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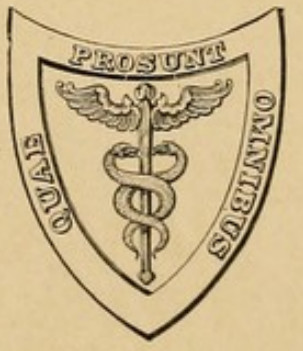
DENTAL JURISPRUDENCE

THE LAW RELATING TO DENTISTS AND THE PRACTICE OF DENTISTRY

BY

WILLIAM E. MIKELL

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PREFACE

THIS work is designed as a text-book for dental students, and as a manual of the law relating to dentistry for the practitioner in that profession. An increasing number of States are requiring by law a knowledge of dental jurisprudence as a prerequisite to the right to practise dentistry, and it has seemed to the author that to provide a work comprehensively affording such knowledge would serve a useful purpose. Dentistry is now recognized both by statutory law and judicial decisions as a specialty of medicine and surgery, and the same need, therefore, exists among dentists as among physicians and surgeons for an understanding of their legal relations. The book was not written with the object of making every dentist his own lawyer, but it is hoped that it will assist its readers of the dental profession to a clear understanding of their relations to their own profession, to their patients and to the State.

Chapter X contains the statutes of the United States, Great Britain, and their colonies governing the practice of dentistry. Most of these statutes are reprinted in full, but in a few cases sections not of immediate use or interest to dentists or dental students have been omitted. When omissions occur the subject matter of the omitted portions is indicated in the text.

W. E. M.

PHILADELPHIA, 1912.

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INTRODUCTION

THE opportunities of dental practice involve corresponding responsibilities which mutually affect the dental practitioner and the public whom he serves. In too many instances the first knowledge of these responsibilities is made evident to the dentist by an action at law in which he is reluctantly called upon to play the part of defendant; on the other hand, many instances also arise in which the obligations of the public to the dental practitioner are ignored to an extent that makes it necessary for him to have recourse to legal action in order to secure equitable adjustment of a proper claim.

The multiplicity of these instances has resulted in an accumulation of decisions which have established specific legal principles covering the mutual obligations and relations of the dentist and the public. It is the issues thus defined, together with the several statutory enactments governing dental licensure and practice, that collectively constitute dental jurisprudence.

The lack of a fair degree of knowledge of this specialized department of the law has been one of the conspicuous defects in the training of dental students for the practice of their profession. Besides the fact that the data constituting dental jurisprudence have only recently accumulated to a degree and extent sufficient to warrant its recognition as a

special department of law, the lack of a systematic treatise presenting the subject not as a collection of disjointed facts, but rather as a philosophic exposition of underlying principles, has been one of the main obstacles to the practical incorporation of dental jurisprudence as a part of the under-graduate curriculum in dentistry.

Professor Mikell's work adequately meets the need for such a text-book. A recognized authority in criminal law, he has made a special study of dental jurisprudence, bringing to his task not only a deep erudition, but also the experience of a skilled teacher. He has treated his topic from the viewpoint of the principles involved, and illustrated these principles with typical cases which have served to establish the legal precedents upon which the fabric of dental jurisprudence rests. The work is confidently recommended to teachers as a trustworthy text-book, and to the dental profession at large as a reliable reference work on the subject within its scope. It embraces an amount and character of information which, when included as part of the educational equipment of the dental practitioner, cannot fail to safeguard him from the unfortunate consequences of many acts in which from ignorance or inadvertence he may too easily become involved.

EDWARD C. KIRK.

DENTAL JURISPRUDENCE

CHAPTER I

STATUS OF THE DENTIST

PERHAPS a legal definition of dentistry has not yet been formulated. The statutes of some States imply that dentistry is a branch of medicine or surgery. Thus the statute of Michigan regulating the practice of medicine or surgery provides: "from practising medicine or surgery (*except dentistry*)." The definitions in some statutes of "practice of medicine" are broad enough to include the practice of dentistry, and *vice versa*. Thus the act of 1882 of Mississippi, section 20, provides that the words "practice of medicine shall mean to suggest, recommend, prescribe, or direct for the use of any person, any drug, medicine, appliance, or other agency, whether material or not material, for the cure, relief, or palliation of any ailment or disease of the mind or body, or for the cure or relief of any wound, fracture, or other bodily injury, or any deformity." Plainly the use of appliances for straightening teeth would come within this definition, as would treatment for pyorrhea. One statute, at least, in terms recognizes dentistry as a branch of medicine and surgery. The statute of Virginia of March 14, 1910, Acts of Assembly, 267, relating to dentistry, states in the preamble, "Recognizing that dentistry is a specialty of medicine and surgery; therefore—"

On the other hand, the provision of the law of Minnesota defining the practice of dentistry, viz., any person who shall "treat diseases or lesions of the human teeth or jaws, or

correct malpositions thereof," would certainly include the practice of surgery. Gilfillan, C. J., in State *v.* Vandersluis,[1] recognizes this when, after speaking of the right of the State to regulate the practice of medicine, he says: "The same reasons apply with equal force to the profession of dentistry, which is but a branch of the medical profession. There may be diseases of, and hurts to, and operations upon, the jaws that are within the legitimate profession both of the general surgeon and of the dentist."

So the Mississippi Court of Errors and Appeals has held that dentistry is a department of the medical art. In Whitcomb *v.* Reid[2] the question before the court was whether a dentist's instruments were exempt from execution under a statute exempting the "tools of a mechanic necessary for carrying on his trade." The court said: "We do not think that this provision can be extended to the description of instruments in question. A dentist cannot be properly denominated a 'mechanic.' It is true that the practice of his art requires the use of instruments for manual operation, and that much of it consists in manual operation; but it also involves a knowledge of the physiology of the teeth, which cannot be acquired but by a proper course of study; and this is taught by learned treatises upon the subject, and as a distinct, though limited, department of the medical art in institutions established for the purpose. It requires both science and skill; and if such persons could be included in the denomination of 'mechanics,' because their pursuit required the use of mechanical instruments and skill in manual operation, the same reason would include general surgeons under the same denomination, because the practice of their profession depends, in a great degree, upon similar instruments and operative skill.

"Nor could such a pursuit properly be said to be a 'trade.' That term is defined to denote 'the business or occupation which a person has learned, and which he carries on for procuring subsistence, or for profit — particularly a

[1] 42 Minn., 130 (1889).

[2] 31 Miss., 567 (1856)

mechanical employment, distinguished from the liberal arts and learned professions, and from agriculture.' (Webster's *Dictionary.*) It is manifest that a pursuit requiring a correct knowledge of the anatomy and physiology of a part of the human body, as well as mechanical skill in the use of the necessary instruments, could not be properly denominated a 'trade.'"

As this case recognized dentistry as a department of the medical art, so in State *v.* Beck[1] the court recognized it as a branch of surgery. Said the court: "Dentistry is now a well-recognized branch of surgery. A dentist is a dental surgeon. He performs surgical operations upon the teeth and jaw, and, as incidental thereto, upon the flesh connected therewith. His sphere of operation, then, as before intimated, is included in the larger one of physician and surgeon." So in People *v.* Phippen[2] the court said: "If the complaint had been for holding himself out to practise surgery there might have been some force in the objection, *as dentistry* may be said to be a branch of surgery, though upon this we express no opinion."

There are a few decisions that dentistry is not a branch or department of medicine or surgery. In State *v.* Fisher,[3] this conclusion is reached by a bare majority of four judges to three; and in People *v.* De France.[4] In the first case the question was whether the relator, a dental surgeon, was exempt from jury duty under the laws of Missouri. The statutes provided that persons actually exercising the functions of a practitioner of medicine were exempt. The majority of the court after pointing out the rule of law that "privileges and exceptions are not favored in the law," held that the relator was not "a practitioner of medicine and surgery in any of their departments."

Of course, it does not follow that because dentistry is a branch or department of medicine or surgery, that a dentist is necessarily a "surgeon" or "physician" within the meaning of the statutes using those terms. It must depend in

[1] 21 R. I., 288 (1899).
[2] 70 Mich., 6 (1888).
[3] 119 Mo., 344 (1893).
[4] 104 Mich., 563 (1895).

each case on the intent of the Legislature. This is shown in the case of People *v.* De France.[1] The question in this case was whether a dentist should be allowed to testify as to communications made to him by a patient. A statute forbade a surgeon or physician from so testifying. The court in holding that the act did not apply to a dentist said: "The purpose of the act is to be considered in determining whether the dentist was intended to be included within its terms—the prime object of the act was to invite confidence in respect to ailments of a secret nature. Certainly, the terms 'dentist' and 'surgeon' are not interchangeable, and if a dentist is to be held a surgeon within the meaning of the act, it must be because his business as a dentist is a branch of surgery. It is apparent that the act relates to general practitioners and to those whose business as a whole comes within the definition of 'physician' or 'surgeon.'"

So in North Carolina[2] it has been held that a dentist is not a "physician" within the meaning of a statute allowing a sale on Sunday of whisky on the prescription of a physician. The court said that the Legislature recognized the distinction between the dentist and the physician in providing for the regulation of the practice of each in different sections of the Code. In Iowa it has been held that an itinerant dentist is not an itinerant physician or surgeon.[3] The Supreme Court of Michigan has drawn a distinction between the mechanical and scientific work of the dentist. In Maxon *v.* Perrott[4] the court, in holding that a dentist's instruments were not exempt from execution under a statute exempting "mechanical tools," said: "A dentist is in one sense a professional man, but in another sense his calling is mainly mechanical, and the tools he employs are used in mechanical operations. . . . Of late, however, as the physiology of the human system has become better understood, and the relations of its various parts and their

[1] 104 Mich., 563 (1895). [2] State *v.* McMinn, 118 N. C., 1259 (1886).
[3] City of Cherokee *v.* Perkins, 118 Iowa, 405 (1902).
[4] 17 Mich., 332 (1868).

mutual dependence are more clearly recognized, dentistry has made great progress as a science, and its practitioners claim, with much justice, to be classed among the learned professions. It is, nevertheless, true that the operations of the dentist are still for the most part mechanical, and, so far as tools are employed, they are purely so; and we could not exclude these tools from the exemption which the statute makes without confining the construction of the statute within limits not justified by the words employed. The ordinary meaning of 'mechanical tools,' it is plain, will include those in question, and there is nothing in the context which will justify us in saying that the legislative design would exclude them."

Indeed, the courts are more concerned in trying to do justice and to interpret the legislation well than in making nice distinctions between "professions" and "trades," and "arts" and "sciences." They have not hesitated, when justice seemed to demand it, to hold that the practice of medicine was a "trade" and a physician a "tradesman." Thus in Woodfield *v.* Colzey[1] the question arose as to whether a physician was entitled to interest on a claim for his services. The statute provided that the accounts of "merchants, tradesmen, and mechanics" should have interest. The court in holding that the physician was entitled to interest under the statute said: "The word 'tradesman' does not, perhaps, ordinarily, cover physicians; but they have a trade, an art, a mystery. They usually give it a more dignified name, to wit, profession. One of the definitions of trade given by Webster is 'the business a man has learned by which he earns his livelihood.' And this, at last, is the point of the word."

[1] 47 Ga., 121 (1872).

CHAPTER II

THE RIGHT TO PRACTISE DENTISTRY

POWER OF THE STATE TO REGULATE PRACTICE

THE State has the right to regulate the practice of dentistry within its borders, and to prescribe such reasonable conditions as a prerequisite to the practice as are calculated to exclude from the profession those who are unfitted to discharge its duties.[1]

In England, Parliament, being supreme, may prescribe what conditions it pleases as a prerequisite to the right to practise. In the United States the right to practise is regulated by the State Legislatures, and while their power to prescribe conditions is large, it is limited by and must be exercised in conformity with the constitution of the State and of the Federal Government. As said by the court in Wilkins *v.* State:[2] "The courts must take judicial knowledge that it [the dental profession] is a profession requiring skill . . . and that one unskilled in the profession may injure the person who employs him. As this is so, then, the Legislature may prescribe the qualifications of those permitted to practise that profession. . . . As it has plenary power of the whole subject, it alone must be the judge of what is wise and expedient, both as to the qualifications required and as to the method of ascertaining those qualifications. The courts cannot exercise any supervisory power over the Legislature as long as it keeps within the limits of the constitution." It is within those limits "if the regulations and conditions it prescribes are adopted in

[1] State ex rel. Smith *v.* Dental Examiners, 31 Wash., 492 (1903).
[2] 113 Ind., 514 (1887).

good faith, and they operate equally upon all who may desire to practise, and who possess the required qualifications, and if they are adapted to the legislative purpose of promoting the health and welfare of the people by excluding from the practice those who are ignorant and incapable."[1]

If these conditions are fulfilled by the law it is not unconstitutional, though the conditions it imposes on those desiring to practise are rigorous, impolitic, and unjust.[2] The requirement of a diploma as a condition of the right to practise does not render the law unconstitutional.[3]

Nor does the fact that the law requires the possession of a diploma, as a condition of being allowed to practise, by those not practising in the State at the time the law was enacted, while allowing those persons to practise without a diploma who were practising in the State at the time the law was enacted, render the law unconstitutional as conflicting with sec. 2, Art. IV, of the Federal Constitution providing: "The citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States;" or with sec. 1 of the 14th amendment of the Constitution providing: "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States."[4]

