

STATE BOARD OF DENTAL EXAMINERS

CHAPTER 280.

[H. B. No. 96—Williams]

STATE BOARD OF DENTAL EXAMINERS.

AN ACT Creating a State Board of Dental Examiners; to Regulate the Practice of Dentistry in the State of North Dakota; to Provide for Licensing Dentists; and to Provide Penalties for the Violation of This Act.

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

§ 1. BOARD. HOW CONSTITUTED.] The state board of dental examiners, consisting of five members, heretofore created, shall continue to be the state board of dental examiners. Upon the expiration of each member's term of office, the governor shall appoint his successor, who shall hold office for five years and until his successor is appointed and qualified. All vacancies in such board shall be filled by appointment by the governor. No person shall be eligible to appointment on such board who is not a licensed dentist in this state. The board shall at all times include three members who shall have been appointed on the recommendation of the North Dakota Dental Association, provided such recommendation be made at least ninety days before the term of a member expires. Otherwise the governor may appoint without such recommendation. Every vacancy, caused otherwise than by the expiration of a term shall be filled in the same manner. If the association fails to recommend a candidate for such expired term within thirty days after the vacancy occurs, the governor may appoint without such recommendation. If a member shall be absent from two consecutive regular meetings, the board may declare a vacancy to exist. The association shall recommend not less than two candidates for each appointment.

§ 2. OFFICERS. MEETINGS. COMPENSATION. REPORT.] The board shall elect from its members a president and a secretary and shall have a seal. It shall hold regular meetings at such places as it may designate on the second Tuesday of the months of January and July of each year, and special meetings at its pleasure. Out of the funds received by the board under the provisions of this act, each member of the board shall receive as compensation for his services the sum of the ten dollars for each day that he is actually engaged in the duties of his office, and five cents per mile for distance necessarily traveled in going

to and returning from the meetings of the board, and other expenses, and out of the same fund the secretary shall be paid an annual salary equal to fifteen per cent of all funds received by the board during the year. No part of the salary of the secretary or the expenses or compensation of the board shall be paid out of the state treasury except printing of annual report. All amounts received in excess of said compensation and traveling expenses of the members of the board and the salary of the secretary as above provided for, shall be held by the secretary of the board as a special fund for defraying other necessary expenses of the board and for carrying out the provisions of this act. The secretary of the board shall from time to time give such bond for the faithful discharge of his duties as custodian of the funds of the board as the board may direct. The board shall make an annual report of its proceedings to the governor on or before the fifteenth day of November in each year, which report shall contain an account of all moneys received and disbursed by the board during the preceding year.

§ 3. DENTISTRY DEFINED. INHIBITION. EXCEPTION.] Every person shall be deemed to be practising dentistry within the meaning of this section, who shall use the word or letters "Dentist" or "D. D. S." or any other letters or title in connection with his name, which in any manner represents him as engaged in the practice of dentistry, or who shall advertise, or permit it to be done, by sign, card, circular, hand bill, newspaper, or otherwise, that he can or will attempt to perform dental operations of any kind, treat diseases or lesions of the human jaw or replace lost teeth, by artificial ones, or attempt to correct malposition thereof, or who shall for a fee, salary or other reward, paid or to be paid, either to himself or to another person, perform dental operations of any kind, treat diseases or lesions of the human jaw or teeth, or replace lost teeth by artificial ones, or attempt to correct malposition thereof. This section shall not apply to students enrolled in and regularly attending any dental college. Their acts, done under the direct supervision of a preceptor or a licensed dentist, shall not be subject to the provisions of this section, nor prohibit persons from performing merely mechanical work on inert matter in a dental office or laboratory. Nor shall this section apply to those who upon invitation of a dental society shall perform dental operations of any kind for education purposes. Nor prevent any duly licensed physician or surgeon from extracting teeth.

