatry" and "chiropody" are synonymous; the terms "podiatrist" and "chiropodist" are synonymous; the terms "podiatric" and "chiropodal" are synonymous, wherever used in this chapter.

History: 1971 c. 71.

The trial court did not err in excluding testimony of a podiatrist as to whether infection of plaintiff's foot following an operation resulted from post-operative negligent trauma. *Simpson v. Madison General Hospital*, 48 W (2d) 498, 180 NW (2d) 586

448.11 Application. The applicant shall file written application on forms prescribed by the examining board and provided by the department, and satisfactory proof that he is more than 18 years of age, of good moral and professional character, has preliminary education equivalent to graduation from an accredited high school and in addition one year in an accredited college of liberal arts or science, and has completed in an accredited school of podiatry a course in anatomy and physiology of the feet, and diagnosis of foot ailments and deformities, materia medica, chiropodal orthopedics, bacteriology, pathology, histology, therapeutic chemistry, and minor surgery and bandaging pertaining to ailments of the feet, and the mechanical treatment of congenital or acquired deformities of the feet, pay \$25, and present himself for examination at the first meeting thereafter at which examinations are to be held. No degree which entitles one to practice podiatry in this state shall be accepted from any recognized university or college of chiropody except

448.11 MEDICAL EXAMINING BOARD

3792

that of "Doctor of Surgical Chiropody" or its equivalent as a requisite before the examining board. Any school conferring the "D.S.C." degree or its equivalent must require a prerequisite of at least one year in a college of liberal arts accredited to the university of Wisconsin, plus a professional curriculum of 4 years, with at least 32 weeks and at least 30 class hours each week, with adequate clinical or hospital facilities. The fee shall not be refunded unless from sickness, or other good cause to the satisfaction of the examining board, the applicant was prevented from completing the examination; subsequent examinations under the application may be given in the discretion of the examining board without payment of additional fee.

History: 1971 c. 213 s. 5.

448.12 Examination. Examination shall be both scientific and practical, and written in English, in anatomy and physiology of the feet, and diagnosis of the foot ailments and deformities which the podiatrist is authorized to treat, materia medica, chiropodal orthopedics, bacteriology, pathology, histology, therapeutic chemistry, and minor surgery, roentgenology, physical therapy, dermatology and bandaging pertaining to ailments of the feet, not including any amputation, and the mechanical treatment of congenital or acquired deformities of the feet, and may be supplemented by oral and clinical examination.

448.13 Certificate. If the examining board finds the applicant qualified, it shall grant a certificate of registration which shall expire on December 31 of each year. Each registrant shall pay for such registration a fee to be fixed by the medical examining board for each given year; which fee shall not exceed \$10 in any year without proration for a late registrant. If the applicant for reregistration has been guilty of conduct that would afford a ground for revocation under s. 448.14, the examining board may so find and refuse to reregister such applicant.

448.14 Revocation. The certificate may be revoked as provided in s. 448.18, and for any of the causes enumerated in that section, or for failure to renew a certificate of registration before July 1 of any year, or for unprofessional conduct which term shall include employing solicitors to obtain business, obtaining fees by fraud or deceit, willfully betraying professional secrets, employing, directly or indirectly, students or unlicensed podiatrists to diagnose or treat human feet, advertising or holding out to successfully treat or cure all ailments of the feet

or any ailment manifestly incurable, advertising of podiatry business or treatment by appliances in which untruthful statements are made, advertising statements of a character tending to mislead the public, advertising professional superiority or the performance of podiatry services in a superior manner, advertising definite fixed fees when the nature of the professional service rendered must be variable, or chronic and persistent inebriety, or presenting to the examining board any diploma, license or certificate illegally obtained, or signed or issued unlawfully or under fraudulent representations.

448.15 Penalties. (1) Any person practicing or holding himself out as practicing podiatry, not being registered, may be fined, for a first offense, not less than \$50 nor more than \$100, and for a subsequent offense not less than \$100 nor more than \$250, or imprisoned not less than 6 months or both.

(2) Any person doing any of the following, may be fined not less than \$50 nor more than \$200 or imprisoned not less than 30 days nor more than 6 months or both:

(a) Sell or barter or offer to sell or barter a diploma or document conferring or purporting to confer a podiatry degree, or a certificate or transcript, made or purporting to be made, pursuant to the laws regulating the registration of podiatrists

(b) Purchase or procure by barter such a diploma, certificate or transcript, with intent that the same shall be used as evidence of the holder's qualification to practice podiatry, or in fraud of the laws regulating such practice.

(c) With fraudulent intent, materially alter such a diploma, certificate or transcript.

(d) Use or attempt to use such a diploma, certificate or transcript which has been purchased, fraudulently issued, counterfeited or materially altered, either as a license or color of license to practice podiatry, or in order to procure registration as a podiatrist.

(e) Practice podiatry under a false or assumed name.

(f) Assume any title or append any letters to his name with intent to represent falsely that he has received a podiatry degree or certificate of registration.

448.16 Exceptions. (1) Sections 448.02 to 448.08, shall not apply to commissioned physicians of the medical corps of one of the armed services or the federal health service of the United States 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 to 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, nor shall any person who selects such treatment for the cure of disease be compelled to submit to any form of medical treatment.

448.17 Investigation; hearing. The examining board shall investigate, hear and act upon practices by persons licensed to practice medicine and surgery under s. 448.06, that are inimical to the public health. The examining board shall have the power to warn and to reprimand, when it finds such practice, and to institute criminal action or action to revoke license when it finds probable cause therefor under criminal or revocation statute, and the attorney general may aid the district attorney in the prosecution thereof.