Nor is an act unconstitutional as "depriving a person of the right to follow a lawful occupation; or as making it a crime to pursue a lawful occupation; or as depriving a person of natural rights; of social rights; or of property; without due process of law," which provides that a person practising dentistry in the State at the date of the passage of the law shall be guilty of a misdemeanor if he does not cause his name to be registered with a board of examiners within three months of the passage of the act.[5]

Neither is a statute empowering a board of examiners to grant permits to practise dentistry, which statute does not

[1] State *v.* Creditor, 44 Kan., 565 (1890). [2] Ibid.
[3] State *v.* Vandersluis, 42 Minn., 129 (1889); State *v.* McIntosh, 205 Mo , 589 (1907).
[4] Ibid.
[5] Gosnell *v.* State, 52 Ark., 228 (1889).

provide for an appeal from the decisions of the board, unconstitutional as not affording "due process of law."[1]

A statute providing for the appointment of the board of dental examiners by the State Dental Association is not in violation of a constitutional provision forbidding "the granting of privileges which shall not upon the same terms equally belong to all citizens."[2]

A statute requiring an examination of all persons who desire to practise dentistry, and providing that any person who practises without being registered and obtaining a certificate, etc., shall be guilty of a misdemeanor, is not unconstitutional as "depriving a person of life, liberty, or property, unless by the judgment of his peers, or the law of the land," as to one practising dentistry before the passage of the law.[3]

Nor does said law conflict with a constitutional provision vesting all legislative power in a Legislature.[4] Nor does said law, as applied to a non-resident dentist coming into the State, conflict with the federal constitution, Art. 4, sec. 2, declaring that the citizens of each State shall be entitled to all the privileges and immunities of citizens of the several States; or with sec. 1 of the 14th amendment, providing that no State shall make or enforce any law which abridges the privileges or immunities of citizens of the United States. Nor does such law as applied to a non-resident dentist holding a certificate from another State, conflict with Art. 4, sec. 1, requiring full faith and credit to be given in each State to the public acts, records and judicial proceedings of every other State.[5]

Nor does such law conflict with sec. 1 of Art. 14 of the Amendments to the federal constitution, as depriving a dentist licensed in another State and desiring to practise in the State where the act is in force, of his liberty or property without due process of law.[6]

Some statutes after defining dentistry and prohibiting

[1] Ferner *v.* State, 151 Ind., 247 (1898).
[2] Ibid.
[3] State *v.* Rosenkrans, 75 Atl., 491 (R. I.) (1910).
[4] Ibid.
[5] Ibid.
[6] Ibid.

persons from practising unless licensed, except from the operation of the law students of dentistry during the period of enrolment in a dental college in the State.[1]

Such provisions are not unconstitutional as being arbitrary measures for the benefit of dentists; nor as giving a preference to schools of dentistry within the State as against those out of it.[2]

Neither is a statute void for unlawful discrimination, which allows students of dentistry, who have no diploma, to operate upon the teeth and jaws during the period of their enrolment in a dental college, and excluding others.[3]

The statute, however, to be constitutional, must not impose special restrictions or burdens on, or grant special privileges to some persons over others engaged in the same profession, under the same circumstances. Under this rule it has been held that a statute providing that no person should practise dentistry without having obtained a degree from some college, or a license from the State Dental Society, and imposing a certain fee, but exempting persons who have resided and practised the profession in the town or city of their present place of residence, for a specified time, was unconstitutional as unduly discriminating between persons of the same class.[4]

A statute is not unconstitutional which requires good character as a condition to the right to practise; or which lodges the power to determine the person's moral fitness in a legally constituted body of men learned in the profession.[5]

REQUIREMENTS OF STATUTES REGULATING PRACTICE

1. **In General.**—Statutes vary in the conditions they impose on the right to practise dentistry. The most usual form of statute provides as a prerequisite to the right to

[1] See statutes, post, p. 186.
[2] State *v.* Vandersluis, 42 Minn., 129 (1889).
[3] Ibid.
[4] State *v.* Hinman (N. H.), 18 Atl., 194 (1889).
[5] See State *v.* State Medical Board, 32 Minn., 324 (1884).

engage in practice: (1) The possession of a diploma. (2) The passing of a satisfactory examination. (3) Proof of good moral character. (4) Receipt of a license from the board of examiners. (5) Registry of the license with the proper officer. (6) Payment of a stated fee. Some statutes do not require the passing of an examination if the applicant possesses a degree; others do not require a degree if the applicant passes a satisfactory examination.[1]

2. **License to Practise. Powers of the Dental Board.**—The State may require of all persons who practise dentistry in the State that they conform to reasonable regulations such as the obtaining of a diploma, license, etc., whether the person practising had, previous to the act, been engaged in practice or not. Many statutes, however, make exceptions in favor of persons who before the passage of the act were engaged in practice. Where an exception is made of persons who before the passage of the act have "been engaged in the practice of dentistry" such exception applies only to one actually engaged in practice in the State. It is not enough that he was in the State, and entitled to practise.

In Sherburne *v.* Board of Examiners[2] the statute of Idaho provided: "It shall be unlawful for any person who is not at the time of this act engaged in the practice of dentistry in this State, to commence such practice," etc. The act went into effect on February 16, 1899. One X, who was practising dentistry in Montana, desiring to practise in Idaho, went into Idaho on February 8 and there opened a dental office. He remained there until February 16, on which day he sent in his application for a certificate entitling him to practise. On the same day X left Idaho and returned to his former place of practice in Montana, where he remained until 1903. The board refused to issue a certificate to X, and the court practically held that the facts did not show that X had been engaged in the practice of dentistry in Idaho, and that therefore the board was justified in its refusal to issue a certificate to him.

[1] See statutes of the different States, post, p. 186.

[2] 13 Idaho, 105 (1907).

Not only must one be actually, he must also be lawfully engaged in practice.

Thus in State *v.* Dental Examiners,[1] X applied to the Board of examiners to be licensed and registered as a dentist. He had no diploma but claimed this right under an exception to the statute of the State, providing that the section of the law requiring a diploma should not apply to "persons engaged in the practice of dentistry" at the time of the passage of the act. X had been engaged in practising dentistry for five years previous to the passage of the act, but without conforming to the requirements of an act that was in force during those five years. The board refused to issue a license to him. On his appeal to the court, the court sustained the action of the board. The court said: "What was it to practise dentistry under the law of 1893? (the law that was in force during the five years X was practising). It was to pursue a lawful vocation in the manner prescribed by statute. The daily commission of a misdemeanor for five continuing years by violating the law of 1893, as appellant admittedly did, was not practising dentistry, although he may have performed some acts which dentists perform, and called it practising dentistry. The amending section must be held to refer to the practice of dentistry as it was then recognized by law. Appellant contends that, in order to give the statute the effect we have stated above, the word 'lawfully' must be read into it. We do not intend to read into the statute anything that is not already there. But it is our duty to ascertain as fully as possible the spirit of the law from the words used, and we think we should presume in this connection that, when the Legislature used the words 'persons engaged in the practice of dentistry,' it did not intend to include in that class persons who had never complied with existing law entitling them to engage in such vocation, and who had furthermore openly and continuously violated the law. The persons exempted from the examination were those who had complied with the law, for they

[1] 31 Wash., 492 (1903).

were the only ones practically practising dentistry, as that term must be construed in the light of lawful regulations. Appellant was not included in that class, was not exempt from examination, and was not entitled to be registered as he demanded."

Under such provisions the burden of proving that the applicant has been engaged in practice for the requisite length of time is on the applicant; and when the statute provides that the applicant shall make an affidavit that he has been engaged in practice, and that on the filing of such affidavit the board shall issue to him a certificate entitling him to continue to practise, such affidavit is only *prima facie* evidence of the facts it states, and the board may investigate the actual facts, and may refuse to grant the certificate if it finds the facts not in accord with the affidavit.[1]

Most States vest the power of determining whether the candidate possesses the requirements entitling him to a license to practise, in a board usually known as the Board of Examiners. If this board determines that he possesses the requirements fixed by the law, it is made the duty of the board to issue a license to the applicant. The functions of the Dental Board in granting or refusing a license is in whole or in part quasi-judicial, involving investigation, judgment and discretion, therefore an action for damages will not lie against such board for refusing to grant, or for revoking, a license wrongfully, if in so doing they acted without malice.[2]

Where the law provides that the possession of a diploma of a "reputable dental college," or "a college in good standing," shall be a requisite to the issuance of a license by the board, the board has power to decide what is, and what is not a reputable college, or a college in good standing, and whether the college whose diploma the applicant holds is or is not such a college.[3]

[1] Shelburne *v.* Board of Examiners, 13 Idaho, 105 (1907).

[2] People *v.* Dental Examiners, 110 Ill., 180 (1884); State *v.* Chittenden, 127 Wis., 468 (1906).

[3] People *v.* Dental Examiners, 110 Ill., 180 (1884).

The term "reputable" in dental law, "relates to that which will enable the college to do good work and the actual accomplishment thereof; it is separate and distinct from the other requisites as to a diploma being a passport to the favor of the official board as regards the issuance of a license. It may or may not exist, and all the other requisites be present."[1]

The determination by the board of the question whether or not a dental school is a "reputable" school, or a school "in good standing" is final, and will not be reviewed by the courts unless the board is clearly shown to have abused its discretion in the matter, or to have been guilty of arbitrary, oppressive or malevolent conduct.[2] Thus if it is shown that a majority of the members of the board are instructors in a particular college, and are making use of their power as members of the board to build up their own institution and crush out a rival, the court will review the decision of the board as to the reputability of the college, or the issuance of such license by the board.[3]

A board of dental examiners may make any reasonable rules and regulations they see fit by which to determine whether or not a dental school is "reputable," or in "good standing." They cannot delegate the right to decide whether a college is reputable or not to a dental organization beyond the limits of the State. Thus in Dental Examiners *v.* People,[4] the board of examiners refused to issue a license to an applicant until his application was approved by the National Association of Dental Examiners, an association composed for the most part of persons living outside of the State. The State board having been shown to have been otherwise satisfied with the reputability of the college of which the applicant held a degree, the court granted a writ of mandamus to compel the State board to issue the license.

As the board, however, has power, when no rules are

[1] Marshall, J., in State *v.* Chittenden, 127 Wis., 468 (1906).
[2] Williams *v.* Dental Examiners, 93 Tenn., 619 (1894).
[3] Dental Examiners *v.* People, 123 Ill., 227 (1887).
[4] 123 Ill., 227 (1887).

prescribed by statute for determining the reputability of a college, to make any reasonable rules to determine this question, the fact that a State board adopts the rules of a dental organization outside of the State, and is in a large part governed by its recommendations in determining the reputability of colleges, is no ground for the interference of the court, when it appears that the board was not absolutely bound by the rules of the foreign association, but could, in their discretion, require more or less of a college than the foreign association demanded.[1]

It would seem that while the board of examiners may make any reasonable rules they please by which to determine whether a school is "reputable" or "in good standing," the rules they adopt must have reasonable reference to the question to be determined. It cannot, for example, make the question of good standing depend on the fact whether or not a college has furnished to the board by a certain day a list of its matriculates and the basis of their matriculation, at least where the evidence shows that the applicant graduated before the college received notice of this requirement by the board.[2]

A State board of examiners empowered by law to determine the reputability of a dental school may adjudicate the status of any school of which it has jurisdiction, either on its own motion, or on the petition of the school,[3] and when the board has once adjudicated the status of such school such adjudicated status is presumed to continue until such presumption shall have been reasonably rebutted.[4]

The law for the regulation of dentistry does not, however, authorize the board to invade the private affairs of a dental college, in respect of its rate of tuition, or whether it shall grant concessions from its advertised rates of tuition, or by taking charge, without the consent of the college, of its entrance examinations.[5]

The burden of proving that a dental school is "reputable,"

[1] Williams *v.* Dental Examiners, 93 Tenn., 619 (1894).
[2] State *v.* Lutz, 136 Mo., 633 (1896). [3] State *v.* Chittenden, 127 Wis., 468 (1906).
[4] Ibid. [5] Ibid.

or "in good standing" is on the person applying for a license on a diploma from a school he claims is within this class.[1]

All the statutes regulating the practice of dentistry do not commit to the board of examiners discretion in determining what diplomas shall be accepted. Some of the statutes provide that a license shall be issued to any person who files with the board a diploma from a dental college "duly authorized by the laws of this State, or some other of the United States, or a foreign country." In the administration of such a statute, the board has no discretion to refuse a certificate to an applicant who properly possesses and presents a diploma from a dental college authorized by law to issue the same. The diploma is made by the statute conclusive evidence of the qualifications of the applicant, and on presentation of such a diploma the board must issue the certificate.[2]

The board has, however, the right to ascertain whether the college issuing the diploma was one authorized by law so to do, and the burden of proving that it was such a college is on the applicant.[3]

When a person applies for the right to practise on presentation of a diploma, he must satisfy the board that the diploma is genuine, and that he is the person named in the diploma. The burden of proving these facts is on the applicant.[4]

When the statute provides that the board of examiners may waive an examination under certain circumstances, it is within the discretion of the board whether they will waive the examination or not; the statute is not mandatory.[5]

To entitle the applicant to a license he must bring himself within all the provisions of the act. Thus, in the case last cited the statute of New Jersey provided: "The board may, without requiring an examination, license any applicant

[1] State *v.* Chittenden, 127, Wis., 468 (1906).

