

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, physical diagnosis, chemistry and bacteriology.

(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 to hold a certificate, under chapter 152, as a dental hygienist nor shall the above sections apply to optometrists; provided further, that the exemption contained in this subsection shall likewise apply to all those who prior to July 1, 1952, file an application for a license to practice dentistry under the provisions of chapter 152.

History: 1965 c. 488.

147.02 Practice. No person shall treat, or attempt to treat, the sick unless he has a certificate of registration in the basic sciences, and has complied with all other requirements of law. This section shall not affect the exemptions provided by s. 147.19 (1) and (2), nor shall it be construed to require a certificate of registration in the basic sciences for the practice of nursing by persons registered under ch. 149 nor for the practice of physical therapy by persons registered under s. 147.185.

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 3 lay educators in the biological or physical sciences, none of whom shall be on the faculty of any school or of any department thereof teaching methods of treating the sick. The term of office shall be 6 years and shall expire on June 30, but a member shall continue to serve until his successor has been appointed and qualified. A vacancy shall be filled for the unexpired term. The board shall elect a president, secretary and treasurer. Members of the board shall receive \$25 for each day actually spent in the performance of their duties and actual and necessary expenses.

History: 1965 c. 493.

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 accompanied by evidence of good moral character

satisfactory to the board and credentials certifying preliminary education equivalent to graduation from an accredited high school of this state, and a fee of \$20.

History: 1965 c. 493.

147.06 Examination. Examination shall be in the basic sciences only, shall be conducted not less than 4 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. In lieu of its own examination, the board may accept, either in whole or in part, the certificate of the national board of medical examiners provided that certification by the national board is accepted by the state board of medical examiners in whole or in part and that such certification is accepted by the basic science boards of at least 6 other states. If certifications by the national board are accepted in whole or in part by the state board of dental examiners, the state board may accept, in whole or in part, the certificate of the national board of dental examiners in lieu of its own examination.

147.07 Certificate. If the candidate attains a grade of 75 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 2 or more subjects he must apply anew and stand examination in all subjects.

147.08 Reciprocity. The board may issue a 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 which shall be fixed by the board at not less than the reciprocity fee of the state whose certificate the applicant presents; such fee in no event to be less than \$20.

History: 1965 c. 493.

147.09 Previous practice. Any person who, on February 1, 1925, was regularly licensed or registered in this state 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 this state 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 60 days after June 14, 1925, 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 \$5. The certificate shall recite registration solely as a person who, on February 1, 1925, was lawfully engaged in this state in treating the sick.

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.

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 appoint such competent and recognized experts as are necessary to assist in the examinations, and necessary clerks. They shall receive such compensation as the board fixes. On or before August 1 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.

History: 1965 c. 249.

147.13 Examiners. (1) The Wisconsin state board of medical examiners shall consist of 8 members appointed by the governor, 7 of whom shall be licensed resident doctors of medicine and one of whom shall be a licensed resident doctor of osteopathy. The 7 doctors of medicine may, but need not, be selected from nominees of the state medical society and the doctor of osteopathy from nominees of the Wisconsin osteopathic association. The appointment of each member shall be for 4 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. Each member of the board shall be paid such compensation as the board determines, and, except for the secretary, not more than \$25 per day, when actually and necessarily engaged in his

duties. The secretary shall receive such compensation as the board determines, but not less than \$1,900 annually.

(2) The board shall hold its annual meeting on the second Tuesday of January at Madison, and it shall meet at least 3 other times during the year at such places as it determines. It shall elect annually at its January meeting a president, a vice president and a secretary-treasurer. The board shall maintain its office in Madison. The president, vice president or secretary-treasurer 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.

History: 1963 c. 6, 260, 459.

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 the sick as the term "treat the sick" is defined in s. 147.01 (1) (a), without a license or certificate of registration from the state board of medical examiners, except as otherwise specifically provided by statute.

(2) (a) No person without a license or certificate of registration from the state board of medical examiners 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. 147.01; provided that 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. 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.

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. Admissibility of a doctor's testimony as to his patient's subjective symptoms. 48 MLR 419.

147.15 Application. (1) APPLICATION FOR PERMANENT LICENSE TO PRACTICE MEDICINE AND SURGERY. 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 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 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 board. Before approving and recognizing any such college or school, the 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 board may designate an agent, including one or more board members, to conduct a portion or all of such investigation to determine the facts upon which the board shall make its findings. The findings and any action taken by the 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 pre-medical 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 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 \$45 and \$5 additional for license if issued. An immigrant applicant shall present satisfactory evidence that he has filed a declaration of intention to become a citizen of 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 \$75, and the further fee of \$5 upon the issuance of license shall not be required. Applicants shall pay also the cost of translation into English by the board of documents and papers in a foreign language.

