445.08 History: 1969 c. 336 s. 163; Stats. 1969 s. 445.08.

Editor's Note: Predecessor statutes were construed by the attorneys general in opinions published in 16 Atty. Gen. 468, 21 Atty. Gen. 500, and 27 Atty. Gen. 784.

445.09 History: 1969 c. 336 s. 163; Stats. 1969 s. 445.09.

445.10 History: 1969 c. 336 s. 163; Stats. 1969 s. 445.10.

445.11 History: 1969 c. 336 s. 163; Stats. 1969 s. 445.11.

445.12 History: 1969 c. 336 s. 163; Stats. 1969 s. 445.12.

CHAPTER 446.

Chiropractic Examining Board.

446.01 History: 1969 c. 336 s. 164; Stats. 1969 s. 446.01.

446.02 History: 1969 c. 336 s. 164; 1969 c. 392 s. 69g; Stats. 1969 s. 446.02.

Chiropractors are required to exercise care and skill in diagnosis, and are liable for malpractice if they fail to do so. They must exercise the care and skill in so doing that is usually exercised by a recognized school of the medical profession. Kuechler v. Volgmann, 180 W 238, 192 NW 1015.

Since the statute does not define "chiropractic," the state board of examiners may do so by rule, and the rule stated in the administrative code is approved. 147.185 (7), Stats. 1957, does not require approval by the board of all practices taught by schools; the board may restrict the practice by rule. State v. Grayson, 5 W (2d) 203, 92 NW (2d) 272.

One licensed only as a chiropractor who uses electrotherapy violates the medical practice act. 21 Atty. Gen. 646.

One licensed to practice chiropractic is not thereby authorized to treat the sick by other methods such as naturopathy. 39 Atty. Gen. 308.

An unlicensed person may not give steam baths and rubdowns in premises carrying the sign "Chiropractic Clinic" used by a former chiropractor occupying the premises. 44 Atty. Gen. 29.

One who was licensed to practice chiropractic in 1925 and who permitted his license to lapse at the end of that year and who made no attempt to renew it during the year following cannot be reinstated in 1955 under 147.23 (7), Stats. 1953, by paying up the registration fees for each of the last 30 years; and he may claim no privileges under the provisions of 147.24 (8), which was enacted after his license terminated. 44 Atty. Gen. 50.

Under 147.23 (3), Stats. 1963, preliminary education consisting of 2 years of college must precede enrollment in a school of chiropractic to permit taking of an examination for a license. 53 Atty. Gen. 50.

446.03 History: 1969 c. 336 s. 164; Stats. 1969 s. 446.03.

On the use of diagnostic and therapeutic devices by chiropractors, deceiving or defrauding the public, and suspension and revoking of licenses, see 52 Atty. Gen. 165.

446.04 History: 1969 c. 336 s. 164; Stats. 1969 s. 446.04.

A chiropractor who advertises as a naturopath may have his license suspended or revoked for unprofessional conduct under 147.24, 147.25 and 147.26, Stats. 1949. 39 Atty. Gen. 308.

See note to 446.03, citing 52 Atty. Gen. 165.

446.05 History: 1969 c. 336 s. 164; Stats. 1969 s. 446.05.

446.06 History: 1969 c. 336 s. 164; Stats. 1969 s. 446.06.

446.07 History: 1969 c. 336 s. 164; Stats. 1969 s. 446.07.

CHAPTER 447.

Dentistry Examining Board.

Editor's Note: The predecessor chapter on dentistry (ch. 152) was construed in State ex rel. Coffey v. Chittenden, 112 W 569, 88 NW 587, in State ex rel. Milwaukee Medical College v. Chittenden, 127 W 468, 107 NW 500, and in Modern System Dentists v. State Board of Dental Examiners, 216 W 190, 256 NW 922.

On legislative power generally and delegation of power see notes to sec. 1, art. IV.

See note to sec. 1, art. I, on exercises of police power, citing Modern System Dentists v. State Board of Dental Examiners, 216 W 190, 256 NW 922.