[2] Smith *v.* State Board of Dental Examiners (Ky.), 67 S. W., 999 (1902).

[3] Ibid.

[4] Ibid.

[5] Saxenmeyer *v.* State Board of Registration and Examination in Dentistry (N. J.), 75 Atl., 175 (1910).

who shall furnish satisfactory proof to the board that he has been licensed after examination, to practise dentistry in any State after full compliance with the dental laws of such State, and that this professional education is not less than that required in this State." In this case the applicant filed with his application a certificate of the dean of a reputable dental school of a neighboring State, that the applicant had received from such school a diploma conferring on him the degree of Doctor of Dental Surgery, which was endorsed by the secretary of the Board of Examiners of the State in which the dental school was located. This entitled the applicant to practise in that State without examination. The Board of Examiners of New Jersey having refused to issue a license to the applicant, he applied to the court to compel them to do so. It was held by the court that as the applicant had not "been duly licensed after examination," to practise in the neighboring State, he was not entitled to practise under the New Jersey statute.[1]

When the statute makes it a prerequisite to the right to a license that the applicant shall be of good moral character, and provides that on proof of conviction of a misdemeanor a license granted shall be cancelled, the board of examiners may refuse to grant a license to a person who has been convicted of practising dentistry in the State without a license.[2]

3. **Registration.**—After the dentist has obtained his license from the dental board, the next step required by the law is the registration of such license. The language of the statutes providing for registration is not identical. Some statutes provide that the license shall be registered within sixty days from the issuance thereof, some within thirty days, and others are silent as to the time within which registration shall take place.[3]

The statutes vary, likewise, in their provisions as to the place where and the officer with whom the license must be registered. Some provide that it shall be registered in the

[1] See also Battles *v.* Board of Registry in Dentistry, 16 R. I., 372 (1888).

[2] Ibid.

[3] See statutes, post, p. 186.

county where the person to whom it is issued resides; others that it shall be registered in the county in which the holder expects to practise; some require it to be registered with the judge of probate, others with the clerk of the county.[1]

Some require separate registration in each county in which the holder of the license intends to practise; and provide for duplicate, etc., registration. It is not clear always from the wording of some of the statutes, nor do the decisions make it any clearer, whether under the statute the license once registered in the proper place entitles the holder to practise any where in the State, or whether the license must be registered anew in each county where the holder does any dental work. The statutes generally provide that if the license is not registered within the time prescribed, the license shall be forfeited. Statutes containing this provision usually provide that a duplicate may be obtained in some cases with and in others without an additional fee.[2]

Thus in Ege *v.* Commonwealth,[3] a physician was indicted under a statute that provided (1) that physicians should register in the county "in which he or she resides or sojourns." And (2) that any person who should "practise" medicine without conforming to the requirements of the act should be guilty of a misdemeanor. The defendant was registered in X county where he resided. He went at regular intervals to Y county for the double purpose of seeing patients who had previously consulted him in X county, and of attending such patients as might come to him for the first time in Y county. For meeting such persons he had an office in Y county of which he gave public notice. Whenever he was in Y county he attended all persons who consulted him, and made charges for such attendance. The court held that he was "practising" medicine in Y county, and also that he was a "sojourner" there; that as a sojourner he was obliged to register, and as he practised without registering he was liable to the penalty provided by the act.

[1] See statutes, post, p. 186.

[2] For liability for unlawfully practising, see Liability to State, post, p. 186.

[3] 9 Atl. (Pa.), 171 (1887).

It has been held in New York,[1] that the statute requiring a person to register in the county where he is practising or intends to commence practice, requires only that the person register once at the place where he intends to practise, and that once registered he may legally practise anywhere in the State without re-registering.

In view of the uncertainty of the law in this regard under the phraseology of many of the statutes, and the serious consequences involved in its breach, a dentist should always register in each county where he does any dental work; unless the statute clearly provides that registry in one place entitles him to practise anywhere in the State.

4. **Revocation of License.**—Most of the statutes regulating the practice of dentistry provide for revocation of the dentist's license. In some of the statutes the grounds on which the license may be revoked are specifically set out in the statute.[2]

In others the grounds of revocation are not set out in detail, but it is provided generally that it may be revoked for dishonorable or unprofessional conduct. Under similar statutes in relation to physicians, it has been held in the United States that "unprofessional" means "dishonorable," and does not refer to matters of professional ethics only; and that a mere breach of professional ethics, such as advertising, etc., is not ground for revoking a license.[3]

The English Dentist's Act in providing for the erasing of a dentist's name from the registry list, uses the words "disgraceful conduct in a professional respect." The question what is such conduct has been passed upon several times by the English courts.

In Partridge *v.* General Council of Medical Education and Registration,[4] it appeared that a dentist had as a prerequisite to obtaining his diploma from the Royal College of Surgeons, declared that he would not attempt to attract business by advertising or by any practice considered by the college

[1] 55 Hun., 474 (1890).
[2] See statutes. post, p. 186.
[3] See State *v.* State Medical Examining Board, 32 Minn., 324 (1884).
[4] 57 J. P. (Eng.), 4 (1892).

to be unbecoming. Later he did advertise, whereupon the council erased his name from the registry list. On appeal the court of appeal held that the facts were sufficient to justify the council in erasing his name on the ground of "disgraceful conduct in a professional respect."

In Allison *v.* General Council of Medical Education and Registration,[1] the plaintiff, a physician, filed a bill to restrain the council from allowing his name to remain struck off the medical register. His name had been struck off by the council for "infamous conduct in a professional respect." It was proved that the physician had published a great number of advertisements in newspapers, which contained reflections upon medical men generally and their methods of treating their patients, and advised the public to have nothing to do with them and their drugs. The advertisements also recommended the public to apply for advice, and stated his address and the amount of the fee which he charged. The court refused to compel the restoration of his name to the register. Lord Esher, M.R., said: "Was there, then, any evidence which justified the council in finding the plaintiff guilty of 'infamous conduct in a professional respect?' I adopt the definition which my brother Lopes has drawn up of at any rate one kind of conduct amounting to 'infamous conduct in a professional respect,' viz.: If it is shown that a medical man in the pursuit of his profession has done something with regard to it which would be reasonably regarded as disgraceful or dishonorable by his professional brethren of good repute and competency, then it is open to the General Medical Council to say that he has been guilty of 'infamous conduct in a professional respect.' The question is not merely whether what a medical man has done would be an infamous thing for anyone else to do, but whether it is infamous for a medical man to do. An act done by a medical man may be 'infamous,' though the same act done by anyone else would not be infamous; but,

[1] 1 Q. B., 750 (Eng.), (1894). In G. *v.* College of Dental Surgeons of British Columbia, 14 B. C. R., 129, it was held that a license was properly revoked on proof of flagrantly immoral relations between a dentist and his office staff.

on the other hand, an act which is not done 'in a professional respect' does not come within this section. There may be some acts which, although they would not be infamous in any other person, yet if they are done by a medical man in relation to his profession, that is, with regard either to his patients or to his professional brethren, may be fairly considered 'infamous conduct in a professional respect,' and such acts would, I think, come within S. 29. I adopt that as a good definition of at any rate one state of circumstances in which the General Medical Council would be justified in finding that a medical man has been guilty of 'infamous conduct in a professional respect.' Was there, then, evidence in the present case of such conduct? It seems to me that this question must be solved thus. Taking the evidence which was before the Medical Council as a whole, did it bring the plaintiff within the definition which I have read? Was the evidence, taken as a whole, reasonably capable of being treated by the council as bringing the plaintiff within that definition of 'infamous conduct in a professional respect?' I cannot doubt that it was. It seems to me that it may be fairly said that the plaintiff has endeavored to defame his brother practitioners, and by that defamation to induce suffering people to avoid going to them for advice, and to come to himself, in order that he may obtain the remuneration or fees which otherwise he would not obtain. If, on the whole, that which he has been doing could be reasonably construed as amounting to that, it comes, in my opinion, within the definition I have read, and the council were justified in saying that the plaintiff had been guilty of 'infamous conduct in a professional respect.' The second ground of objection, therefore, also fails, and in my opinion the judgment of Collins, J., was right, and the appeal must be dismissed."

In 1907 the Dental Board of New South Wales passed the following resolution: "Whereas, it has from time to time been made to appear—that some registered dentists have, with a view to their own gain, and to the detriment of other practitioners, been in the habit of issuing or sanctioning

the issue of advertisements of an objectionable character, or of issuing titles that are either not recognized or not registered with the board, or of employing or sanctioning the employment of agents or canvassers for the purpose of procuring persons to become their patients—. The board hereby gives notice that any registered dentist resorting to such practices thereby renders himself liable to be charged under the 9th section of the Dentist's Act, 1900, with infamous conduct in a professional respect."[1]

In some States such statutes have been held to be unconstitutional and void for uncertainty.[2]

In the last-cited case the court said: "Unprofessional or dishonorable conduct, for which the statute authorizes the revocation of a license that has been regularly obtained, is not defined by the common law, and the words have no common or generally accepted signification. What conduct may be of either kind remains, as before, a mere matter of opinion. In the absence of some specification of acts by the law-making power, which is alone authorized to establish the standards of honor, to be observed by persons who are permitted to practise the profession of medicine, it must in respect of some acts, at least, remain a varying one, and shifting with the opinions that may prevail from time to time in the several tribunals that may be called upon to interpret and enforce the law."

Some statutes provide that the license to practise may be revoked for "fraud, deceit, or misrepresentation" in the practice of dentistry. Such a statute, it has been held, is not invalid for uncertainty. The word "fraud" means an intentional perversion of truth to induce another in reliance on it to part with some valuable thing belonging to him, or to surrender a legal right; the word "deceit" means any trick or contrivance used to defraud another to his injury; and the word "misrepresentation" means untrue, improper, or unfaithful representation; such as a false statement of

[1] Bignold, Australasian Dental Jurisprudence, 21.

[2] Czarra *v.* Board of Medical Supervisors, 25 App. Cas. (D. C.), 443 (1905).

accounts.[1] Under such a statute the board of examiners have power to revoke the license of a dentist who by false advertisements as to the cost of a set of teeth, as to re-enameling teeth, or making teeth without bridges or plates, curing pyorrhea, etc., intended to make the public believe that they would get something different and better than they actually received from him, and something different and better than they would receive from other dentists, and who by means thereof procured money from patients.[2]

It has been held in England[3] that the licensing board having placed the name of a regularly qualified dentist on the registry list, has no right to erase his name merely because the college that originally granted him his diploma, has subsequently withdrawn such diploma, the causes for which they may erase names being specified in the act creating the board, and the withdrawal of a diploma not being one of the causes so specified.

The board intrusted by law with the power to revoke licenses is not precluded from revoking a license by the fact that the same charges on which the license was revoked had once before been passed upon by them and not sustained. Nor by the fact that the holder of the license had been tried in a criminal court on the same charges and acquitted.[4]

A license once granted cannot be revoked without an opportunity given the holder, by timely notice, to appear and defend himself against the charges preferred against him.[5]

But the decision of the board, after a proper hearing, that the dentist is guilty of professional misconduct is not reviewable by a court, at least if there is any evidence on which the Dental Board could reasonably hold that the dentist had been guilty of such conduct.[6]

The order of a dental board striking off the name of a

[1] State *v.* Purl, 128 S. W. (Mo.), 196 (1910). [2] Ibid.

[3] Ex parte Partridge, 19 Q. B. D., 467 (1887).

[4] In re Smith, 10 Wend. (N. Y.), 450 (1833).

[5] People *v.* McCoy, 125 Ill., 289 (1888); see also Partridge *v.* General Council of Medical Education and Registration (Eng.), 25 Q. B. D., 90 (1890).

[6] Hill *v.* Clifford (Eng.) (1907), 2 Ch. 236; Allison *v.* General Council of Medical Education and Registration (Eng.), 2 Q. B. D., 750 (1894).

dentist from the Register of Dentists for conduct "disgraceful in a professional respect" is admissible in a civil suit as *prima facie* evidence that the dentist was guilty of such conduct.[1]

The decision of the General Council in England that a dentist has been guilty of "infamous or disgraceful conduct in a professional respect," and the erasing of his name from the register has the effect of preventing such dentist from using the name or title of "dentist" or of "dental practitioner" or of any description implying that he is registered, or is a person specially qualified to practise dentistry, and of preventing him from recovering any fee for the performance of any dental operation, attendance, or advice.[2]

EFFECT OF FULFILMENT OF REQUIREMENTS

If the applicant for the right to practise dentistry has fulfilled the legal requirements, he is entitled to practise, and it is immaterial, so far as his right to practise is concerned, how well he has met the tests prescribed by the law. The ability shown by him, however, in meeting these tests, may subsequently become of great importance to him. In the case of Wilkins *v.* Ferrell,[3] a dentist was sued by a patient for malpractice. The dentist had offered evidence to prove his skill and learning in his profession. The plaintiff thereupon offered to prove by two of the members of the board of dental examiners that the defendant, when he was examined for his license, a year previous, was unable to answer questions propounded to him in anatomy, physiology, and chemistry; that he could not explain what the superior and inferior maxillary bones were, and said, in treating an exposed pulp, he "would kill the damn thing;" that he could not tell the number of bones in the head or skull, and could not name the nerves in the head and face. The defendant objected to the court's allowing this evidence to go to the jury. The court, however, admitted it and, on appeal, the supreme court held that the lower court was right.

