

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY-GENERAL

FOR THE TWO YEARS ENDING

NOVEMBER 30, 1914.

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1915

BOARD OF MEDICAL REGISTRATION.—MEETINGS
AND CERTIFICATES.

6th August, 1913.

To Board of Medical Registration, F. W. Pearl, Secretary.

DEAR SIRs: In relation to the matter of the certificate of registration of Abbott J. Fuller issued by the Board of Medical Registration under date of April 18, 1913, I am of the opinion that the certificate was not properly issued, although the facts are not entirely agreed upon, and I am obliged to draw certain conclusions of fact from data more or less incomplete and unsatisfactory.

However, it may be stated at the outset as a principle of law applicable to this case, that the Board of Medical Registration cannot act as a Board unless in a meeting duly called, or at which all are present. Acts assented to by individual members on the street or by telephone are not acts of the Board, although, of course, the same might be ratified at a meeting duly called and held.

With this rule of law in mind, has a certificate of registration ever been issued to Abbott J. Fuller which was authorized by the Board, provided, of course, it is necessary for the Board to act in the case of a non-resident physician desiring to be registered under the reciprocity provisions of our statutes?

Under the rules adopted by your Board, we are of the opinion that action by the Board is necessary. The rule says: "any person etc., may be registered *by this board*". "Applicant must send certified photograph and appear in person *before the board*". Application must be sent to secretary, "and if found satisfactory". In view of the other provisions and considering the nature and purpose of the law, we think this means satisfactory to the Board; hence we think action by the Board is necessary.

We understand, however, that it is claimed that upon the filing of the first application which was found not to be in due form, the Board acted thereon so far as deciding to issue a certificate in the event of the application being amended to conform to the requirements of the law. Such a course might have been pursued and no further action by the Board have

been necessary, when amended application was filed, and the certificate could have properly been issued by the President and Secretary in accordance with previous action of the Board. On the other hand it is claimed that the Board took no action on original certificate, and that it was withdrawn and application was made *de novo* on April 18th, 1913, and on this application no action by the Board has ever been taken at any meeting, and the issuing of the certificate was therefore unwarranted.

From the data which has been furnished us, we think the latter view is the only tenable one. The records of the Board do not show any action by the Board on the first application and it was withdrawn entirely from the files of the Board. The second application shows by memoranda upon it that it was treated as a new application and attempted action of the Board was had upon it, but we understand such action was not at a Board meeting but by telephone, which according to our understanding of the law, could be of no effect.

While it has no effect upon any of these questions, we also note what on the face appears to be an irregularity in the second application, in that at the time the applicant made oath to it, it was not fully made out in this respect; that on the twelfth day of March, 1913, there was no statement contained therein as to his good professional standing, this part of the certificate having been completed on the tenth day of April, 1913. This, however, is a technical matter, perhaps, and if the Board was satisfied it was done in good faith, should not weigh in determining whether or not a certificate should be granted.

Very sincerely,

SCOTT WILSON,

Attorney General.

SEA AND SHORE FISHERIES,—RIGHT OF WARDEN
TO SEARCH VESSELS.

8th August, 1913.

Henry D. S. Woodbury, 120 Exchange St., Portland, Maine.

DEAR SIR: Yours of the 6th inst., inquiring as to the rights of wardens to board fishing smacks and examine the cargo