447.001 History: 1969 c. 392 s. 69i; Stats. 1969 s. 447.001.

447.01 History: 1885 c. 129 ss. 2 to 4, 6, 7; 1887 c. 102; Ann. Stats. 1889 ss. 1410r to 1410t, 1410v, 1410w; Stats. 1898 ss. 1410e to 1410g, 1410j; 1903 c. 411 ss. 1 to 3, 6, 7; Supl. 1906 ss. 1410e to 1410g, 1410j, 1410k; 1909 c. 258; 1913 c. 545; 1913 c. 772 s. 40; 1915 c. 436 ss. 1 to 3, 8; 1919 c. 93 s. 24; 1919 c. 362 s. 32; 1923 c. 448 s. 92a; Stats. 1923 s. 152.01; 1933 c. 189 ss. 2, 3; 1951 c. 319 s. 246a; 1953 c. 134; 1955 c. 221 s. 49; 1959 c. 38; 1961 c. 400; 1963 c. 342; 1969 c. 336 ss. 110, 111, 175 (4); Stats. 1969 s. 447.01.

447.02 History: 1885 c. 129 ss. 4, 6; 1887 c. 102; Ann. Stats. 1889 ss. 1410i, 1410t, 1410v; Stats. 1898 ss. 1410g, 1410i; 1903 c. 411 ss. 3, 5; Supl. 1906 ss. 1410g, 1410i; 1909 c. 258; 1913 c. 545; 1913 c. 772 s. 40; 1915 c. 436 ss. 1 to 3, 6, 7; 1923 c. 448 s. 92a; Stats. 1923 s. 152.02; 1933 c. 189 ss. 2, 3; 1935 c. 125; 1939 c. 216; 1949 c. 415; 1955 c. 10; 1961 c. 400, 621; 1963 c. 342; 1969 c. 336 s. 112; Stats. 1969 s. 447.02.

Advertising by which an advertiser falsely offers to reline, tighten or adjust dentures violates 100.18 (1), Stats. 1949, and if the advertiser attempts to perform such services except on prescription of a licensed dentist, or to give advice or assistance to others performing such work, he is practicing dentistry within the meaning of 152.02 (1), and must be licensed as a dentist. 38 Atty. Gen. 330.

447.03 History: 1885 c. 129 ss. 1, 5; Ann. Stats. 1889 ss. 1410q, 1410u; Stats. 1898 s. 1410h;

1903 c. 411 s. 4; Supl. 1906 s. 1410h; 1909 c. 258; 1911 c. 204; 1913 c. 545; 1915 c. 436 ss. 4, 5; 1915 c. 604 s. 98; 1923 c. 448 s. 92a; Stats. 1923 s. 152.03; 1937 c. 53; 1939 c. 216; 1955 c. 139; 1961 c. 400; 1969 c. 336 s. 113; Stats. 1969 s. 447.03.

The dental educational requirement of 4 years of 32 weeks each prescribed by 152.03 (1), Stats. 1941, relates to academic or school years rather than to calendar years, and the state board of dental examiners may accept credentials of a graduate who has received the required 128 weeks of instruction even though the same has been completed in less than 4 calendar years. 31 Atty. Gen. 85.

447.04 History: 1885 c. 129 ss. 1, 5; Ann. Stats. 1889 ss. 1410q, 1410u; Stats. 1898 s. 1410h; 1903 c. 411 s. 4; Supl. 1906 s. 1410h; 1909 c. 258; 1911 c. 204; 1913 c. 545; 1915 c. 436 ss. 4, 5; 1915 c. 604 s. 98; 1923 c. 448 s. 92a; Stats. 1923 s. 152.04; 1949 c. 415; 1951 c. 369; 1957 c. 228; 1961 c. 400; 1963 c. 342; 1969 c. 336 s. 114; Stats. 1969 s. 447.04.

An applicant for a license to practice dentistry who had failed in some subjects in a previous examination should be required to take all subjects over. 13 Atty. Gen. 607.

447.05 History: 1885 c. 129 ss. 1, 5, 6; 1887 c. 102; Ann. Stats. 1889 ss. 1410i, 1410q, 1410u; Stats. 1898 ss. 1410h, 1410i; 1903 c. 411 ss. 4, 5; Supl. 1906 ss. 1410h, 1410i; 1909 c. 258; 1911 c. 204; 1913 c. 545; 1913 c. 772 s. 40; 1915 c. 436 ss. 4 to 7; 1915 c. 604 s. 98; 1923 c. 448 s. 92a; Stats. 1923 s. 152.05; 1935 c. 125; 1943 c. 372; 1945 c. 13; 1949 c. 415; 1959 c. 38; 1961 c. 400; 1963 c. 342; 1965 c. 385; 1969 c. 336 ss. 115, 175 (4); Stats. 1969 s. 447.05.

A licensed dentist cannot be prosecuted criminally for practicing without registering. His license may be revoked. 5 Atty. Gen. 711.