[1] Hill *v.* Clifford (Eng.) (1907), 2 Ch. 236. [2] Ibid.
[3] 10 Tex. Civ. App., 231 (1895).

CHAPTER III

RELATION BETWEEN THE DENTIST AND HIS PATIENT

TIME AT WHICH THE RELATION COMMENCES

THE mere opening of the dentist's office for practice, or the display of his name plate, does not create any duty on the part of the dentist or impose any obligation on him to accept patients. He is no more required to accept any person who comes to him as a patient than is a physician.[1]

He may refuse to accept any person as a patient with or without reason, and does not thereby render himself liable to such person or to the law.

It is not until he accepts a person as a patient that his duties and the corresponding obligations arise.[2]

THE CONTRACT OF EMPLOYMENT

1. **In General.**—The rights and obligations that arise out of the relation between the dentist and his patient are (in the main) the result of a contract between them. This contract may be written or oral, express or implied.

There is no peculiar sanctity annexed by our law to written over oral contracts. In general one is as valid and binding in all respects as the other. The principal advantage of a written over an oral contract lies in the fact that the terms of the written contract are more easily proved than those of an oral one; the latter, lying as they must in the recollection of the parties, are liable not only to be misunderstood or forgotten, but distorted.

[1] Becker *v.* Janinski, 15 N. Y. Suppl., 675 (1891).

[2] Huley *v.* Eddingfield, 156 Ind., 416 (1900); see post, Malpractice.

The contract between the dentist and his patient being of a personal nature, it is subject to the implied condition that the parties to the contract shall be in such a state of health as to be able to perform their contract when the time for the performance arrives.[1] If, therefore, the dentist contract to treat a patient on a certain day, and on that day he is too ill to do so, he is not liable for breach of his contract. Of course, in such a case the patient is not required to wait for the treatment until the dentist recovers, he may seek another dentist.

2. **Contracts Required to Be in Writing.** — By force of a statute passed in England in 1677, known as the Statute of Frauds and Perjuries, because it was intended to prevent the commission of frauds and perjuries, certain contracts unless in writing could not be enforced at law unless there had been part payment, under them, etc.

The statute provided that "no contract for the sale of any goods, wares, and merchandises for the price of ten pounds sterling or upward, shall be allowed to be good except the buyer shall accept part of the goods sold, and actually receive the same, or give something in earnest to bind the bargain, or in part of payment, or that some note or memorandum in writing of the said bargain be made and signed by the parties to be charged by such contract, or their agents thereto lawfully authorized." This statute is still in force in England and a substantially similar statute is in force in all the American States except Alabama, Arizona, Delaware, Illinois, Kansas, Kentucky, Louisiana, New Mexico, North Carolina, Ohio, Pennsylvania, Rhode Island, Texas, Tennessee, Virginia, and West Virginia. In the other States, where the statute is in force, the amount prescribed by the statute varies in the different States.

At first sight this statute would not seem to come within the scope of this work, since the statute applies only to the sale of goods, and dentists do not, in the ordinary acceptation of the term, make a "sale" of goods. In construing the

[1] Powell *v.* Newell, 95 Minn., 406 (1894).

meaning of the term "sale" as used in the statute, however, some courts have arrived at a meaning of that term which renders the statute of importance to dentists.

In the case of Lee *v.* Griffen,[1] the plaintiff, a dentist, in pursuance of an oral order from his patient, prepared a model of her mouth, and made for her two sets of false teeth. After the teeth were finished, and she was notified of the fact, she died before she could have the teeth fitted. The dentist sued her estate, through her executor, for £21, the compensation she had agreed to pay for the teeth. If this transaction was a "sale" of teeth by the dentist, then since the contract had not been put in writing, he was not entitled to recover under the statute. If it was, on the other hand, a contract to do a certain piece of work, to perform certain services, then the plaintiff was entitled to recover, for the statute only applies to "sales."

The court held the transaction to be a "sale," and refused to allow a recovery. The court laid down the following test of when a transaction is a sale, and required to be in writing: "If the contract be such that, when carried out, it would result in the sale of chattel," it is a sale; "but if the result of the contract is that the party has done work and labor which ends in nothing that can become the subject of a sale," the party can recover whether the contract is in writing or not. The rule of this case has been adopted in Canada and Missouri.[2] Tests different from the above and differing from each other have been adopted in the different American States. It is believed that under none of them, except in Missouri, would a contract by a dentist to make a set of teeth be required to be in writing; though under the rule in most States a contract to furnish a set of teeth out of a stock of teeth in hand would not be binding unless in writing; and in many States a contract to adapt a set of teeth already made, although considerable work was necessary in the adaptation, would need to be in writing to render the contract valid.

[1] (Eng.), Best and Smith, 272.

[2] Williston, Sales, sec. 54.

Even in these latter cases, if the teeth were received and accepted by the patient, or if all or part of the price had been paid,[1] the contract would be binding though not in writing.

Even when in the above cases the contract must be in writing, all the terms of the contract need not appear in the writing. It is sufficient if the names of the parties, the price and the substance of the agreement appear in the writing, and it is signed by the party who is being sued.

Of course, the law requiring certain contracts to be in writing does not apply to such professional services as treating or filling teeth or administering gas. The dentist does not "sell" the gold with which he fills a patient's tooth, even though he includes its cost in his bill for his services, any more than the physician "sells" the chloride of gold used by him in administering the "gold cure." These contracts are just as valid when made orally as when they are in writing.

Another contract that the law will not enforce unless it is in writing, is a contract of one person to answer for the debt or default of another. If a person should request a dentist's services and another person should promise to pay for these services if the patient did not, such a promise would not bind the person promising unless it were in writing signed by such person or his agent.

3. **Express Contracts.**—The dentist may enter into an express contract with his patient. Such contracts are becoming more common than formerly. An express contract is made when a dentist agrees to perform certain services for a specified compensation, as when he agrees to extract a certain tooth, or to straighten teeth, for a certain sum, such a contract may be but need not be in writing unless it is for work of the character treated above under written contracts. Under such a contract as this the dentist must perform the promised services and is entitled to the promised compensation. No matter how much work his promise may unexpectedly entail, or how much skill and

[1] Some States require this payment to be at the time the contract is made if payment is relied on to make the contract valid.

time it may require, he can claim no more compensation than that agreed on. So if under such express contract, he perform other or more work than that agreed on, he can claim no extra compensation therefor. If by mistake he extract the wrong tooth, he cannot charge therefor, even though the tooth extracted required extraction more than the other. So if working under such express contract for a definite piece of work, it should become necessary to administer ether to the patient, and while operating he should discover that work other than that agreed upon was imperatively necessary, he could not recover compensation for such other work if he should perform it. If the dentist agrees to perform services extending over a space of time—as straightening teeth—for a definite sum, he is, of course, obliged to perform the work even though it requires more time than he had supposed, and he can only claim the agreed sum for his services. As under such a contract the dentist can claim no more than was promised him, so the patient is likewise strictly bound by the terms thereof. If the service agreed on is performed the patient must pay the agreed compensation, even though he does not obtain the expected benefit or even though he suffer actual detriment, provided the service was performed with proper skill. If he contract to have a particular tooth extracted, he must pay the agreed compensation therefor even though he, by mistake, indicated and suffered the extraction of the wrong tooth.

The contract may be express though its terms are not so specific as those given in the above illustrations. The patient may agree to pay so much per hour, either for a given number of hours, or for the number of hours of work needed on his teeth or mouth. If he promise to pay so much per hour for a given definite time he is bound to present himself for treatment for that length of time unless the work is finished before the time agreed on has expired. If he does not present himself he is not necessarily, however, liable to the dentist for the whole compensation agreed on. He is, of course, liable under his contract for the agreed price per hour for the actual number of hours of work performed.

If not only the number of hours was agreed on but the definite hours of certain days were likewise agreed on, and he should, without notice, fail to present himself on the day, and at the time specified, he would be liable for the agreed compensation for each hour just as though the work had been performed during those hours. If, however, he should, before any work was done, or after a portion was done, notify the dentist that he would not present himself for treatment or for further treatment as the case might be, the dentist could not necessarily recover the price agreed on for the work. He could still sue the patient for breach of his contract, and he could recover damages therefor, but such damages would be measured by the actual loss suffered on account of the patient's default. If the dentist was not notified within such time as would enable him to advantageously utilize the hours engaged by the patient, the latter would, in general, be liable for the agreed compensation for those hours. Nor, it is believed, would the dentist be obliged, in order to minimize the patient's damages, to allot those hours to other patients if he had other hours not engaged which he might allot to such other patients. If, however, all the dentist's time were engaged and prospective patients would agree to take the hours engaged by the defaulting patient, the dentist would be obliged to accept the substitution, and could recover no damages from the defaulting patient, except nominal damages, unless, indeed, the rate charged the new patient was less than that agreed on by the defaulting patient. In such case the dentist could recover the difference between the two rates charged.

If the contract be to pay so much per hour for the number of hours necessary to put the patient's teeth in proper condition, or to pay a lump sum for the work, but no specific hours or length of time for the work is agreed on, the obligation of the dentist is to hold himself in readiness to perform the work under reasonable conditions, regard being had to usual office hours and his obligations to other patients. He would not be required under this contract to work except during his usual office hours, nor would he be required to

break engagements already made with other patients, but he would be obliged to give any unoccupied business hours within reasonable limits that the patient should designate. The patient likewise would not be required to present himself at unusual hours, or at times that would conflict with other previously made engagements or with his business, but he too must hold himself in readiness to present himself on proper notice and for a reasonable length of time for such engagement. If either dentist or patient should fail in this particular, he would be liable in damages. If the patient should be in default the rule governing the measure of damages he would be liable for is the same as that set forth just above. If the dentist be in default the patient would be justified in having the work done elsewhere and could recover from the dentist the difference between the sum agreed on for the work and the sum he had to pay for it to the dentist who did it.

4. **Implied Contracts.**—Most contracts between dentists and their patients are not express, but are so-called implied contracts. The patient seats himself in the dentist's chair, the dentist examines his teeth, makes notes of what work is needed, informs the patient of the extent of such work more or less perfunctorily, and proceeds to perform the necessary work without informing the patient of the length of time necessary to complete it, the nature of the materials he proposes to use, how skilfully he will perform it, whether it will have the desired result, how long it will last, what he will charge for it, or when payment will be due. In such a case as this where one or more of the terms of the contract are not expressly agreed on by the parties, the law implies a contract between them. In the first place, it implies that the dentist will do the work in a reasonably skilful manner, that the length of time in which he will do the work will be that in which a reasonably skilful dentist would do it; that the materials used will be such as a reasonably skilful dentist would use in the kind of work being done; that it will have the desired result so far as reasonable skill can bring about such result (*i. e.*, that the

diagnosis was reasonably skilfully made and that the treatment under the diagnosis was reasonably skilfully done); that it will last as long as work of that character skilfully done will last; and that he will charge the ordinary and reasonable fee.

The law likewise implies on the part of the patient, since he has made no express promise in relation thereto, an obligation to pay for the work, when properly performed, at the rate just mentioned.

If the dentist fails to perform any of these obligations which the law implies, he will be liable to the patient for such damage as results from his failure. If the patient refuses to pay the sum the law implies his promise to pay, he is liable for such sum in a suit at law.

5. **Delegation of the Contract.**—It is a general rule of law that a contract to perform personal services cannot be delegated to another by the person contracting to perform them. An artist who contracts to paint a picture for a certain sum of money cannot, without the consent of the person who has engaged him, fulfil his contract by getting another artist to do the work even though the second artist be one of equal or superior ability with the first, or though the picture painted by the second be of equal merit with any that the first could have produced. A dentist, therefore, who should contract to perform professional services, whether such services be to extract or fill teeth, make a plate, or treat for Rigg's disease, could not, without the consent of the patient, delegate the work to another dentist, or to an assistant, and recover from the patient the agreed compensation for the work. Of course, if the patient assented to the substitution he would be liable. Such assent could be implied from the fact that the patient knowingly, and without protest, submitted himself to the treatment by the assistant or other dentist. The mere fact, however, that a patient who had engaged A to make a set of false teeth, allowed B, an assistant of A, to take impressions of his mouth, would not necessarily be an assent to B's performing the whole service of making the plate.

6. **Contracts Made or to Be Performed on Sunday.**—Since 1677 in England, and now generally in this country, work done in a person's ordinary business or calling is forbidden by statute, and contracts therefore are unenforceable. An exception is, however, that if the work done be a "work of necessity," the person performing the work may recover for his services. It has been held by the courts that the work of a physician in healing the sick was a work of necessity. In Stagger's Estate,[1] Reeder, J. said: "It would be contrary to public policy and detrimental to public health if the courts should hold that people who were taken seriously ill on Sunday, calling in a physician to care for them, should not be obliged to pay for such services." The language of the court in this case shows the limitations to which the exception to the general rule is subject. Not every contract made on Sunday would be enforceable, as such contract must come within the class of works of necessity. It is not likely that a contract to make a set of false teeth, for example, would in the ordinary case be regarded as a work of necessity, for no great injury or pain would be suffered by the patient if the contract were made or the work begun on the next day. So in the ordinary case the filling or extracting of a tooth would hardly be regarded as a work of necesssity. On the other hand, the use of the words "seriously ill" in the opinion just quoted cannot be taken to define the condition of the patient necessary to entitle the physician or dentist to recover for services performed on Sunday. If a person were to break his collar bone or his arm on Sunday he could hardly be said to be "seriously ill," yet there can be no doubt that if he were attended therefor by a physician on that day the latter might recover for his services. So it is believed if, in order to relieve physical suffering, it was necessary for a dentist to extract or even fill a tooth, such service would be regarded by the courts as a work of necessity.

