

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

ONE HUNDRED AND SECOND LEGISLATURE

Legislative Document

No. 1126

S. P. 351

In Senate, February 11, 1965

Referred to Committee on Business Legislation. Sent down for concurrence and ordered printed.

EDWIN H. PERT, Secretary

Presented by Senator Stern of Penobscot.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-FIVE

AN ACT Revising the Laws Relating to Registration of Physicians and Surgeons.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. R. S., T. 32, § 3201, amended. The 2nd paragraph of section 3201 of Title 32 of the Revised Statutes is amended to read as follows:

'Members of said board shall receive annual salaries of \$500 each, except the chairman, who shall receive \$700 a year, and the secretary, who shall receive ~~\$1,000~~ \$2,000 a year. In addition each member shall receive necessary traveling expenses in attending the meetings of the board. Extra compensation for each day actually spent in investigation or prosecution of complaints and cases under ~~section 3203~~ **this chapter** shall be allowed to each member of the board actually engaged therein. If the fees to be collected under ~~sections 3252 and 3254 to 3256~~ **any of the provisions of this chapter** are insufficient to pay the salaries and expenses provided by this section, the members of said board shall be entitled to only a pro rata payment for salary in any year in which such fees are insufficient.'

Sec. 2. R. S., T. 32, §§ 3201-A - 3201-B, additional. Title 32 of the Revised Statutes is amended by adding 2 new sections, 3201-A and 3201-B, to read as follows:

§ 3201-A. Oath

Each member of said board shall, before entering upon the duties of his office, take the constitutional oath of office, and shall, in addition, make oath that he is qualified under the terms of this chapter to hold such office.

§ 3201-B. Secretary-treasurer; bonding

The secretary-treasurer of the board shall, in addition to taking the oath of office, before entering upon the duties thereof, enter into a corporate surety bond in the sum of \$5,000, for the use and benefit of the funds of said board, conditioned that he will faithfully perform the duties of his office and account for all moneys which may come into his hands by virtue thereof. The said bond shall be approved by and deposited with the Secretary of State.'

Sec. 3. R. S., T. 32, §§ 3202-A - 3202-B, additional. Title 32 of the Revised Statutes is amended by adding 2 new sections, 3202-A and 3202-B, to read as follows:

‘§ 3202-A. Quorum

A majority of the members of the board shall constitute a quorum for the transaction of business under this chapter, but a less number may adjourn from time to time until a quorum is present.

§ 3202-B. Members may administer oaths

Any member of said board shall have the authority to administer oaths in all matters pertaining to the affairs of the board.'

Sec. 4. R. S., T. 32, § 3203, repealed and replaced. Section 3203 of Title 32 of the Revised Statutes is repealed and the following enacted in place thereof:

‘§ 3203. Complaints; revocation, suspension or probation

The board, its members or agents, shall investigate all complaints and all cases of noncompliance with or violations of this chapter relating to the registration and activities of physicians and surgeons and it may file a complaint in accordance with the Administrative Code, Title 5, sections 2301 to 2452, praying for the suspension or revocation of any license or certificate issued under this chapter for any of the following reasons: Conviction in this or another state or in a federal court of a felony or of a crime involving moral turpitude; fraud in the procurement of a license or certificate under this chapter or unprofessional conduct.

If, upon hearing, it is determined that the person complained against has been guilty as alleged, his license or certificate may be revoked or suspended or said person may be placed on probation under such conditions and terms as the Hearing Commissioner may deem proper in the best interests of the medical profession and the public health and safety.'

Sec. 5. R. S., T. 32, §§ 3203-A - 3203-E, additional. Title 32 of the Revised Statutes is amended by adding 5 new sections, 3203-A to 3203-E, to read as follows:

‘§ 3203-A. Unprofessional conduct, defined

1. Definition. As used in section 3203, the words "unprofessional conduct" shall include, but shall not be limited to, the following:

A. Procuring, aiding or abetting a criminal operation or abortion;

- B. Advertising in any manner considered by the board to be deceptive or unethical;
- C. The obtaining of any fee or offering to accept any fee, present or other form of remuneration whatsoever, on the assurance or promise that a manifestly incurable disease can or will be cured;
- D. Willfully betraying a professional secret to the detriment of the patient;
- E. Habitual intemperance in the use of alcohol or the habitual use of narcotic or hypnotic drugs;
- F. Dishonorable or immoral conduct that tends to discredit the medical profession;
- G. Conduct unbecoming a person licensed to practice medicine or detrimental to the best interests of the public health or safety;
- H. Gross or repeated malpractice;
- I. Knowingly making any false or fraudulent statement, written or oral, in connection with the practice of medicine, except as the same may be necessary for accepted therapeutic purposes;
- J. Refusing to divulge to the board upon demand the means, method, device or instrumentality used in the treatment of a disease, injury, ailment or infirmity;
- K. Prescribing narcotic or hypnotic drugs or both for other than accepted therapeutic purposes.

§ 3203-B. Injunctions

Injunctions shall issue forthwith to enjoin the practice of medicine by any person licensed to practice under this chapter when such person's continued practice will or well might cause irreparable damage to the public health or safety prior to the time proceedings under the Administrative Code could be instituted and completed. In a petition for injunction pursuant to this section, there shall be set forth with particularity the facts which make it appear that irreparable damage to the public health or safety will or well might occur prior to the time proceedings under the Administrative Code could be instituted and completed. Such petition shall be filed in the name of the State by the board or at the request of the board by the Attorney General or any county attorney in the county where the respondent resides or may be found.