(1m) FOREIGN APPLICANTS. Where an applicant is a graduate of a foreign medical school which has not been approved or recognized by the board under sub. (1), but the 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 board may make such further inquiry, including a personal interview, as satisfies the board that he has such equivalent premedical and medical training. If a majority of the board is so satisfied, it may waive the educational prerequisites imposed by sub. (1), and admit the applicant to examination under s. 147.16. If the applicant has established his professional qualifications by examination in another state with which the board has reciprocity, a written examination for such applicant may be waived under s. 147.17 (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 board to make such examination of qualifications, or a faculty member appointed by him reports affirmatively, the 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 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 pre-professional and professional qualifications of such applicant shall be based upon the time required of the board, or its designated agent. In no event shall it be less than \$100 nor more than \$300. Not more than 50 applicants a year shall be accepted for licensing under this subsection.

(2) TEMPORARY LICENSE. An applicant for a permanent license by examination to practice medicine and surgery who is a graduate of the Marquette university school of medicine, 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 Wisconsin, and who, more than 30 days prior to the date set by the 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 Marquette university school of medicine, or of the University of Wisconsin medical school, or who has met all the requirements of s. 147.17 (1) except examination by the board in the case of an applicant already licensed in another state, or an honorably discharged surgeon of the armed services of the United States, or of the federal public health service, who shall file a sworn and authenticated copy of his discharge; provided that such discharge was within one year of such application for license by reciprocity, and whose application for license has been accepted by any 2 officers of the board, may, at his request, and on the written findings of the 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 board grants or denies such applicant a permanent license, whichever occurs first; but the temporary license shall automatically expire on the first day the 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. 147.02 and 147.04 as to any temporary licensee, if prior to the time he was issued 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. 147.05, and the state board of examiners in the basic sciences had accepted such application. A temporary license shall be issued only once to the same person. The fee for such license is \$25.

History: 1961 c. 7, 463; 1965 c. 9.

147.151 Temporary educational certificates. (1) Application for a temporary educational certificate may be made to the board by a person having training in medicine and surgery satisfactory to the 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 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 board, may be renewed annually for not more than 4 years. The fee for such certificate shall be fixed by the board at not more than \$10 per annum, which amount shall also be paid for each renewal thereof. Not more than 50 such certificates shall be issued in any one year and no more than 150, 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 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.

147.16 Examination. Having complied with s. 147.15, the applicant shall be examined in medicine and surgery, and further examined in the subjects taught in reputable professional colleges.

147.17 License; civil liability exemption. (1) If 6 members find the applicant for license qualified, it shall so notify him and shall issue a license to practice medicine and surgery, signed by the president and secretary-treasurer 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 board shall conduct an investigation as provided in s. 147.15 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 board may issue 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 board, or an honorably discharged surgeon of the armed services of the United States, or of the federal public health service, upon filing of a sworn and authenticated copy of his discharge; provided that such discharge was within one year of such application for license by reciprocity. In lieu of its own examination, the board may accept, either in whole or in part, the certificate of the national board of medical examiners. Fee for license with or without written 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 \$100. 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 20 months' actual attendance, and the regular examination of the board in surgery, and being found qualified by 6 members. The board may deny the application of one not 21 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 board to be examined in materia medica and pharmacology as may be required by the 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 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 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 shall be unsuccessful he may apply for re-examination at any subsequent meeting of the 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 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 147.15 and 147.16 (as amended in 1949) and sections 147.17 (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 shall be those areas not within the confines of a hospital or other institution which has hospital facilities, or a physician's office.

History: 1963 c. 94.

Civil liability for treatment rendered at 494.
scene of emergency. 48 MLR 80, 1964 WLR

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 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. The secretary-treasury 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 \$10 in any year. Those who register after January 31 of a given year shall pay whatever fee has been fixed for that year.

(3) On or before March 10 in each year the secretary-treasurer of the state board of medical examiners 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-treasurer of the 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 board, in its discretion, 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 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.

History: 1963 c. 260; 1965 c. 360.

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 Physical therapy. (1) PRACTICE OF PHYSICAL THERAPY. (a) The practice of physical therapy is the treatment of disease as defined in s. 147.01 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 initial "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 board of medical examiners 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 provided by the board. 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. He shall pay to the board \$25 and present himself for examination at the first meeting thereafter at which examinations are to be held.