The state board of dental examiners has no jurisdiction to relieve, from the operation of the statute, a dentist who fails to register annually. 7 Atty. Gen. 347.

Dentists and dental hygienists must pay an additional fee if licenses are renewed after the specified date. Failure to receive notice from the board regarding renewal does not afford ground for relief from the penalty. 53 Atty. Gen. 158.

447.06 History: 1961 c. 400; Stats. 1961 s. 152.06; 1969 c. 336 ss. 116, 175 (4); Stats. 1969 s. 447.06.

447.07 History: 1885 c. 129 ss. 4, 6; 1887 c. 102; Ann. Stats. 1889 s. 1410t, 1410v; Stats. 1898 s. 1410g; 1903 c. 411 s. 3; Supl. 1906 s. 1410g; 1909 c. 258; 1913 c. 545; 1915 c. 436 ss. 1 to 3; 1923 c. 448 s. 92a; Stats. 1923 s. 152.06; 1933 c. 189 ss. 1, 2; 1935 c. 125; 1939 c. 216; 1943 c. 375 s. 59; 1949 c. 415; 1961 c. 400; Stats. 1961 s. 152.07; 1963 c. 342; 1969 c. 85; 1969 c. 336 ss. 117, 175 (4); 1969 c. 392 s. 84g; 1969 c. 424 s. 26; Stats. 1969 s. 447.07.

The state board of dental examiners had jurisdiction, under 152.06 (3) and (4), Stats. 1933, to make an investigation and conduct a hearing in regard to the actions of a corporation and its manager employing practicing dentists, advertising and making contracts with patients, although neither the corporation nor its manager was licensed to practice. Rust v. Board of Dental Examiners, 216 W 127, 256 NW 919.

152.06 (6), Stats. 1933, is construed as definitive of "unprofessional advertising" and not merely a limitation on the power granted by 152.01 (7) to the state board of dental examiners to make rules in respect to such advertising, where it was not provided that such rules should have the force and effect of law. Where the provisions of 152.06 (6) were general in character, the board could further expand or amplify such provisions under the rule-making power granted to the board, subject to the test of reasonableness. Modern S. Dentists v. Board of Dental Examiners, 216 W 190, 256 NW 922.

A conviction on a federal charge of introducing mislabeled drugs into interstate commerce is not a ground for revocation since the particular offense does not include moral turpitude. Lee v. State Board of Dental Examiners, 29 W (2d) 330, 139 NW (2d) 61.

A dentist must annually register and pay a fee or his license may be revoked by the board after 60 days from notice in writing sent to the last known address of the licensee. 18 Atty. Gen. 635.

Employment by a dentist of persons merely to distribute handbill advertising does not constitute employment of "cappers" or "streeters" to obtain business. 22 Atty. Gen. 263.

A scheme pursuant to which a licensed dentist is paid $1 for signing an authorization whereby a mail order dental plate company may make and ship through the mail or in interstate commerce a denture for a customer of such company without any professional services being rendered by the dentist and for the sole purpose of enabling the dental plate company to evade the purpose of 18 USCA, sec. 420f, and 152.02 (1), Stats. 1943, constitutes immoral and unprofessional conduct on the part of the dentist within the meaning of 152.06 (5), and justifies suspension or revocation of his license. 32 Atty. Gen. 303.

152.06 (6) (d), Stats. 1951, prohibits the display of any portion of the human head in dental advertising, whether by television or otherwise. The use of a picture of a dental office or part thereof in dental advertising is not prohibited. 41 Atty. Gen. 234.

447.08 History: 1921 c. 454; Stats. 1921 s. 1410L; 1923 c. 448 s. 92a; Stats. 1923 s. 152.07; 1939 c. 216; 1941 c. 112; 1943 c. 177; 1949 c. 415; 1961 c. 400; Stats. 1961 s. 152.08; 1963 c. 342; 1965 c. 385; 1969 c. 86; 1969 c. 336 ss. 118, 175 (4); 1969 c. 392 ss. 69k, 69m, 69p; Stats. 1969 s. 447.08.

A dental hygienist may not engage in diagnosis except as may be necessary to performance of services which he is authorized by the statute to render. 19 Atty. Gen. 355.

Under 152.07 (4), Stats. 1939, a dentist may not employ more than one dental hygienist, but this does not prohibit employment of an additional employe holding dental hygienist's license where such employment is for purely general office or other work and provided that such additional employe performs no

services in the capacity of a dental hygienist. 28 Atty. Gen. 130.