448.18 Revocation. (1) "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 whatever whereby the monthly periods of women can be regulated or the menses reestablished, 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; (g) engaging in conduct unbecoming a person licensed to practice or detrimental to the best interests of the public.

(2) Upon verified complaint in writing to the district attorney charging the holder of a license or certificate of registration from the examining board or chiropractic examining

board 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 examining board or the chiropractic examining board. The costs shall be paid by the county, but if the court determines 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 examining board is convicted of a crime committed in the course of his professional conduct, the clerk of the court shall file with the examining board a certified copy of the information and of the verdict and judgment, and upon such filing the examining board shall revoke or suspend the license or certificate. The examining board shall also revoke or suspend any such license or certificate upon satisfactory proof being made of the conviction of such license or certificate holder in a federal court of a crime committed in the course of his professional conduct. The action of the examining board in revoking or suspending such license or certificate may be reviewed under ch. 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 examining board, 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.

(6) A license or certificate of registration may be voluntarily surrendered by its holder and shall be reissued by the examining board only when justice demands such reissuance. The action of the examining board may be reviewed under ch. 227.

(7) A license or certificate of registration may be temporarily suspended by the examining board, without formal proceedings, and its holder placed on probation for a period not to exceed 3 months where he is known or the examining board has good cause to believe that such holder has violated sub. (1). The examining board shall not have authority to suspend a license or certificate of registration, or to place a holder on probation, for more than 2 consecutive 3-month periods. All examining board actions under this subsection shall be subject to review under ch. 227.

See note to 227.07, citing *Margoles v. State Board of Medical Examiners*, 47 W (2d) 499, 177 NW (2d) 353

See note to Art I, sec. 1, citing *Kennan v. Warren*, 328 F Supp. 525.

448.19 Injunction to enforce chapter

448. If it appears upon complaint to the examining board by any person or it is known to the examining board that any person is violating this chapter, the examining board or the district attorney of the proper county may investigate and may, in addition to any other remedies, bring action in the name and on behalf of the state against any such person to enjoin such person from such violation of this chapter.

448.20 Midwifery. Any person who, on May 7, 1953, was practicing midwifery in this state under a certificate of registration issued him by the examining board may continue to so practice under such certificate but subject to the provisions of ch. 150, 1951 Stats. as in effect prior to such date and subject to the other provisions of this chapter.

448.21 Penalty. Anyone violating this chapter may be fined not less than \$100 nor more than \$500, or imprisoned not less than 60 days nor more than one year or both.

448.22 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.

448.23 Fee splitting between physicians and others.

(1) **SEPARATE BILLING REQUIRED.** Any physician who renders any medical or surgical service or assistance whatever, or gives any medical, surgical or any similar advice or assistance whatever to any patient, physician, corporation, or to any other institution or organization of any kind, including a hospital, for which a charge is made to such patient receiving such service, advice or assistance, shall render an individual statement or account of his charges therefor directly to such patient, distinct and separate from any statement or account by any physician or other person, who has rendered or who may render any medical, surgical or any similar service whatever, or who has given or may give any medical, surgical or similar advice or assistance to such patient, physician, corporation, or to any other institution or organization of any kind, including a hospital.

(2) **PHYSICIAN PARTNERSHIPS PERMITTED.** Notwithstanding any other provision in this section, it is lawful for 2 or more physicians, who have entered into a bona fide partnership for the practice of medicine, to render a single bill for such services in the name of such partnership.

(3) **CONTRACT EXCEPTIONS; TERMS.** Notwithstanding any other provision in this section, when a hospital and its medical staff, considers that it is in the public interest, it is lawful for a physician to contract with a hospital to provide consultation services for attending physicians, as herein provided. Any treatment by such a consultant shall be in his capacity as a private practitioner; his relationship to the patient shall be governed accordingly; and such treatment shall be rendered only at the request of the attending physician, except that a physician specializing in pathology, physical medicine or radiology may include the treatment of referred cases in his contract with a hospital. Such contract shall:

(a) Require such physician to be a member of or acceptable to the medical staff of such hospital.

(b) Not create the relationship between hospital and physician of employer-employee; excepting only that any contract for deferred compensation, including but not limited to an

annuity, in force on January 1, 1961, shall not be modified or abrogated by the force of any provision of this subsection.

(c) Permit such physician to exercise his professional judgment without supervision or interference by such hospital.

(d) Establish the remuneration of the physician on any basis other than a salary.

(e) If agreeable to the contracting parties, such hospitals are authorized to charge the patient for services rendered by such physicians, but the statement to the patient shall indicate that the services of such physicians, who shall be designated by name, are included in the departmental charges.

(4) DEFINITIONS. As used in this section:

(a) "Hospital" means an institution provid-

ing 24-hour continuous service to patients confined therein which is primarily engaged in providing facilities for diagnostic and therapeutic services for the surgical and medical diagnosis, treatment and care, of injured or sick persons, by or under the supervision of a professional staff of physicians and surgeons, and which is not primarily a place of rest for the aged, for drug addicts, for alcoholics, or a nursing home. Such hospitals may charge patients directly for the services of their employe nurses, nonphysician anesthetists, and for medical assistants, other than physicians or dentists, and may engage on a salary basis interns and residents who are participating in an accredited training program under the supervision of the medical staff, and persons with a temporary educational certificate issued under s. 448.04.