(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 board may determine to be necessary. The board shall select a state examining committee for physical therapy, and may do so from a list submitted by the Wisconsin chapter of the American physical therapy association, to assist it in carrying out the provisions of this section, which committee shall consist of 3 physical therapists who, after the initial appointment, shall be

registered by the board and shall have had not less than 3 years of experience in the practice of physical therapy in this state immediately preceding his appointment. The committee shall elect annually one of their members as president and another as secretary. They shall receive the same compensation and reimbursement as members of the board. The terms of office of the members first appointed shall continue for the following periods: one for 1 year, one for 2 years, and one for 3 years. Upon the expiration of such terms the board shall appoint a successor for a term of 3 years.

(4) **CERTIFICATE.** If the board finds the applicant qualified it shall issue a certificate of registration which shall expire on February 1 of each year and shall be renewed only upon application to the board. Each registrant shall pay for such registration a fee to be fixed by the board for each given year, which fee shall not exceed \$5 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. If the applicant has failed to renew his certificate for a period of at least 5 years, the board shall require the applicant to take a refresher course approved by the board before issuing a renewal certificate if, after oral examination, the committee recommends to the 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. 147.20 the board may so find and refuse to reregister such applicant. 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) **REGISTRATION WITHOUT EXAMINATION.** The board may issue a certificate of registration without examination to any person who applies on or before December 31, 1953, and who furnishes the board with sufficient and satisfactory evidence that on July 11, 1953 he had practiced physical therapy in this state and possesses the prerequisites for examination set forth in sub. (2). The board may issue a certificate of registration in physical therapy without examination to an applicant who presents evidence satisfactory to the board of having been licensed or certified as a physical therapist in another state or foreign country with standards determined by the board to be as high as those of this state. At the time of making such application the applicant shall pay a fee of \$25. The board may also issue 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, is practicing massage and hydrotherapy in this state under a certificate of registration issued pursuant to s. 147.185 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, infra red ray, and ultra violet light for massage purposes. Nothing contained herein shall limit the existing authority of the board to revoke such certificate for cause, and in addition the 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 Wisconsin, and as taught by accredited schools or colleges of chiropractic.

History: 1961 c. 468.

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, 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, or their representatives, are hereby constituted ex officio a state medical grievance committee, to investigate, hear and act upon practices by persons licensed to practice medi-

cine and surgery under s. 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 the 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. All divisions, officials and employes of state and local government are authorized to co-operate with the committee in conducting investigations and by making available to it pertinent data in their possession.

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 whatever 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; (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 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 or the state board of examiners in chiropractic, as the case may be. 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 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 board of medical examiners 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 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 state board of medical 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.

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

(7) A license or certificate of registration may be temporarily suspended by the board, without formal proceedings, and its holder placed on probation for a period not to exceed 3 months where he is known or the board has good cause to believe that such holder has violated the provisions of sub. (1). The board may warn and reprimand the holder of a license or certificate of registration, and may request the state medical grievance committee to act under s. 147.195. The 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 board actions under this subsection shall be subject to review under ch. 227.

History: 1961 c. 468.

It is proper to revoke rather than suspend a license after convictions for filing false and fraudulent federal income tax re-

turns and for attempting to influence a federal court officer. *State v. Margoles*, 21 W (2d) 224, 124 NW (2d) 37.

147.205 Injunction to enforce chapter 147. (1) If it appears upon complaint to the board of medical examiners by any person or it is known to the board that any person is violating any of the provisions of chapter 147, except sections 147.24 and 147.25, the said 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 of Wisconsin against any such person to enjoin such person from such violation or violations of this chapter.

(2) If it appears upon complaint to the board of examiners in chiropractic by any person or it is known to the board that any person is violating any of the provisions of sections 147.23, 147.24 and 147.25, the said board or the district attorney of the proper county may investigate and may, in addition to any other remedies, bring action in the name of and on behalf of the state of Wisconsin against any such person to enjoin such person from such violation or violations.

Discussion of civil actions brought under suits. 52 Atty. Gen. 394.
(1) and responsibility for prosecuting such

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

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.

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.

147.225 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 sec-

tion, 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; provided, that 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 providing 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. 147.151.

(b) "Physician" means an individual holding an unlimited license to practice medicine and surgery in Wisconsin.