§ 4. EXAMINATION. LICENSE. REVOCATION. ASSUMED NAME.] Any person not already a licensed dentist in this state at the time of going into effect of this act, desiring to practice dentistry therein, shall apply to the secretary of the board for examination, and pay fee of \$25.00 for the first examination and \$10.00 for each subsequent examination, which fees shall in no case be

refunded. At the next regular meeting of the board held after such application is made, the applicant shall present himself for examination and produce a diploma issued to him by some dental college of good standing, of which standing the board shall be the judges. No person shall be permitted to take such examination unless he shall prove to the satisfaction of the board that he has had a preliminary general education equivalent to at least four years of study in some high school or academy in the state of North Dakota having a four year course beyond that of an elementary school; and from and after the first day of January, 1914, every applicant for such examination shall in addition to the foregoing requirements, present to the board satisfactory evidence of having successfully completed a preliminary course of study equivalent to at least one year's work in the college of liberal arts of the University of North Dakota, provided, however, that the privileges of such examination are not denied an applicant therefor who holds a license to practice dentistry in some other state than North Dakota prior to the passage of this act. No holder of a degree or diploma from a foreign country or province which does not accept for examination the holder of a license to practice dentistry issued by the state board of dental examiners of this state shall be eligible for such examination. The board shall give the applicant such an elementary, theoretical, and practical examination as to thoroughly test his fitness for the practice of dentistry, and include therein the subjects of anatomy, physiology, chemistry, materia medica, therapeutics, metallurgy, histology, pathology, and operative, surgical and mechanical dentistry. If the applicant successfully passes the examination, he shall forthwith be registered upon the records of the board as a licensed dentist, and shall receive a certificate of registration signed by all members of the board, whereby he shall be authorized to practice dentistry in said state for a period of one year from the date of such certificate and as long as such certificate shall be duly renewed as hereinafter provided. Provided, that any dentist who, for five years or more, has been in legal practice in another state of the United States having and maintaining a standard of laws regulating the practice of dentistry equal to that of this state and is a reputable dentist of good moral character, and is desirous of removing to this state and deposits in person with the board a certificate from the examining board of the state in which he is registered, certifying to the fact of his registration and of his good moral character and professional attainments, and from the state dental society a written recommendation that he be admitted by reciprocity, may, at the discretion of the board, upon payment of a fee of \$50.00 be granted a license to practice in this state without theoretical examination. The board upon hearing, after twenty days notice thereof, may revoke the license of anyone

who, with intent to deceive the public shall practice dentistry under an assumed name.

It shall be no defense for a person prosecuted for practicing dentistry under one name, without a license, that he shall have been licensed under a different name, unless it be shown that such practice was without intent to deceive.

Any dentist may have his license revoked or suspended by the board for any of the following causes:

(1) His conviction of a felony or misdemeanor involving moral turpitude, in which case the record of conviction, or certified copy thereof certified by the clerk of court, or by the judge in whose court the conviction is had, shall be conclusive evidence of such conviction.

(2) For unprofessional conduct, or for gross ignorance or inefficiency in his profession. Unprofessional conduct shall mean the obtaining of any fee by fraud or misrepresentation, habitual intemperance, gross immorality.

The proceedings to revoke or suspend any license under the first subdivision hereof, must be taken by the board on a receipt of a certified copy of the record of conviction. The proceedings under the second subdivision hereof may be taken upon the information of another. All accusations must be in writing, verified by some person familiar with the facts therein charged, and three copies thereof must be filed with the secretary of the board. Upon receiving the accusation, the board shall, if it deem the complaint sufficient, make an order setting the same for hearing at a specified time and place, and the secretary shall cause a copy of the order and the accusation to be served upon the accused, by delivery of the same to him personally, at least ten (10) days before the day appointed in the order for such hearing.

The accused must appear at the time appointed in the order and answer the charges and make his defense to the same, unless for sufficient cause the board assign another day for that purpose. If he do not appear after due service upon him of the accusation and order as aforesaid, the board may proceed and determine the accusation in his absence. If the accused pleads guilty or refuses to answer the charges, or upon the hearing thereof the board shall find them or any of them, true, it may revoke his license or suspend it. The board and the accused may have the benefit of the services of counsel duly licensed to practice law in this state. The board shall have the authority to administer oaths, to summon witnesses and to take testimony, by deposition or otherwise upon its hearing, and when the board or the accused shall desire to secure the presence or testimony of any person before the board, said board or such accused may procure subpoenas from the clerk of the district court of the county wherein such hearing is to be had, and the clerk of such

court is hereby directed to issue such subpoenas in the name of the state commanding the persons whose names shall be given to such clerk by the board or by such accused person, to appear before the board at a certain time and place fixed by the board for such hearing and then and there to testify upon 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. Such person so commanded to appear and testify shall be entitled to the same fees as witnesses in a district court, and such subpoena shall be served in the manner provided by law for the service of subpoenas for trials in said courts and shall be substantially the same in form.