A distinction must be made, however, between "works

[1] 8 Pa. Super. Ct., 260 (1898).

of necessity," for which a dentist can recover though performed on Sunday, and "necessaries," for which he can recover from a parent or husband. Many services would be regarded as "necessaries," for which a parent or husband would be liable, if performed for a child or wife, which would not be "works of necessity," for which the dentist could recover if performed on Sunday.

GIFTS BY PATIENT TO DENTIST

The relation between the dentist and patient, like that between physician and patient, is a confidential one. It has been held, however, that there is nothing in the latter relation that forbids the acceptance of a gift by the physician from his patient. The same rule would apply in the case of a gift by the patient to his dentist.[1]

[1] See Audenried's Appeal, 89 Pa., 114 (1879).

CHAPTER IV

LIABILITY OF PATIENT TO DENTIST

LIABILITY FOR BREACH OF CONTRACT

If the patient fail to perform his contract with the dentist he is liable to the dentist for such damages as the dentist suffers by reason of the breach. If the breach of the contract by the patient consists merely in a failure, after the work has been done, to pay the dentist the compensation agreed upon between them, the amount of such compensation, or that amount with interest, will ordinarily be the measure of the damages recoverable by the dentist. The breach, however, may consist not only in a failure by the patient to pay the compensation promised, but in a failure to observe some other term of the contract. The patient may, after making an engagement with the dentist for a certain hour, to have a tooth treated, not present himself at that hour. In such a case the dentist is not entitled to the compensation agreed on for treating the tooth, for he has not treated the tooth. He is, however, entitled to recover the damage he has suffered from the patient's failure to appear. This damage may be equal to, or less than, the compensation agreed on. If the patient did not notify the dentist that he did not intend to present himself, and the dentist could, if he had been notified, have employed this time with another patient, but was prevented from so doing by the first patient's default, he can recover from such patient the value of the time lost. If, however, the dentist could utilize the time advantageously, he cannot remain idle and charge the whole loss to the patient. If, for example, another patient should happen to come in during the hour, and the dentist should treat him, he could recover from the

first patient only the difference, if any, between the amount for which he had agreed to treat the first patient and the amount he received from the second patient, for that would be the extent of his loss.

The same principle applies to other contracts between the dentist and patient, whether such contract be oral or written (unless it be one of the kind required to be in writing) express or implied. In all cases the dentist recovers, on breach of the contract, the proximate damages he has actually suffered by the default of the patient.

LIABILITY FOR COMPENSATION

1. **In General.**—In order to entitle a dentist to compensation for services, the services must have been rendered, and rendered under a contract by which the patient has obligated himself to pay for them. As we have seen, such contract may, however, be implied. It will, however, be implied only when the circumstances warrant the implication. If, therefore, the services are rendered without intent on the part of the dentist to charge therefor, or even with such intent but under circumstances such as would lead the patient to believe, as a reasonable person, that they were rendered gratuitously, the dentist is not entitled in law to be compensated for such services. As was said by the court in Prince *v.* McCrae,[1] "whether the plaintiff's services shall be deemed a gratuity or constitute a claim for compensation must be determined by the common understanding of both parties. If they were intended to be and were accepted as a gift or act of benevolence, they cannot, at the election of the plaintiff, create a legal obligation to pay. But their character is not controlled by the unexpressed and revocable intentions of the plaintiff."

If the rate of compensation is expressly agreed on he must pay the amount agreed. If no rate of compensation is agreed on before the work is performed then the patient is

[1] 84 N. C., 674 (1881).

liable to pay the ordinary and reasonable price for services of the nature of those rendered.[1] What is the reasonable worth of the services is for the jury to determine, under all the circumstances of the case, and they may take into consideration, among other circumstances, the ability of the practitioner, and his standing in his profession.[2]

In some jurisdictions it is held that the financial ability of the patient should be considered in estimating the worth of the services.[3]

In other jurisdictions a contrary rule obtains.[4]

A dentist has no authority to call in a consulting dentist without the consent of the patient so as to render the patient liable for the services of the consulting dentist. If, however, such consulting dentist is called in at the patient's request, or if the regular dentist call in the consulting dentist without the express consent of the patient, if the patient receive the services of the consulting dentist without objection, knowing that he is expected to pay for such services, the law will imply a promise on his part to pay therefor.[5]

It has even been held that where it was agreed between a regular physician and his patient that the physician should call in a consulting physician and that the regular physician and not the patient should pay for the services of the consulting physician, that notwithstanding this agreement, the patient was liable to the consulting physician, the latter being ignorant of the agreement.[6]

If the dentist call in another dentist or a physician to assist him, as to administer ether, or the like, without the request of the patient, the dentist is in the first instance liable to such assistant for his services.[7]

2. **What Persons are Liable.**—LIABILITY OF INFANTS.—In general, the contract of an infant, *i. e.*, a person under

[1] Prince *v.* McCrae, 84 N. C., 674 (1881).
[2] Heintz *v.* Cooper (Cal.), 47 Pac., 360 (1896).
[3] Succession of Haley, 50 La., Ann., 840 (1898).
[4] Robinson *v.* Campbell, 47 Iowa, 625 (1878).
[5] Garrey *v.* Stadler, 67 Wis. 512 (1886).
[6] Shelton *v.* Johnson, 40 Iowa, 84 (1874).
[7] Fitzgerald *v.* Hanson, 16 Mont., 474 (1895).

twenty-one years of age, is not binding. The law, however, has made an exception to the rule in the case of necessaries. If an infant, not living at home under the care and support of his parents, makes a contract for what the law considers a necessary, the infant is bound by such contract, and having obtained the benefit of it must pay for it. The law does not expressly say what things are necessities, but leaves it to be determined in each particular case. Whether a given thing is a necessary may depend on the wealth or station in life of the infant. There can be no doubt that the services of a dentist in treating a child for pyorrhea would be held to be services for a necessary, and that the child himself would be liable to pay for such services. So for any work of the dentist which militated in favor of the child's general health.

It has been decided that the services of a dentist in filling teeth is a necessary, for which the infant is liable.[1] The court said in this case: "In suits against minors, instituted by persons who have rendered services or supplied articles to them, the term 'necessaries' is not invariably used in its strictest sense, nor is it limited to that which is requisite to sustain life, but includes whatever is proper and suitable in the case of each individual having reference to his circumstances and condition in life.

"The defendant applied to the plaintiff for relief from pain and the prevention of its recurrence; he finding the cause in the defendant's decaying and neglected teeth, immediately began the work of relief and repair, and continued the same from time to time during a period of six weeks, until its completion. It was necessary for the preservation of the teeth, and the charge therefor is reasonable in amount. In view of the circumstances of this defendant we have no hesitation in saying that the services are within the legal limitations of the word 'necessaries.'

"The teeth upon inspection disclosed their condition to the plaintiff; he could see that they had been neglected and

[1] Strong *v.* Foote, 42 Conn., 203 (1875).

were decaying; and the record does not reveal any effort, or intention even, on the part of the guardian to repair or preserve them."

Whether straightening the teeth would be considered a necessary, would probably depend in most cases on whether such straightening was directly beneficial to the child's general health. If it were, it should in all cases be considered a necessary. If it were not beneficial to the general health but only done to better the child's appearance, whether the courts would consider it a necessary or not would depend on the wealth of the child or its station in life.

We are speaking here of the infant's own liability to pay for work done for it. The liability of the father for such work is treated elsewhere.

Even if work done for the infant be not such as would be considered a necessary, yet if after such infant become of age he make a new promise to pay for work done, he will be liable on such promise just as though the work had been done after he had reached his majority.

If the infant be living at home, under the care and control of his parents, he is not, himself, liable even for such dental work done for him as would come within the term "necessaries," if the parent is willing and able to support him.[1] Or if the service were rendered at the request of the parent, even though the parent were not able to support him and the child had a separate income.[2]

It has been held that even though the parent is unable financially to supply a child living with him with necessaries, the child is not liable on his own contract to pay for such necessaries. In this case,[3] a physician sued a minor for medical attendance and medicine furnished the minor. At the time the services were rendered the minor was living with his parents, who kept house. It was shown that the father was very poor and unable to pay his bills at the time of the son's illness, that he had had to have even his poll taxes

[1] Wailing *v.* Toll, 9 Johns (N. Y.), 141 (1812).
[2] Murphy *v.* Holmes, 87 App. Div., 366 (1903).
[3] Hoyt *v.* Casey, 114 Mass., 397 (1874)

abated because he was too poor to pay them; that he was ejected from his house because he could not pay the rent; and that the physician knowing these facts, did not look to the father for payment at the time he rendered his services, but to the son. The court held that in order for the physician to recover from the son it was necessary for him to prove not only that the father was too poor to pay for the services rendered the son, but that he must go farther and show a refusal or neglect of the father to furnish them. Said the court: "When necessary professional services are rendered to a minor son residing in the house of his father, the legal inference is that the father is the person liable therefor. In the present case, the father was keeping a family together, and was receiving the wages of this minor. While it was proved that he was unable to pay the debts he had incurred, he was, so far as it appeared, doing his best with the means at his command to provide for his family. No refusal or neglect to perform his duty of supporting his son was shown, although from his impoverished condition it may perhaps be fairly inferred that such duty could be but imperfectly performed. Ordinarily when one renders to another valuable services, the law will imply a promise to pay therefor by him for whom such service is rendered, and this upon the ground that as such party cannot infer service of this character to be gratuitous, it must be implied that he promised to pay for it; but no such implication can arise against a minor residing with his father, delivering over to him his wages, and entitled to look to him for support.

"Upon the evidence in the present case all the elements exist which are necessary to make the father liable. The plaintiff could not fix a liability upon the son by giving the credit to him for the services without the knowledge of either the father or the son. Whether such liability had been incurred must be determined by the facts, with which both parties were acquainted."

It seems, however, in other States, that though while the infant is living with its parents, the presumption is that such infant is supplied by its parents with necessaries, and

hence being supplied cannot bind itself for what would otherwise be necessary; that yet if, in fact, the parents do not supply the child with necessaries, the child may make a valid contract binding itself to pay for such necessaries furnished it on its own request.[1] In Murphy *v.* Holmes,[2] the Supreme Court of New York states the rule as follows: "The theory upon which an infant is rendered liable for necessaries is that they have been furnished and were necessary, and that the person standing in the relation of parent has not the ability to respond for the amount thereof. Where they have such ability, no liability can attach to the infant."

Tyler[3] states the rule thus: "An infant when at home under the care of his father, and supported by him, cannot be made liable for necessaries."

In the case of Parsons *v.* Keys,[4] a child who was living with her mother contracted for necessaries. It did not appear whether the guardian or mother either proposed to supply the child's needs, or that they refused to do so. The court held, in a suit against the minor, that the minor was liable if her needs were not supplied, and held further that the burden of proving that the minor's needs were supplied devolved on the child.

Much more is the minor liable if the parent consents to the minor's contracting for the necessary services with the understanding that the services are to be charged to the minor, it not appearing that the parent was able to furnish them.[5]

When the infant is living with a guardian and the guardian is able and willing to supply the child with necessaries, the infant cannot bind himself, without the guardian's consent, to pay for necessary services performed for him.[6] Where,

[1] See the expression of the rule of law in Wailing *v.* Toll, 9 Johns (N. Y.), 141 (1812); Goodman *v.* Alexander, 28 App. Div. (N. Y.), 227 (1898).

[2] 87 App. Div. (N. Y.) (1903), 73.

[3] Infancy and Coverture, 2d ed., 108.

[4] 43 Tex., 557 (1875).

[5] Atchison *v.* Bruff, 50 Barb. (N. Y.), 381 (1868); Dalton *v.* Gib., 5 Bingh., N. C. (Eng.), 198 (1839).

[6] Schouler, Dom. Rel., 370.

however, the guardian refuses to furnish the child with necessaries, the child itself is liable for such necessaries.[1]

In all cases where an infant is liable for necessaries furnished him it is not necessary to prove an express promise by him to pay for the necessaries; it is sufficient to show that the necessaries were in fact furnished to and enjoyed by him.[2] Even when an express contract is made by him to pay a certain sum for the necessaries furnished he is only liable to pay what the necessaries are worth, not what he may have agreed to pay for them.[3]

LIABILITY OF PARENT.—We have seen that an infant is liable himself for dental work done for him only when such work is a necessary, or when he is not living with a parent or guardian, able and willing to support him, or when subsequent to his coming of age he makes a new promise to pay for such work. It frequently happens, however, that the work done is of such a character as not to fall within the meaning of the term "necessary," or if it does, that while the infant is legally liable he has no funds or other property from which the debt can be realized. In such cases it is necessary for the dentist to look elsewhere for payment for his services, and it then becomes necessary to determine whether the father is liable for services rendered the child.

