

MEDICAL

CHAPTER 188.

[H. B. No. 414—Johns]

PREVENTING INFANT BLINDNESS.

AN ACT to Prevent Infant Blindness Caused by the Preventable Disease Known as Ophthalmia Neonatorum.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. DUTY OF PHYSICIAN, MIDWIFE OR OTHER ATTENDANT.] That whenever a child is born, the physician, midwife or any other person who is present and engaged as professional attendant, shall report said birth on a blank supplied by the state board of health to the health officer having jurisdiction, within thirty-six hours after such birth occurs. Said birth certificate in addition to other data ordered by the state board of health shall have upon it this question: "Were precautions taken against ophthalmia neonatorum?" And it shall be a violation of this act for any physician or midwife in professional attendance at a birth to fail to report same as herein commanded or to omit answering the said question, "Were precautions taken against ophthalmia neonatorum?" All bills or charges for professional services rendered at a birth shall be unlawful if report is not made as herein commanded.

§ 2. SAME.] It shall be the duty of all physicians or midwives in professional attendance upon a birth to always carefully examine the eyes of the infant, and if there is the least reason for suspecting of disease of the eyes then said physician or midwife in professional attendance shall apply such prophylactic treatment as may be recognized as efficient in medical science.

§ 3. SAME. EXCEPTION.] Should one or both eyes of an infant become inflamed, swollen or reddened, or show any unnatural discharge, or secretion at any time within two weeks after its birth, and no legally qualified physician is in attendance upon the infant at that time, it shall be the duty of its parents, or in their absence, whoever is caring for said infant to report the fact in writing within six hours after discovery, to the health officer having jurisdiction. Provided, said report to said health officer need not be made from recognized hospitals.

§ 4. DUTY OF HEALTH OFFICER.] Upon receipt of a report as set forth in section 3 of this act, health officers shall direct the parents or whoever has charge of such infant suffering from such inflammation, swelling, redness or unnatural secretion or dis-

charge of the eyes, to immediately place it in charge of a legally qualified physician or in charge of the city or township physician if unable to pay for medical services.

§ 5. PENALTY.] Any violation of the provisions of this act shall be punished by a fine of not less than ten dollars nor more than fifty dollars.

§ 6. EMERGENCY.] Whereas, about thirty per centum of all blindness is caused by the preventable disease known as ophthalmia neonatorum; and this disease may always be prevented, and almost always cured in its incipency, and its existence is generally due to ignorant or careless management; and, Whereas, as emergency exists, therefore this law shall be in force after its passage and approval.

Approved March 6, 1911.

CHAPTER 189.

[H. B. No. 100—O'Connor]

REGULATING THE PRACTICE OF MEDICINE AND SURGERY.

AN ACT to Regulate the Practice of Medicine and Surgery in the State of North Dakota.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. BOARD OF MEDICAL EXAMINERS. HOW APPOINTED. QUALIFICATIONS.] The governor shall on or before the first day of August, 1911, appoint a state board of medical examiners, consisting of nine members, two of whom shall be homeopathic physicians; who shall be practicing physicians of integrity and ability who shall be residents of and have been duly licensed to practice medicine and surgery in this state, and who shall have been graduated from medical schools of high educational requirements and standing and shall have been engaged in the active practice of their profession within this state for a period of at least five years. Three of such persons shall hold office for the term of one year from the said first day of August, 1911, three for the period of two years, and three for the period of three years from said date. Thereafter, and as the terms of office expire, all members of the board shall be appointed for the term of three years with the exception of those who may be appointed to fill unexpired terms. Until the first day of August, 1911, the members of the present state board of medical examiners shall hold office and shall enforce the provisions of this act.

§ 2. OFFICERS. MEETINGS FOR EXAMINATIONS. RECORDS AND RULES.] Such board shall elect a president and secretary-treasurer, and shall have a seal. The secretary-treasurer shall be the general administrative and prosecuting officer of said board but

need not be a member thereof. The president and the secretary-treasurer shall have the power to administer oaths. The board shall hold meetings for examinations at such places, as it may designate, on the first Tuesday in January and July of each year, and such special meetings as it may from time to time appoint. The board shall keep a record of all its proceedings, and also a register of applicants for license, together with their ages, and the time spent in the study of medicine and in their studies preliminary thereto, and the nature thereof, and the name and location of all institutions, medical and otherwise, granting to such applicants degrees or certificates of attendance on lectures and classes in medicine and surgery and studies preliminary thereto. Such register shall also show whether the applicant was rejected or licensed by the board. Said books and register shall be prima facie evidence of all matters therein recorded. Said board shall from time to time adopt such rules and regulations as it may deem necessary for the performance of its duties and a schedule of minimum educational requirements which shall be without prejudice, partiality, or discrimination as to schools or systems of practice of medicine.