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 3 chiropractors, each of whom shall have been a continuous resident of and practitioner of chiropractic in the state for the preceding 3 years, who is not an officer or employer, nor financially interested in any school or college of chiropractic, and who shall not be a graduate of any school teaching a method of treating the sick other than chiropractic. The term of office shall be 6 years, and a vacancy shall be filled for the unexpired term. The board shall elect a chairman and secretary. The board is empowered to employ an investigator for the purpose of investigating violations of ss. 147.205 (2), 147.24 and 147.25, and he shall be paid such compensation as the board deems reasonable. The compensation of the members of the board shall be \$15 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 consisting of the first 2 years of study in a regularly prescribed course for a bachelor of arts or science degree in a college accredited by the north central association of colleges and secondary schools, graduation from a reputable school of chiropractic, approved and recognized by the board of examiners in chiropractic, having a residence course of not less than 36 months, consisting of not less than 3,600 60-minute class periods, certificate of registration in the basic sciences, and a fee of \$25. An applicant for a license who was regularly enrolled in and attending a reputable and approved school of chiropractic prior to September 1, 1955, or who graduated therefrom prior to that date, shall, if otherwise qualified, be examined on the basis of the requirements of this section as they existed prior to August 7, 1955, provided he makes application prior to July 1, 1960. Applicants who have been in the military service any time

between June 1, 1955, and July 1, 1960, shall be granted an extension of time equal to the time spent in military service during which they may make application.

(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.

(7) All licenses issued by the board shall expire on December 31 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 \$15.

(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.

Under (3) preliminary education consisting of 2 years of college must precede enrollment in school of chiropractic to per-

147.24 License revocation or suspension. The board of examiners in chiropractic, by order, may deny, suspend or revoke any license or certificate of registration if the licensee or registrant:

- (1) Obtained the license or certificate through error or fraud;
- (2) Is habitually drunk or addicted to the use of habit-forming drugs;
- (3) Is hereafter convicted in a court of competent jurisdiction, either within or without this state, or in federal court, of any violation of any law governing the practice of chiropractic or of any felony, a certified copy of the record of conviction to be conclusive evidence of such conviction;
- (4) Has obtained or sought to obtain anything of value by fraudulent representation in the practice of chiropractic;
- (5) Is guilty of immoral or unprofessional conduct;
- (6) Has continued practice, knowingly having an infectious or contagious disease; or
- (7) If the applicant or registrant maintains a professional connection or association with any other person continuing to violate the provisions of this chapter after 10 days' notice in writing by the board.

(8) The board may without further process revoke the license of one who fails to annually register and pay the fee within 60 days after written notice, mailed to his last known address by registered mail. His license may be reinstated, in the discretion of the board, by the payment of \$25 within one year from revocation. If application for reinstatement is not made within a period of one year from revocation he may be required to demonstrate that he is still qualified to practice by taking an examination in such chiropractic subjects as may be required by the board. The fee for such examination and reinstatement of license shall be \$50.

Discussion of the use of diagnostic and therapeutic devices by chiropractors; receiving or defrauding the public; and suspension and revoking of licenses. 52 Atty. Gen. 165.

147.25 Unprofessional conduct. Unprofessional conduct shall include, without limitation because of enumeration:

- (1) Any conduct of a character likely to deceive or defraud the public;
- (2) Loaning of a chiropractic license or certificate to anyone;
- (3) Employment of "cappers" or "steerers" to obtain chiropractic business, or any public solicitation of chiropractic patronage;
- (4) Splitting or dividing any fee for chiropractic service with any person except an associate licensed chiropractor;
- (5) Use of unprofessional advertising which shall include without limitation because of enumeration:
 - (a) Any advertising statement of a character tending to deceive or mislead the public;
 - (b) Advertising professional superiority or performance of professional services in a superior manner;

- (c) Advertising fixed prices for variable services;
- (d) Using advertising solicitors or press agents;
- (e) Use of office signs which contain wording other than the names of duly licensed chiropractors practicing therein, office hours and purely educational matter not in conflict with law;
- (f) Use of printed advertisements which contain wording of other than names of duly licensed chiropractors, office hours, location, telephone numbers and educational matter not in conflict with law.

(6) Unreasonably refusing permission to a member of the board of examiners in chiropractic or the board's investigator to inspect the premises and equipment of an office at reasonable hours.

See note to 147.24, citing 52 Atty. Gen. 165.

147.26 Procedure for hearings. (1) The board may make investigations and conduct hearings in regard to the conduct of any licensed chiropractor who, it has reason to believe, is acting or has acted in violation of section 147.24 or 147.25. The chairman or secretary of the board may administer oaths and issue subpoenas for attendance of witnesses and take testimony under oath. The person complained against shall have notice in writing of the charges, specifying a date not less than 10 days after service thereof for a hearing and shall have opportunity to confront witnesses and produce testimony. A stenographic record of the proceedings shall be taken and a transcript made for the board's files. The person complained against may within 60 days after notice in writing to the board's action mailed to his last-known address, by registered mail, proceed to review any action of the board as provided in chapter 227.

(2) Upon application and satisfactory proof that the cause of such revocation or suspension no longer exists, the board, in its discretion, may reinstate any license or registration by it suspended or revoked.