§ 5. RECORD OF CERTIFICATE. FEES.] Every holder of a certificate of registration as a dentist issued under the authority of this act, shall within ninety days after its issuance file the same for record in the office of the clerk of the district court in the county where the holder resides, and if he changes his residence to another county he shall file said certificate or a certified copy of the record thereof, in the office of the clerk of the district court of such county before practicing therein. The clerk's fee for recording a certificate or a certified copy thereof shall be 50 cents, and for issuing a certified copy \$1.00. The fee of the board for issuing a duplicate certificate shall be \$1.00. Every dentist in this state admitted to practice under former laws shall be subject to the provisions of this section; provided, that every such dentist must file his certificate as above provided within ninety days after this act goes into effect.

§ 6. RENEWAL OF CERTIFICATE. ANNUAL FEE. CERTIFICATE AS EVIDENCE.] No certificate or renewal thereof shall be valid for more than one year from and after the date of its issuance or renewal, and every registered dentist shall on or before the first day in July in each year, if he desires to have his certificate renewed pay to the board a fee of \$2.00 for the renewal of such certificate, and thereupon the board shall issue to him a renewal thereof. The board may, upon hearing and after twenty days notice revoke the license of any registered dentist, in case of default in the payment of such annual fee, but the payment thereof on or before the time of hearing, with such additional sum not exceeding \$5.00 as may be fixed by the board, shall excuse such default and entitle the holder to a renewal of his certificate. Such fee may be collected by the board by suit. All certificates and renewals thereof shall be prima facie evidence of the right of the holder to practice dentistry in this state during the period for which they were issued. Any person receiving such certificate or renewal thereof shall expose conspicuously the same in his place of business.

§ 7. POWER OF BOARD TO MAKE RULES. RECORDS.] The board shall have power to make reasonable rules and regulations for carrying into effect the provisions of this act. Three members shall constitute a quorum, but a smaller number may adjourn from time to time. The board shall keep full and complete minutes of its proceedings and its receipts and disbursements and a full and accurate list of all persons licensed and registered by it, and such records, together with a list of licensed and registered dentists, shall be public records and shall at all reasonable times be open to public inspection. Such records or a transcript of the same, or any part thereof, under the seal of the board, duly certified by the secretary thereof, shall be competent evidence of the facts therein stated. A certificate of the secretary under the seal of the board stating that any person is or is not a registered dentist shall be prima facie evidence of such fact.

§ 8. UNLAWFUL TO PRACTICE WITHOUT LICENSE. PENALTY FOR VIOLATION OF THIS ACT.] It shall be unlawful for any person to practice dentistry in this state without having a license so to do from the state board of dental examiners, evidenced by a certificate of renewal thereof as hereinbefore provided; or after the license of such a person has been revoked. Any person who shall practice dentistry in this state, either as a proprietor, employee or assistant, shall keep the annual renewal of his certificate in open view in his operating room. No dentist, proprietor, partnership, association or corporation, owning, running, operating or controlling any rooms or room, office or dental parlors, where dental work of any kind is done or provided for or contracted for, shall employ, keep or retain, contrary to the provisions of this act, any unlicensed dentist, or person doing, or attempting to do, any dental work. Any person guilty of a violation of any of the provisions of this act is guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than \$50.00 nor more than \$300.00 or by imprisonment in the county jail not less than ten days, nor more than thirty days, or by both, in the discretion of the court.

§ 9. PENALTY FOR FALSE PRETENSE.] Any person who shall knowingly or falsely claim or pretend to have or hold a certificate of registration, or renewal thereof from the state board of dental examiners, or a license to practice dentistry in this state, or who shall falsely or with intent to deceive the public, claim or pretend to be a graduate, from any dental college not being such graduate, or to be the holder of any diploma or degree, not being such holder, is guilty of a misdemeanor and upon conviction, shall be punishable as provided in section 8 of this act.

§ 10. REPEAL.] All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

Approved March 3, 1911.