§ 3. POWER TO ADMINISTER OATHS AND SUMMON WITNESSES. ENFORCEMENT OF POWERS.] Said board shall have authority to administer oaths, to summon witnesses and take testimony in all matters relating to their duty. When the board, in the transaction of any of its business, or in the conduct of any hearing or when any person interested in such business or hearing shall desire to secure the presence or testimony of any person before said board, said board or such person, may procure subpoenas from the clerk of the district court of the county wherein such business is to be transacted or conducted before said board and the clerk of such court is hereby directed to issue such subpoenas, as, in the name of the state of North Dakota, commanding the persons whose names shall be given to such clerk by said board, or by such persons so interested in such business or hearing, to appear before said board at a certain time and place fixed by said board, for the transaction of such business or conduct of such hearing and then and there testify in the matter of such business or in such hearing. If any person so commanded to appear and testify shall fail or refuse to obey such subpoena, he shall be dealt with by said district court in the same manner and to the same effect as though such subpoena had commanded such person to appear and testify in a cause on trial in said court. Fees or other charges or payments, which may be demanded by any person so commanded to appear and testify shall be only those which may be demanded by witnesses in causes in the district court and under the same circumstances. Such subpoenas shall be served in the same manner as are subpoenas for trials in the district court, and they shall be substantially the same form. It shall be the

duty of the secretary-treasurer, under the direction of the board, personally or by deputy duly authorized thereunto by said board, to aid the several district attorneys of the state in the enforcement of this act and in the prosecution of all persons who may have violated any of its provisions.

§ 4. LICENSE.] No person shall practice medicine in this state unless he shall have made application to said board of medical examiners, through the secretary-treasurer thereof, upon such form and in such manner as shall be adopted and prescribed by said board, for a license so to do, and shall have obtained from said board and shall possess in full force and virtue a valid license so to do; and any person who practices medicine in this state, without having made such application and without having received and without still possessing such a license, shall be deemed to have thereby violated the provisions of this act. All applicants for a license to practice medicine or for a restoration of any such license which has been revoked, shall furnish the board with satisfactory evidence of good moral character. Nothing in this act shall be taken or construed to preclude physicians and surgeons who have already been admitted to practice their professions within the state of North Dakota and under and according to the laws thereof to continue so to practice.

§ 5. DEFINITION.] The term "Practice of Medicine," as used in this act, is intended to cover and include the practice of medicine, surgery, and obstetrics. The term "Physician" means physician and surgeon.

§ 6. MEANING OF THE TERM PRACTICE OF MEDICINE. EXEMPTIONS AND EXCEPTIONS.] A person shall be regarded as practicing medicine within the meaning of this act who holds himself, or herself out to the public as being engaged within this state in the diagnosis or treatment of diseases or injuries of human beings; or who suggests, recommends or prescribes any form of treatment for the intended palliation, relief or cure of any physical or mental ailment of any person with the intention of receiving therefor, either directly or indirectly, and fee, gift or compensation whatsoever; or who maintains an office for the examination or treatment of persons afflicted with disease or injury of body or mind; or who attaches the title M. D., surgeon, doctor or any word or abbreviation to his name, indicating that he is engaged in the treatment or diagnosis of the diseases or injuries of human beings. Nothing in this act, however, shall be construed to affect lawfully qualified physicians in other states or countries meeting legally licensed physicians in this state for consultation or any physician residing on the border of a neighboring state and duly licensed under the laws thereof to practice medicine therein, and who does not open an office or appoint a place to meet patients or receive calls within this state; or the domestic administration of family remedies; or dentists practicing their