Unlicensed persons may take dental X-ray pictures provided they make no attempt to diagnose or treat dental disorders by the use of X-ray or otherwise. 41 Atty. Gen. 234.

On the status of dental hygienists under 152.07 (1) to (7) and of public health dental hygienists under 152.07 (8), Stats. 1955, see 44 Atty. Gen. 296.

See note to 447.05, citing 53 Atty. Gen. 158.

447.09 History: 1885 c. 129 s. 6; 1887 c. 102; Ann. Stats. 1889 s. 1410i; Stats. 1898 s. 1410i; 1903 c. 411 s. 5; Supl. 1906 s. 1410i; 1909 c. 258; 1913 c. 545; 1913 c. 772 s. 40; 1915 c. 436 ss. 6, 7; 1923 c. 448 s. 92a; Stats. 1923 s. 152.08; 1933 c. 189 s. 3; 1961 c. 400; Stats. 1961 s. 152.09; 1969 c. 85; 1969 c. 336 s. 119; 1969 c. 392 s. 69r; Stats. 1969 s. 447.09.

447.10 History: 1955 c. 198; Stats. 1955 s. 152.085; 1961 c. 400; Stats. 1961 s. 152.10; 1969 c. 336 ss. 120, 175 (4); Stats. 1969 s. 447.10.

447.11 History: 1961 c. 400; Stats. 1961 s. 152.51; 1969 c. 336 s. 120; Stats. 1969 s. 447.11.

447.12 History: 1961 c. 400; Stats. 1961 s. 152.52; 1963 c. 342; 1969 c. 336 s. 121; Stats. 1969 s. 447.12.

447.13 History: 1961 c. 400, 622, 624; Stats. 1961 s. 152.53; 1969 c. 336 s. 122; 1969 c. 392 s. 84g; Stats. 1969 s. 447.13.

CHAPTER 448.

Medical Examining Board.

448.01 History: 1969 c. 336 s. 166; Stats. 1969 s. 448.01.

448.02 History: 1969 c. 336 s. 166; Stats. 1969 s. 448.02.

Editor's Note: The following cases, decided before the enactment of ch. 459, Laws 1953, had to do with competency, as witnesses in legal proceedings, of doctors licensed in other states but not in Wisconsin: Hocking v. Windsor S. Co. 131 W 532, 111 NW 685; Will of Williams, 256 W 338, 41 NW (2d) 191; Morrill v. Komasinski, 256 W 417, 41 NW (2d) 620; and Landrath v. Allstate Ins. Co. 259 W 248, 48 NW (2d) 485. See also State v. Law, 150 W 313, 136 NW 803, 137 NW 457.

On exercises of police power see notes to sec. 1, art. I; and on legislative power generally see notes to sec. 1, art. IV.

The jury is not bound by the declaration on a card signed by a sick child's mother, supported by the testimony of one accused under sec. 1435h, Stats. 1917, that the treatment of the child by the accused was gratuitous and that a charge was made for the medicine furnished, but could find that the card and the sale of the medicine were a subterfuge to avoid the prohibition of practicing medicine without a license. Till v. State, 172 W 266, 177 NW 589.

The burden is upon one charged with practicing medicine without a license to show that he has license, if he relies thereon as a defense. Piper v. State, 202 W 58, 231 NW 162.

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 147.14 (3) 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.

147.15, Stats. 1929, 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.

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 147.14 (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.

When a physician exercises that degree of care, diligence, judgment, and skill which physicians in good standing of the same school of medicine usually exercise in the same or similar localities under like or similar circumstances, having due regard to the advanced state of medical or surgical science at the time, he has discharged his legal duty to his patient. Ahola v. Sincock, 6 W (2d) 332, 94 NW (2d) 566.

If the trial court determines that a consultation was made by a claimant with a physician for the bona fide purpose of treatment, the fact that the claimant also desires to utilize the physician as a witness on the trial in relation to his injury will not preclude the physician from testifying as to the patient's report of his subjective symptoms or from predicating medical conclusions upon such report. Ritter v. Coca-Cola Co. 24 W (2d) 157, 128 NW (2d) 439.

The law has long permitted calling as an expert witness any person whose training, experience, and method within his particular discipline are acknowledged to be sound and trustworthy. Casimere v. Herman, 28 W (2d) 437, 137 NW (2d) 73.

The mere giving of the drugs used in surgical anaesthesia under the direction and in the presence of a duly licensed physician is not practicing medicine or surgery. 6 Atty. Gen. 800.

A physician located in an adjoining state