In order to hold a parent liable for dental services rendered to his minor child, there must be shown either an express contract by the father to pay for such services, or circumstances from which a contract by the father can be inferred.[4]

Express Promise.—Where the father enters into an express contract with a dentist to treat his child, he is liable in the same way and to the same extent as where he enters into such contract for services to himself. Such liability has been treated of above.

Necessaries.—In Van Valkinburgh *v.* Watson[5] it is said: "A parent is under a natural obligation to furnish necessaries for his infant children; and if the parent neglect that duty

[1] See Call *v.* Ward, 4 W. & S. (Pa.), 118 (1842).
[2] Tyler on Infancy, sec. 62.
[3] 22 Cyc., 591, n. 38.
[4] Schouler, Domestic Relations, sec. 252 a.
[5] 13 Johns, 480 (1816)

any other person who supplies such necessaries is deemed to have conferred a benefit on the delinquent parent, for which the law raises an implied promise to pay on the part of the parent."[1]

In order to charge the parent, however, in such a case it must be shown not only that the articles or services furnished come within the class denominated "necessaries," but also that there was a clear omission of duty on the part of the parent to make provision for the supply of such necessaries.[2] "If the infant resides at home, it is to be presumed that the father furnishes whatever is necessary and proper for his maintenance; and a proper support being rendered, under such circumstances, a third person cannot supply necessaries and charge the father."[3]

In Dumser *v.* Underwood,[4] Underwood, a dentist, brought an action to recover $19 from Dumser for dental work done for his [Dumser's] minor daughter. The facts were: that appellant's daughter Blanche, then sixteen years old, told her father that her teeth needed attention, whereupon he told her to go to Doctor Whedon, appellant's family dentist, living at Elgin, and have him examine her teeth and make an estimate of the price of the work. This she did, and reported back that the cost as estimated by Whedon would be $10. He then told her she could have Whedon do it. A few weeks afterward she, instead of going to Whedon, went to Underwood, who did the work and charged $19 for it. Dumser knew nothing of Underwood's doing the work until the statement was sent him.

The court said: "In our opinion appellee (Underwood) had no ground for recovery against appellant (Dumser). The services were performed without the knowledge or consent of appellant, at a time when his daughter was residing at home, and when her father was ready and willing to provide all things necessary for her care and comfort.

[1] See also Farmington *v.* Jones, 36 N. H., 271 (1858).
[2] 2 Kent, Com., 193; Pidgen *v.* Cram, 8 N. H., 312 (1836).
[3] Schouler, Domestic Relations, sec. 252.
[4] 68 Ill. App., 121 (1896).

"When a person furnishes necessaries to a minor without authority from the parent, he does so at his peril, and in order to recover from the parent he must show either an express authority or circumstances from which such authority may be implied. The parent is to be the judge of the wants of the child and of his ability to supply them, and where no express authority has been given, it devolves upon the party suing to show the parent's neglect or refusal to provide for the child's wants. Hunt *v.* Thompson, 3 Scam., 179; Gotts *v.* Clark, 78 Ill., 229; McMillan *v.* Lee, 78 Ill., 443; Schmickle *v.* Biermen, 89 Ill., 454; Clark *v.* Gotts, 1 App., 454; Allen *v.* Jacobi, 14 App., 277."

A promise by the parent to pay for necessary services rendered to the child may also, perhaps, be implied where some special exigency arises to meet which the services were rendered, but the exigency must be such as to show that it would have been unreasonable or inexpedient to seek the previous assent of the parent. In Ketcham *v.* Marsland,[1] Ketcham, a dentist, brought an action against Marsland for the value of his services rendered to Marsland's infant daughter, in filling and straightening her teeth. At the time the services were rendered, the daughter was temporarily residing apart from her parents with one Mrs Beecher, at whose direct request this dental service was rendered. The court held, in effect, that such services were not so immediately needful as to raise an implied promise on the part of the father to pay for the same, or to create Mrs. Beecher his agent to contract for them on his behalf.

In Keaton *v.* Davis,[2] Davis sued Keaton for $50 which Davis had expended in paying for medical services rendered to the son of Keaton, while said son was boarding with Davis. The court in refusing to allow a recovery against the father said: "No proof was adduced that this young man was a minor under the care of the defendant in error; or that his parents were not near him; or that they had not made any provision for him in this respect; or that the

[1] 18 Misc. (N. Y.), 450 (1896).

[2] 18 Ga., 457 (1855).

exigency of the case was such that it was reasonable and proper that, under the circumstances, this physician should have been called in by the defendant in error to the young man, and the bill paid by him. In such a case the law would have implied a promise to pay. But in the absence of such evidence, and of any proof in the court below, of any request having been made by Keaton, the plaintiff in error, that the defendant in error should pay this debt for him, or that Keaton had ever promised to pay the same, we think that it was error in the court to permit a recovery against the plaintiff in error."

In Porter *v.* Powell,[1] defendant's daughter, at the age of fourteen years, went to reside away from her father's home, at a place thirty miles distant. While there she was taken dangerously ill with typhoid fever, and at her request was attended by the plaintiff, as her physician, without the knowledge or consent of her father. In a suit by the physician against the girl's father for the value of his services, the court held that the physician was entitled to recover.[2]

The implied promise of the parent to pay for necessary services rendered to the child is not negatived by the mere fact that the child is living away from home.

If the child is forced to leave its home with the father because of the abuse or cruelty of the father, it has been held that the father is liable for the necessaries furnished the child.[3]

Where, however, the child has voluntarily abandoned its home with the parent through no fault of the parent for the purpose of seeking his fortune in the world, or to avoid discipline and restraint of the parents, he carries with him no credit, and the parent is under no obligation to pay anyone who furnishes him even necessaries.[4] Especially is this true where the child has left, or remains away from

[1] 79 Iowa, 151 (1890). [2] Farmington *v.* Jones, 36 N. H., 271 (1858).

[3] Manning *v.* Wells, 85 Hun. (N. Y.), 27 (1895); but see Gordon *v.* Patten, 17 Vt. 350 (1845).

[4] Angell *v.* McLellan, 16 Mass., 27 (1819); but see Cooper *v.* McNamara, 92 Iowa, 243 (1894).

home without the parent's consent, or is emancipated or receiving the benefits of its own labor.[1]

In Angell *v.* McLellan, *supra*, the court said: "There are undoubtedly some cases in which the application of this doctrine may appear harsh; but an attention to the consequences of a different doctrine will be a sufficient vindication of the principle. Could a refractory or vicious son leave his father's house, without being exposed to want, carrying with him a credit on his father wherever he might wander, the motive for submitting to authority might be materially impaired, and a great diminution of parental influence might ensue. One of the greatest restraints upon the bad passions and vicious propensities would be removed if young persons should feel that they could flee their parent's presence, without suffering in any of the essentials of life.

"The law, therefore, has wisely left individual cases of generous interference, to depend upon the honor of those connected with the object of it, rather than place in the hands of thoughtless or ill-disposed youth their parent's purse, to supply their wants with, whenever they should incline to defy his authority, and withdraw themselves from his government.

"In the argument for the plaintiff, we see many reasons to regret that he has been obliged to resort to a suit for money, which he has a right to expect would have been returned to him with gratitude for his well-intentioned advances. But the law cannot be bent to his case and we are persuaded, that public policy, and a due regard to parental authority, will sufficiently justify the law."

For Services Not Necessaries.—A father may be liable without an express promise, to pay for services for his child even when the services do not come within the class denominated "necessaries," on the doctrine of agency. If the parent sends his child to the dentist with instructions to have certain work done, he makes the child his agent to contract with the dentist on the parent's behalf, and the law implies a promise on the part of the parent to pay for such work.

[1] 29 Cyc., 1910.

The father, however, has the right to choose what dentist he will employ, and if he sends the child to dentist A and the child, preferring dentist B, goes to the latter and has the services performed by him, the father is not liable to dentist B for the work done even though the work came within the class of necessaries. In Dumser *v.* Underwood,[1] Underwood, a dentist, sued Dumser for $19 for dental services performed for Dumser's minor daughter. The daughter had informed her father that her teeth needed attention, whereupon he told her to go to Dr. Whedon, the family dentist, and ask him to examine her teeth and make an estimate of the cost of the work. This she did and reported to her father that the cost as estimated by Dr. Whedon would be $10. The father then told her to have Dr. Whedon do the work. The daughter, however, went instead to Underwood; who did the work for which he charged $19. It was admitted that $19 was a reasonable sum for the work. On the refusal of the father to pay, Underwood sued him for the amount of his bill. The court having ruled that the work was not a "necessary" (see supra), Underwood next contended that as Dumser had given his daughter authority to have dental work performed, he had made her his agent to procure such work, and was therefore liable for the cost of same. The court said:

"It is insisted that the permission, thus delegated, clothed her with such apparent authority as to render him liable although she acted contrary to his private instructions.

"This contention loses sight of the distinction between general and special agencies.

"The agency in this case was special, viz., to have the work done by Dr. Whedon. A special agent is one authorized to do a specific act in respect to which his power is limited. A party dealing with him is bound, at his peril, to ascertain the extent of his authority. Anson on Contracts, 345; Doan et al. *v.* Duncan, 17 Ill., 272; Peabody *v.* Hoard, 46 Ill., 242; Baxter *v.* Lamont, 60 Ill., 237."

[1] 68 Ill. App., 121 (1896).

It is not necessary in order to hold the father for payment that he send the child to the dentist on the particular occasion or occasions on which the work is done for which it is sought to hold the father liable. If the child has on previous occasions come to the dentist and had work done with or without his father's knowledge, and his father has paid for such services without protest to the dentist, the father will be liable for subsequent work done by the same dentist to the same child though the work was done without the father's consent or knowledge. And this is true whether the work be a "necessary" or not.[1] But the fact that the father has previously paid for such work done by one dentist would not render him liable for work done for the same child by another dentist. The mere fact, however, that a father on previous occasions has, without protest, paid for work done by the dentist for the child, does not necessarily make the father liable for any and all kinds of work done for the child on subsequent occasions. To render him so liable, the work for which the dentist seeks to hold him liable must be work of the same general character as work previously done. The theory on which the father is held liable in such cases, is that the father having expressly or impliedly authorized the child to contract with the dentist for the father, the father is liable on such a contract.

If A should expressly authorize B to go out and buy sheep for him from X, or impliedly authorize him to do so by paying X for sheep bought for him by B on previous occasions, this would not make A liable on a contract made for him by B with X without his (A's) knowledge for the building of a house.

So the fact that a child was impliedly authorized by his father, from previous payment by his father for the same services, to contract for the extraction of teeth, or the filling of teeth, would not be an authorization to the child to contract for the making of a false palate or a set of false teeth; it is doubtful if it would authorize the child to contract

[1] Mecham, Agency, sec. 84.

for the straightening of the teeth or for any kind of work substantially different or much greater in cost than the character of work previously paid for.[1]

The mere fact that a father has expressly authorized one child to contract for him, or has impliedly done so by paying for work previously contracted for by one child, does not render him liable for work done for another of his children without his knowledge or consent.

LIABILITY OF HUSBAND.—*For Services before Marriage.*—Before 1870, in England, when a woman married, all her property became the property of her husband. The effect of this was that the wife could not be liable for any debts contracted by her before marriage, for after she became a wife she had no property with which to pay them. As, however, her husband on the marriage became the owner of what property the wife owned before marriage, the law held him responsible for all debts, including debts for dental services, contracted by her before her marriage.[2]

In 1870 the first "Married Woman's Property Act" was passed by the British Parliament. This statute was amended by the Act of 1874, and in 1882 these two acts were superseded by the Act of 1882. This Act radically changed the law existing before 1870. It first enacted that thereafter the wife on marriage should continue to own all the property that belonged to her at her marriage or that should devolve on her after her marriage, and then provided that thereafter not only should the wife herself be liable for all debts contracted by her before her marriage to the extent of her separate property, but limited the liability of the husband for such ante-nuptial debts of the wife to such property as he acquired through his wife. This property of the husband which can be made available to meet this liability is such property as he may get from the wife by gift or settlement by her.[3]

Similar statutes are in force in the United States, but as they differ in their terms, no general rule can be laid down

[1] See Mecham, Agency, sec. 85. [2] Blackstone, Comm., bk. 1, ch. 15, p. 443.
[3] Smith on Contracts, 337; McQueen's Husband and Wife, 71.

as to the effect of their provisions on the extent of a married woman's liability for her contracts, and it is impossible in a work of this character to attempt to treat the subject for each State in the Union. In some States there are decisions holding the husband still liable for his wife's antenuptial debts while in others it has been adjudged that the husband's liability is partly or fully ended.[1]

For Services during Marriage.—Previous to the enactment of the statutes above mentioned, a wife was no more liable generally for contracts made by her during the continuance of her married state than for contracts made by her before her marriage. But while the husband was liable for all her debts contracted before marriage, he was not liable for all debts contracted by her after marriage, but only for debts contracted by her when acting as his agent, or under an authority from him, express or implied. The Married Woman's Property Acts have in general changed the law so as to render the wife herself liable for contracts made by her on her own account during the marriage, but have not altered the liability of the husband. He remains liable on contracts made by her when, and only when, she is acting as his agent in making the contract.