profession or optometrists when licensed and practicing under the provisions of article 16 of chapter 4 of the political code, Revised Codes of 1905; nor to prohibit the practice of christian science or other religious tenets or religious rules or ceremonies as a form of religious worship, devotion, or healing, provided that the persons administering or making use of or assisting or prescribing such do not prescribe or administer drugs or medicines nor perform surgical or physical operations, nor assume the title of or hold themselves out to be physicians or surgeons; nor shall this act be construed to prohibit any person, if qualified under chapter 172 of the laws of 1909, from engaging in the practice of osteopathy, when not representing himself as, or assuming the title of physician or surgeon; provided such person does not profess or hold himself out to, nor administer or prescribe drugs or perform surgery, except minor surgery; nor shall it be construed to prohibit commissioned surgeons of the United States army, navy or public health and marine hospital service from performing their lawful duties in this state as such.

§ 7. EXAMINATIONS. HOW CONDUCTED. SUBJECTS.] The manner of determining the qualifications of any person to practice medicine or surgery shall be such as shall be adopted by the state board of medical examiners. Examination of applicants for the licenses to practice medicine shall be made by said board according to the method deemed by it to be most practicable and expeditious to test the applicant's qualifications. Each applicant shall be designated by a number instead of name, so that his identity shall not be disclosed to the members of the board, until the examinations shall be graded. The subject of written, oral or clinical examinations for applicants shall be as follows:

Anatomy, physiology, chemistry, pathology, gynecology, physical diagnosis, toxicology, surgery, obstetrics, histology, bacteriology, medical jurisprudence, and preventive medicine.

§ 8. EXAMINATIONS WAIVED.] In the case of an applicant coming from, or who has been educated in other states or foreign universities, such applicant's credentials relating to his general reputation, his preliminary education and the course of study he has pursued, the degrees he has received, the number of years he has been engaged in the lawful practice of medicine, his experience in hospitals, medical departments of the army, navy, and public health and marine hospital service, licenses granted to him by other states and countries, and his experience as a teacher of medicine, shall be given due consideration, by the board in determining his qualifications to practice medicine. When convinced by an investigation of an applicant's credentials that he is qualified to practice medicine and surgery, the board may in its discretion, grant him a license without examination, upon the payment of the regular fee of twenty-five dollars, and provided further that said board upon the payment of such fee

and in its discretion, may accept and register and, without further examination, issue a license to practice medicine upon any certificate which shall have been issued to an applicant by the medical examining board of the District of Columbia, or of any state or territory of the United States, provided, however, that the applicant has received a degree or diploma from a legally chartered medical school, the requirements of which shall have been at the time of granting such diploma or degree, in no particular less than those prescribed by the Association of American medical colleges for that year; and provided further that the legal requirements of the medical examining board of such state, district or territory, shall have been at the time of issuing such certificate, in no degree or particular less than those of this state, at the time when such certificate shall be presented for registration and approval of the board provided for in this act; and provided further that the provisions and exceptions in this section contained shall be held to apply only to the certificate of licenses of such states, districts or territories as accept and register the certificates and licenses granted by the board provided for herein, without further examinations of the persons holding such certificates.

§ 9. PRELIMINARY. QUALIFICATIONS.] All applicants for licenses to practice medicine in the state of North Dakota and all applicants for the examination of the board of medical examiners herein provided for, must, as a prerequisite thereto, and except as provided in section 8 of this act, present evidence which shall be satisfactory to said board of having graduated from a reputable medical college and having attended in such college or colleges the lectures of no less than four college years of at least eight months each, and must all give evidence which shall be satisfactory to said board, or a preliminary education which would be necessary to admit said student to the junior or third year of the University of North Dakota or some equally reputable American college or university; provided, however, that in case of applicants who have graduated from a reputable medical college prior to the year of 1905, satisfactory evidence of attendance on the lectures and classes of three college years of at least six months each, shall be deemed sufficient to entitle such applicants to take the examination herein provided for.

§ 10. LICENSE. FEES.] If such applicant passes the prescribed examination, or if such applicant is excused from such examination as provided for in section 8 of this act and is found by the board to be properly qualified, the board may grant him a license to practice medicine, surgery, obstetrics, in this state, which license shall be signed by the president and secretary-treasurer of the board, and shall have the seal thereof affixed to or impressed thereon. The fee of such examination shall be twenty-five dollars, to be applied to the board toward paying the

compensation and expenses thereof, including the enforcement of the provisions of this act, and the same fee shall be charged where an application for licenses is made without examination.