§ 3203-C. Reinstatement on board's own motion

At any time after a license or certificate has been revoked, or the holder of same has been placed on probation as provided, the board, upon its own motion and of its own authority and right, may reconsider such revocation, suspension or probation for any reason deemed by it to be sufficient and may in its discretion reinstate the license of such person or remove such person from probationary status, provided that the application of this section may be applied in the best interest of the public health and safety.

§ 3203-D. Reinstatement on application of person whose license is suspended or revoked

At any time after the expiration of 12 months from the date the license of any person to practice medicine or surgery has been revoked, or at any time after the expiration of 6 months from the date the license of any person to practice medicine or surgery has been suspended for a definite period of time not to exceed 5 years, such person whose license has been revoked or suspended may file his application with the secretary of such board together with an application fee of \$25 to reinstate his license. The application shall be assigned for hearing at the next regular meeting of the board following the filing thereof and the board shall have the authority and right to reconsider such revocation or suspension, and in its discretion, and for such causes and reasons deemed by it sufficient and for the best interests of the medical profession and the citizens of this State, may reinstate the license of the applicant and issue the order therefor.

§ 3203-E. Record of reinstatement

Upon the reinstatement of any such license by the board, either upon its own motion or upon application, the secretary of the board shall forthwith enter the order of reinstatement in the minutes and records of the board.'

Sec. 6. R. S., T. 32, § 3255, amended. Section 3255 of Title 32 of the Revised Statutes is amended to read as follows:

‘§ 3255. Display of certificate

Each physician, ~~as heretofore mentioned in sections 3252 and 3256~~ registered under this chapter, shall following registration receive a certificate thereof under the seal of the board and signed by the chairman and secretary, which shall state the facts and must be publicly displayed at the person's principal place of practice, as long as said person continues the practice of medicine.'

Sec. 7. R. S., T. 32, § 3257, repealed and replaced. Section 3257 of Title 32 of the Revised Statutes is repealed and the following enacted in place thereof:

‘§ 3257. Licensure by reciprocity

The board may, at its discretion, grant licensure without examination to a physician in good standing who has been examined and licensed by a board of another state or who has been examined and certified by the National Board of Medical Examiners, provided the examination passed by the applicant is deemed by the board to have been the equivalent in all essentials to its own examination and provided that such applicant has paid a fee of \$100 and has satisfied the educational and other qualifications hereinbefore in this chapter provided. The board may make such rules and regulations as may be necessary in connection with this section.'

Sec. 8. R. S., T. 32, § 3259-A, additional. Title 32 of the Revised Statutes is amended by adding a new section 3259-A, to read as follows:

‘§ 3259-A. Locum tenens

Any physician, a graduate of an accredited medical school or university or a foreign medical school graduate who holds a permanent certificate from the educational council for foreign medical graduates and who is of good repute may, at the discretion of the board, be given a temporary license to be effective for not more than 6 months after issuance for the purpose of permitting such physician to serve as "locum tenens" for some other physician who is then licensed to practice medicine in this State and whose own license is not temporary or limited under any of the provisions of this chapter, provided that such Maine physician is either unable because of illness to maintain his practice or because of his absence from the general locus of such practice for other reasons deemed sufficient by the board.'

Sec. 9. R. S., T. 32, §§ 3261 and 3262, additional. Title 32 of the Revised Statutes is amended by adding 2 new sections, 3261 and 3262, to read as follows:

§ 3261. Biennial reregistration; fees;

On or before the first day of July, 1966, and on or before the first day of July of every even-numbered year thereafter, every physician licensed under this chapter shall register with the Board of Registration in Medicine on forms provided by said board. The registration fee shall be \$5 in the case of inhabitants of this State and \$10 in all other cases. This section shall not apply to interns or residents registered under section 3260 nor shall it apply to those holding temporary certificates for practice in hospitals or camps as provided in sections 3258 and 3259. Said registration fees provided for under this section shall not be required of any physician who is 70 years of age on the first day of July of the year for which reregistration is made although the requirement of reregistration as provided for shall apply without regard to age.

At least 60 days before July 1st of every even-numbered year thereafter the board shall mail to each licensee at his last known office address a notice of requirement of reregistration with appropriate forms therefor. Whenever a licensee fails to reregister within the time required it shall be the duty of the board to notify such licensee at his last known office address that his reregistration is past due. Thirty days after such notice has been sent, if reregistration has still not been made, the board shall notify said licensee by registered mail, return receipt requested, with instructions to deliver to addressee only, that his license has been suspended for 30 days, at the end of which period, if reregistration has still not been made, the board shall summarily revoke said license and shall not restore same except after hearing and upon the following conditions: The licensee show cause why he failed to reregister, and the licensee pay to said board either \$5 for each biennial period that he was not registered or \$25, whichever is less.'

§ 3262. Withdrawal of registration

The holder of a license or temporary license who notifies the board in writing of the withdrawal of his registration is not required to pay registration fees or penalties beyond those due at the time of his withdrawal, but after a holder gives such notice, his license to practice is not valid until reinstated by the board. An applicant for reinstatement is entitled to be reinstated upon paying a reinstatement

ment fee of \$10 and satisfying the board that he has paid all fees and penalties due at the time of his withdrawal, and no cause exists for revoking or suspending his license, and he has applied within 5 years after his withdrawal, or was in active practice outside this State within one year prior to the filing of his application for reinstatement.'