The agency of the wife may be shown in the same way as the agency of any other person; by actual authority, by a ratification of the contract, or by a recognition of similar contracts made by her. The most usual case of such agency is in contracts made by the wife for necessaries. If the parties are living together "the law invests her at the marriage with an irrevocable agency to pledge his credit for whatever is necessary to her maintenance, unless he provides other means. In another form of the same proposition, the law creates a promise by him to pay any third person who may furnish necessaries to her, at her request, directing them to be charged to him."[2]

To make the husband liable the credit must have been given to him. If the dentist does not at the time of per-

[1] 2 Bishop on the Law of Married Women, sec. 323.

[2] 1 Bishop, Mar. and Div., sec. 1186.

forming the services, expect the husband to pay for them, but furnishes them to the wife, looking to her solely for payment, the husband is not liable therefor.[1]

It is not necessary, however, in order to render the husband liable, that the husband actually instructed the wife to procure the services; it is sufficient to show facts from which her agency to procure them may be implied. In Clark *v.* Tenneson,[2] Clark, a dentist, sued Mrs. Tenneson to recover the value of two plates which he had made for her at her request. Clark testified that he had made the plates for Mrs. Tenneson, that he knew that she was a married woman, that she had paid him for other work, that she had always personally paid her dental bills and those of her children. The court held that the suit should have been against Mrs. Tenneson's husband, not against her. The court said: "It is contended that the plaintiff and the defendant understood from the course of the transaction of ordering, providing, and delivering these teeth that it was an individual and personal sale to the defendant, and that she personally assumed to pay for them. The facts and circumstances do not sustain this claim. True, the plaintiff had no personal dealings with the defendant's husband. But this is not necessary, if the articles were purchased under circumstances indicating that they were supplied her in the usual manner as necessaries for which a husband is liable as such. The question is, Did the wife negotiate the purchase under circumstances indicating that she was authorized to do so?

"It appears with sufficient certainty that the defendant attended to the dental affairs of herself and of other members of the family, including the payment of such bills. There is nothing in the record to show that she paid such bills out of her separate funds or estate. Presumably, then, she made the payments for the husband and father. This is sufficient to apprise the plaintiff of this fact, and he must be deemed to have dealt with her upon this basis, which showed her relation to the transaction. For cases defining the

[1] Shelton *v.* Pendleton, 18 Conn., 417 (1847). [2] (Wis.) 130 N. W., 895 (1911).

authority of the wife to obtain 'necessaries' charged to the husband, and under what circumstances he will be exempt from the obligation to pay for articles, see Wannamaker *v.* Weaver, 176 N. Y., 75, 68 N. E., 135, 65 L. R. A., 529, 98 Am. St. Rep., 621, and the cases and comments in the note. Under the circumstances we consider that it was established that the defendant was acting under the authority of her husband, and the court properly held that it was not shown that the defendant was individually liable upon the claim presented against her."

In Gilman *v.* Andrus,[1] a dentist sued a husband for a plate provided the wife. It was not shown that the husband had told the wife to procure it. The court said: "The plate was furnished while the defendant and his wife were living together, and was suitable to the defendant's circumstances and station in life. It is expressly found that the defendant permitted his wife to keep the plate, after it came to his knowledge that she had procured it of the plaintiff. The fact that the defendant did not then repudiate the contract, and cause the plate to be returned, will render him liable for what it was reasonably worth." Here, though the husband did not authorize the wife to obtain the plate the court held that by not repudiating her authority to act for him by returning the plate he ratified her action, and hence was liable.

As to what are necessaries we have seen in dealing with infants. The same considerations, generally, govern in the case of married women. In Clark *v.* Tenneson[2] and Gilman *v.* Andrus[3] artificial teeth were held to be necessaries. In the first of these cases a dentist sued the wife for the value of a set of false teeth which he made for her at her request. The court held that the suit should have been against her husband, saying: "Necessaries . . . embrace the usual provisions for the maintenance of the wife's health and comfort appropriate to her mode of life, in view of their social station and standing and his financial abilities. It is

[1] 28 Vt., 241 (1856).
[2] (Wis.) 130 N. W , 895 (1911).
[3] 28 Vt., 241 (1856).

a matter of common knowledge that artificial teeth are most useful and necessary articles for the promotion of personal comfort and health, and that their use in this country has attained practical universality. We consider that such teeth come within the class of articles constituting 'necessaries' which a husband may be bound to furnish his wife." In the second case the suit was brought against the husband. The court held that he was liable, as the plate furnished was a "necessary."

The general rule of law is that the husband is not liable even for necessaries if he himself has made needful provision for the same, which she refuses to accept.[1] Hence, if the husband engages with a competent dentist to furnish needed treatment for his wife, and she preferring another dentist, avails herself of his services, pledging her husband's credit for same, it would seem that the husband would not be liable to the second dentist for the services rendered.[2]

For Services during Separation.—What we have said above applies when the husband and wife are living together. If the husband and wife are not living together the presumption is that she has no authority to bind him even for necessaries. To hold the husband liable in such case, it must be shown that her absence from her husband was for some cause that would justify her absence, *i. e.*, that it was not due to fault on her part; as that she has been deserted by her husband, or been turned out of doors by him, or that his conduct has compelled her to leave him.[3]

In Potter *v.* Virgil[4] the court said: "The assumption of the circuit judge that the plaintiff still continued to be the physician of the defendant's wife after her removal to her father's house, with the knowledge and assent of the defendant or at least not forbidden and the contract of employment not revoked, was correct, and well founded.

"If in these interviews between the plaintiff and defendant, or on any other occasion after the removal of his wife

[1] Bishop on Marriage and Divorce, sec. 1188.

[2] See ibid., sec. 1189 n.

[3] McQueen's Husband and Wife, 109 and 110. [4] 67 Barb. (N. Y.), 581 (1876).

from his house, the defendant had forbidden the further attendance of the plaintiff upon his wife, and the plaintiff had persisted in doing so, and had brought this action to recover for his services after such prohibition, a very different question would have arisen for our decision.

"Upon this branch of the case the circuit judge would have doubtless been bound to submit the evidence to the jury, upon the question whether the abandonment by the defendant's wife of her home, and her removal to her father's house was, under the circumstances of the case, justifiable and proper.

"A wife clearly cannot abandon her husband's house and home and bind him by contracts for necessaries, provisions, clothing, and medical attendance, except upon clear and satisfactory proof of gross abuse, neglect, and misconduct on the part of her husband. (Blowers *v.* Sturtevant, 4 Denio, 46. 2 Kent., 146. Board of Supervisors of Monroe County *v.* Budlong, 51 Barb., 493.)

"The decision of the circuit judge, we think, was correct, and the order denying the motion for a new trial should be affirmed."

If the husband and wife are living apart by mutual consent, he is still liable on her contracts for necessaries unless he has provided her an allowance sufficient for her maintenance. If he has done this he is not obliged to notify the dentist of the fact.

In all cases where the husband is liable for services performed for his wife, he cannot escape liability by notifying the dentist not to perform such services for her.[1]

Liability of Third Persons.—The liability arising from the family relation of one member of the family to pay for services rendered to another does not extend beyond the cases of father and child and husband and wife. A brother is not liable, as such, for services rendered to a brother, even though the brother for whom the services were performed was insane at the time;[2] nor a son-in-law

[1] McQueen's Husband and Wife, 110 to 112.

[2] Smith *v.* Watson, 14 Vt., 332 (1842).

for services performed for his mother-in-law.[1] Of course, if the brother or son-in-law promised at the time expressly or impliedly to pay for such services he would be liable on such promise, and such promise is more easily inferable when the services are rendered on the request of the defendant to a person of the defendant's household, than when rendered to a stranger on the defendant's request. Thus in the case of Hentig *v.* Kernke,[2] Kernke came to the plaintiff, a physician, and called for his services, without specifying to whom, or on whose account they were to be rendered. The physician went to Kernke's house and treated Kernke's father, who was at the time a member of Kernke's household, expecting Kernke to pay for the services. Later the physician presented his bill to Kernke, who promised to pay it, but later refused to do so on the ground that he was not liable for services performed for his father. The court said: "It is true the person to whom the services were rendered was an adult person, the father of the defendant, and only temporarily a member of the defendant's family. But, *prima facie*, the head of a family is responsible for all debts which he contracts for any member of the family. If the plaintiff was called by the defendant to render service to any member of his family, he has a right to look to the defendant for his compensation, in the absence of notice that someone else was responsible. And while a child may be under no legal obligation to support an aged parent, or receive him into his family, yet if he does receive him into his family he is *prima facie* responsible for services which he calls upon strangers to perform for the benefit of such parent."

On the other hand, where the proprietor of a summer hotel in which yellow fever suddenly broke out sent a telegram saying—"There are many cases of yellow fever at the Well; send out a physician this afternoon without fail." The court held that he did not thereby render himself liable to the physician who attended the patients. The court said:

[1] Madden *v.* Blain, 66 Ga., 49 (1880)

[2] 25 Kan., 559 (1881).

"Contracts are not to be lightly inferred. In cases of this description, where men, prompted by motives of humanity alone, seek assistance for a suffering community, or even individuals incapable of helping themselves; if men are to be made responsible for notifying physicians or others of the distressing casualties which demand immediate aid around us almost daily, the claims of pressing calamity may be disregarded, for fear that the kind messenger may become the victim of avarice through his generous sympathy. In the case before us there is nothing to induce the belief that either the writer of the dispatch, or the person to whom it was addressed, or the defendant in error (the physician) understood or intended it as a contract of employment."[1]

LIABILITY OF EMPLOYER.—An employer, as such, is not liable to pay for dental services rendered to his employee or servant. If he expressly contracts for such services, agreeing to pay therefor, he is, of course, bound by such contract. If, however, the employer allows the servant to procure dental services from a certain dentist and to charge the same to him, the master, and pays for such services without protest, he is liable for subsequent services of the same character obtained by the servant from the same dentist on the master's credit within a reasonable period of time from the last service rendered and paid for by the master. Now could the master relieve himself from liability by showing that the servant had since the last payment left his employ, unless the master has notified the dentist of the fact, or the dentist in the exercise of reasonable care could have ascertained the fact.[2]

A mere promise by an employer to pay for services previously rendered an employee or servant, however, is not binding on the employer.[3]

LIABILITY OF COUNTY OR STATE.—*For Services to Paupers, etc.*—There is in most if not all our States, laws making it the duty of the proper county officers to secure medical

[1] Williams *v.* Brickell, 37 Miss., 682 (1859).
[2] See Sewell *v.* Williams, 125 Mass., 439 (1878).
[3] Chappell *v.* Barkley, 90 Mich., 35 (1892).

attendance for the paupers and the insane of the county, and to persons confined in jails and prisons, at the expense of the county or the State. Medical attendance has been held to include surgical service,[1] and there can be no doubt that such statutes would be construed to include at least such dental services as were necessary for the health of the paupers, and that the dentist performing such service could recover against the county for the same. If his compensation was not fixed by the contract with the proper officers he should recover the reasonable value of his services.[2]

In order to recover against the county, however, the dentist must show that the person at whose request he performed the service was authorized by law to charge the county for payment for the services rendered.[3]

If, however, an officer of the county engage for such services without the requisite authority to bind the county, he is himself personally liable to the dentist for the value of the services.[4]

For Services at Coroner's Inquest.—A coroner has authority to pledge the county of which he is an officer for the compensation for all ancillary services which are necessary to the proper execution of his office, and which he could by no other means command. Under this rule it has often been held that the county is liable to a physician who, by order of the coroner performs an autopsy to ascertain the cause of a person's death, which the coroner is investigating.[5]

Under this rule a dentist who is called in by the coroner to perform corresponding services would be entitled to recover the value of such services from the county. To be entitled to remuneration, however, his services must be something more than the services of a witness, even though an expert witness.[6]

If the dentist, therefore, were called upon by the coroner merely to make an ocular examination of the deceased's

[1] Clinton Co. *v.* Ramsey, 30 Ill. App., 577 (1886).
[2] See Tucker *v.* Virginia, 4 Nev., 20 (1868).
[3] Bay *v.* Cook, 22 N. J., L. 343 (1850).
[4] Ibid.
[5] Allegheny County *v.* Watt, 3 Barr (Pa.), 462 (1846).
[6] Ibid.

teeth, for the purpose of identification, he could demand no compensation for such service, unless by statute all witnesses at the coroner's inquest are entitled to compensation. Statutes very generally now provide for a fixed fee to be paid for the service of "physicians and surgeons" who perform autopsies at an inquest. Whether a dentist would be regarded as included in these statutes is covered by what is said in an earlier part of this book.[1]

In the absence of a statute fixing the amount of such fee or providing a means for fixing it, the dentist who, by the nature of the services rendered, has entitled himself to compensation, could recover from the county what his services were reasonably worth as a cost in the administration of the criminal law.[2]

3. LIABILITY FOR SERVICES OF UNLICENSED DENTIST

It seems that to entitle the dentist to recover compensation for his services, he must show affirmatively his compliance with the law regulating the practice of dentistry. His right to practise will not be presumed even from the fact that he has been practising for a long time.[3]

Statutes in several States regulating the practice of dentistry expressly provide that failure to comply with the provisions respecting license and registration shall disentitle a dentist to recover remuneration for services performed by him.[4]

The statutes of other States do not contain this express provision as to the recovery of compensation, but provide generally that "it shall be unlawful" to practise, or that "no person shall practise unless" or words to that effect.