§ 11. REVOCATION AND REFUSAL OF LICENSES.] The state board of medical examiners, shall keep a record of all its proceedings, together with the evidence offered in the matter of revoking or refusing licenses hereunder, may refuse to grant, or may revoke, a license to practice medicine and surgery in this state, and may cause a licentiate's name to be removed from the record in the office of any recorder of deeds, upon any of the following grounds, to-wit: The employment of fraud or deception in applying for or securing a license, or in passing the examination provided for in this act; the practice of medicine under a false or assumed name, or impersonation of another physician of this state or any state, territory or foreign country of a like or different name; the conviction of a felony, or of a crime involving moral turpitude; habitual intemperance in the use of ardent spirits, narcotics or stimulants to such an extent as to incapacitate for performance of professional duties; the procuring or aiding or abetting in procuring or attempting to procure a criminal abortion; negligent or ignorant mal-practice resulting in permanent injury or the death of a patient; the obtaining of a fee either directly or indirectly either in money or in the form of any thing of value, or in the form of financial profit, either as personal compensation, or as compensation, charge, profit or gain for an employer, or any other person or persons, on the representation that a manifestly incurable, sick, diseased or injured condition of any person can be permanently cured, causing the publication, circulation, exhibition or display publicly of an advertisement, notice or information of any medicine or means whereby the monthly periods of women can be regulated or the menses if suppressed can be re-established, or whereby abortion can be accomplished; causing the publication, circulation, exhibition or display publicly of any advertisement relative to the treatment, alleviation, palliation, cure or prevention of any disease, weakness or condition of the sexual organs. An appeal from the final decision of such board shall lie to the district court of the county in which such decision was made, within sixty days after notice to the party aggrieved. The record on appeal shall consist of the entire proceedings of such board, together with the evidence offered. Such appeal shall be governed by the code of civil procedure so far as applicable.

§ 12. LICENSES TO BE RECORDED.] Every person who shall receive a license from the state board of medical examiners shall have it recorded immediately in the office of the recorder of deeds of the county in which he shall maintain an office for the practice of medicine, and shall likewise have it recorded in any county in which he shall practice medicine regularly. The recorder of deeds of each county in this state shall keep for public

inspection, in a book provided for that purpose, a complete list and description of the licenses recorded by him. When any such license shall be presented to him for record he shall stamp or write upon the back thereof his signed memorandum of the date when such license was presented for record. If the name of any person shall not so appear in such book in any particular county in this state in connection with a description of such license provided for in this act, such act shall be prima facie evidence in any civil or criminal action involving the practice of medicine by such person in such county, that such person does not possess in full force of virtue a license to practice medicine in this state.

§ 13. PENALTIES FOR VIOLATIONS AND FOR FRAUDULENT IMPERSONATION AND FRAUDULENT DEVICES.] Any person who shall practice medicine in this state without complying with the provisions of this act, and any person who shall violate any of the provisions of this act, shall be deemed guilty of misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than fifty dollars nor more than three hundred dollars, or by imprisonment in the county jail for not less than ten days, nor more than thirty days, or both, in the discretion of the court. Any person who shall present or attempt to file as his own, diploma or certificate of credentials of another, who shall give false evidence or present any altered or forged instrument or writing of any kind to the state board of medical examiners or any member thereof, in connection with an application for license to practice medicine, or in any hearing before said board, or who shall practice medicine under a false or assumed name or who shall falsely personate another practitioner of a like or different name, shall be guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the state penitentiary for a term of not less than one year nor more than ten years at hard labor.

§ 14. REMOVAL OF MEMBERS OF EXAMINING BOARD. RE-ELECTION.] The governor of the state of North Dakota may, for good cause shown, and upon the recommendation of three-fourths of the members of the board of medical examiners, remove any member of such board for misconduct, incapacity or neglect of duty. No member of such board shall serve thereon for more than two full successive terms.

§ 15. REPEAL.] All acts or parts of acts conflicting with the provisions of this act are hereby repealed.

§ 16. EMERGENCY.] Whereas, an emergency exists in that inadequate protection is now afforded against incompetent and untrained physicians, therefore this act shall take effect and be in force from and after its passage and approval.

Approved February 27, 1911.