It is a general principle of the law of contract that where an act is declared unlawful a contract to perform that act is void and a promise to pay for the performance of the act

[1] See Chapter I. [2] Marion County *v.* Chambers, 75 Ind., 409 (1881).
[3] See North Chicago St. Ry. Co. *v.* Cotton, 140 Ill., 486 (1892).
[4] See statutes, post, p. 168.

cannot be enforced. Therefore, if a dentist who has not qualified himself for practice in accordance with the laws of the State should perform dental services in such State, he cannot recover for such services whether the statute contain an express provision to that effect or not. The law has been thus declared in numerous cases when unlicensed physicians have sued to recover compensation for their services. In City of Chicago *v.* Honey[1] the court said: "This statute imperatively requires every person practising medicine in any of its departments, who has not been practising in this State ten years prior to the time the act went into effect, to do particular things, as a prerequisite to his legal right to do so, which requirement is enforced by severe penal sanctions. It follows, therefore, that no person falling within the provisions of the act, who has failed to comply, can maintain any action for fees or services as a physician or surgeon. Bensley *v.* Bignold, 5 Barnwell and Ald., 335; Cundull *v.* Dawson, 4 C. B. (56 E. C. L.), 376; Sedg. on Construction of Stat., etc., 2d ed. J. 71."[2]

Where the statute requires not only that the dentist shall be licensed but also that his license shall be registered, registering, as well as the possession of the license, is necessary to enable the dentist to recover for services.[3] And it is immaterial whether the patient was cognizant or not of the fact that the dentist was not duly authorized to practise.[4]

The fact that the dentist formerly had a temporary license to practise and was disabled by illness from having his license made permanent will not entitle him to recover for services rendered between the time of the expiration of his temporary and the obtaining of his permanent license.[5]

If the dentist perform services without first complying with the terms of the statute requiring license and registry, he cannot recover for such services even though he afterward

[1] 10 Ill. App., 535 (1882).

[2] See also Ottaway *v.* Lowden, 55 App. Div. (N. Y.), 410 (1900); Bohn *v.* Lowery, 77 Wis., 424 (1899); Peterson *v.* Seagraves, 94 Tex., 390 (1901).

[3] Accetla *v.* Lupa, 54 App. Div. (N. Y.), 53 (1900).

[4] Smith *v.* Tracy, 2 Hall, 465 (1829).

[5] Bohn *v.* Lowery, 77 Miss., 424 (1899).

comply with the requirements of the statute. And when the Board of Examiners or Regents are given authority to make valid an imperfect registry, their act in validating such registry will not enable the dentist to recover for services rendered before such validating.[1]

The fact that the dentist has paid for his certificate before the contract for his services was entered into, will not entitle him to recover for services rendered by him before he actually procures his certificate, and it is immaterial whether his failure to procure it was due to his own fault or the fault of the Board whose duty it was to grant the certificate.[2] In the case last cited the plaintiff, a physician, rendered the services before he had registered. He had applied to be registered, however, before rendering the services, but the registry officer did not have a registry book. The physician did register as soon as the book was obtained by the registry officer. He was allowed to recover his fees. The court said: "He did his best to register as soon as he could. A physician is necessary in sickness. Is nobody to have his aid because a clerk neglects his duty? We hardly think such was the intention of the general assembly in passing the act of 1880 above cited, in the code." It is submitted that the reasoning of the court is not persuasive; while it is true that "a physician is necessary in sickness," the case does not show that another and qualified physician could not have been secured. In an emergency, where life is at stake, it has been held that a physician who had no time to procure a license could recover for his services.[3] But though he may not recover for services performed before procuring his certificate, he may recover the value of services performed after procuring it even though the contract to perform the services was entered into before the certificate was secured. At least if the contract was not an entire one.[4]

The statutes of some States[5] expressly provide that not

[1] Ottaway *v.* Lowden, 55 App. Div. (N. Y.), 410 (1900).

[2] Gardner *v.* Tatum, 81 Cal., 370 (1889); but see Parish *v.* Foss, 75 Ga., 439 (1885).

[3] Board of Commissioners of Adams County *v.* Cole, 9 Ind. App., 474 (1893).

[4] Ibid.

[5] See statutes, post, p. 186.

only can a dentist, who has not complied with the statute providing qualifications for practice, not recover for services rendered by him, but that if a patient has paid the dentist for such services the patient may recover from the dentist the amount so paid. The great majority of the statutes do not contain this provision; and in its absence, it should be held that where a patient has voluntarily paid for such service, especially if he knew at the time of employing the dentist that the dentist was not qualified, the patient cannot recover money paid for the services, for the general rule of law is that the law will not aid either party to an illegal transaction; it leaves the parties where it finds them.[1] It is conceived that the exception to this rule, viz., that where the penalty is imposed on one of the parties only, the parties are not in *pari delicto*, and the innocent party may recover, does not apply. The cases in which recovery has been allowed on this principle are cases in which the person seeking to recover has not received value for the money paid, and where great injustice would be done in not allowing the plaintiff to recover. Where a patient has been skilfully treated, he has received full value for the money paid and none the less so that the dentist was not legally authorized to do the work. To apply the exception therefore would not work justice, but injustice.

Burden of Proving License.—In a suit by a dentist for his fee if the patient defends on the ground that the dentist was not licensed or that his license was not registered, the law in most States is that the burden of proving that the dentist had not complied with the law is on the patient,[2] and the dentist need not produce his license unless he has received notice by plea or otherwise, that he will be required to produce it.[3] The same rule has been applied where the defence was that the dentist had forfeited his license to practise.

[1] 9 Cyc., 546.

[2] See Lyford *v.* Martin, 79 Minn., 243 (1900); Dickinson *v.* Gordy, 5 Rob. (La.), 489 (1843); Thompson *v.* Sayre, 1 Den. (N. Y.), 175 (1845); Chicago *v.* Wood, 24 Ill., App., 40 (1887); Conkey *v.* Carpenter, 106 Mich., 1 (1895).

[3] Crane *v.* McLaw, 12 Rich. L. (S. C.), 127 (1859).

In Good *v.* Lasher, Good,[1] a dentist, brought suit against Lasher to recover for services performed for him. The defence interposed was that Good had forfeited his license by failure to register the same during the period of six months after its issue by the State Board of Dental Examiners. The statute of Illinois provided "that any failure . . . on the part of any person holding such license to register the same . . . for a period of six months shall work a forfeiture of the license." The evidence showed that the plaintiff had procured a license from the Board of Examiners, and that such license was dated May 17, 1892, and recorded on November 19, 1892. There was no evidence to show when the plaintiff received his license. The court held that though more than six months had elapsed between the date of the license and its registry, yet the plaintiff could recover, for he might have received his license within six months from the date of registry. The court said: "The presumption is, in the absence of proof to the contrary, that it was within that period, for the presumption is in favor of the legality and regularity of the proceeding.

Some States, however, hold that since the possession of a license is a matter peculiarly within the knowledge of the person claiming to possess it, the burden of proving such possession is on the dentist.[2]

The statutes requiring dentists to obtain a license generally provide that such license shall be *prima facie* evidence of his right to practise.[3]

It is necessary then, in these States, and it is safer when suit is brought in States where the question has not yet arisen, to be prepared before the trial, to prove the possession of the qualifications required by law. When the dentist undertakes to prove his right to practise, claiming to be qualified under a statute which gives the dentist the right to practise if he has received a diploma from any regularly

[1] 99 Ill. App., 653 (1902).

[2] Dow *v.* Haley, 30 N. J. L., 354 (1863); Cooper *v.* Griffin, 13 Ind. App., 212 (1895); Adams *v.* Stuart, 5 Harr. (Del.), 144 (1849).

[3] See post, p. 186.

constituted dental school, a parchment purporting to be a diploma from a dental school introduced into evidence by him will not be sufficient proof to show that he is entitled to practise. He must, in addition to the introduction of the alleged diploma, prove by other evidence (1) that the diploma is genuine; (2) that the institution which granted it was such an institution as was contemplated by the law.[1]

Many of the statutes regulating the practice of dentistry now provide that the license or certificate granted by the board of examiners shall be evidence of the right to practise of the person to whom the certificate was granted. Where such provisions prevail it is not necessary in the first instance to prove the possession of a diploma or other requisites required by the law as a prerequisite to obtaining the license.

If an unlicensed dentist should render services while a law is in force providing that he could not recover for such services, he could not recover even though later the statute should be repealed.[2]

The same principle was applied in Mayfield *v.* Nale,[3] where a physician, duly licensed, removed his residence from one county to another without obtaining a new license in the county to which he removed, as required by the law; and in Bohn *v.* Lowery,[4] where a physician had obtained a license which, however, had expired before the services for which he sued were rendered. The court further held that the fact that he could have obtained a renewal of the license, but was prevented from doing so by illness, was immaterial.

4. EFFECT OF MALPRACTICE ON LIABILITY

In a suit by a dentist for remuneration for services rendered, the patient may successfully defend by showing

[1] Hill *v.* Boddie, 2 Stewart and Porter (Ala.), 56 (1832).
[2] See Warren *v.* Saxby, 12 Vt., 146 (1840).
[3] 26 Ind. App., 240 (1900).
[4] 77 Miss., 424 (1899).

that in rendering the services for which compensation is demanded the dentist was guilty of malpractice.[1]

In some States it is held that if the patient proves facts which amount to malpractice in the services for which the remuneration is claimed, the defence is complete and goes to the whole claim and that the dentist can recover no part of his charges, but forfeits all right to compensation.[2] In other States, however, it is held that though in an action to recover for services the patient may defend on the ground of malpractice in rendering the services, that proof of malpractice will only be conclusive so as to prevent recovery of the whole claim if the malpractice was such as to render the services useless, or to make the damage suffered by the patient equal to or greater than the value of the services or the amount due under the contract; if the injury done the patient is not equal to the value of the services or the amount due under the contract the dentist should recover the difference.[3]

5. WHEN COMPENSATION IS DUE

When the contract between the dentist and his patient provides a definite date for payment for the dentist's services, payment is, of course, due on that date, and on demand for payment, and refusal thereof, suit for payment may be begun immediately.

If no time for payment is fixed by the parties, the law implies that the patient has promised to pay as soon as the services are performed.

Where it is the custom to send bills at certain times, as monthly or quarterly, if the patient knows of such custom, and the circumstances show that it was understood by the parties that the patient was not to pay until such time arrived, he cannot be sued until such time. The mere fact,

[1] Brinkman *v.* Kursheedt, 84 N. Y. Supp., 575 (1903).

[2] Abbott *v.* Mayfield, 8 Kan. App., 387 (1899); Patten *v.* Wiggen, 51 Me., 594 (1862).

[3] Whitesell *v.* Hill, 101 Iowa, 629 (1897); Schopen *v.* Baldwin, 83 Hun (N. Y.), 234 (1894); Piper *v.* Menifee, 12 B. Mon. (Ky.), 465 (1851).

however, that it is the custom of the dentist to send bills to his patients at certain intervals, as monthly or quarterly, will not be construed as an agreement with a patient to extend credit to him until the customary time of sending bills has arrived. In the absence of other circumstances showing an agreement to postpone payment, the dentist may demand payment as soon as the service is rendered.

If the dentist contract to do a definite piece of work, which will last over a considerable period, for a definite sum, with no time fixed for payment, payment is due when the work is finished.

6. INTEREST ON CLAIM

Where interest is allowed generally on accounts, it seems that the dentist is entitled to interest on his claim for services from the time such claim becomes due. In Woodfield *v.* Colzey,[1] a physician sued a patient for services rendered, and claimed interest from the time such account became due. The statute of the State provided that "accounts of merchants, tradesmen, and mechanics, which by custom become due at the end of the year, should bear interest." The court held that while the statute did not mention physicians, yet they were clearly within the equity of the statute. That the Legislature was not to be presumed to pass laws for the benefit of special trades or occupations, but that it intended that persons doing a regular business, so as to establish a custom, that accounts made with them are due at the end of the year, should have interest on the amount actually due, from the time it is due. The reasoning of the court would, of course, make the act applicable to the account of a dentist.

7. EVIDENCE TO ESTABLISH LIABILITY

There is a general rule of law that the evidence brought before the court to establish a claim must be the best

[1] 47 Ga., 121 (1872).

evidence of which the case, in its nature, is susceptible. By this rule is meant that no evidence shall be received by the court which is merely substitutionary in its nature, so long as the original evidence can be produced.

This rule has nothing to do with the *amount* of evidence necessary to establish the claim; nor does it prevent the introduction of merely weaker instead of stronger proofs.

There is a general exception to this rule, viz., that if the production of the best or primary evidence is not within the power of the party he may introduce secondary evidence to prove his claim. It follows from the rule and the exception that if the contract between the dentist and the patient is a written one, as in some cases it must be, to be enforceable, and as in any case it may be, the written contract must itself be produced or its absence accounted for or the dentist cannot recover on the contract, as such. If the contract is in the possession of the patient, notice to produce it must be given him; if it is lost, proof of the loss must first be given.

If the non-production of the writing is properly accounted for, oral evidence of its terms may be introduced to prove the claim.

If the existence of the writing itself be disputed, as where the dentist sues on a contract which, under the statute of frauds must be in writing, and the patient denies that it was ever put in writing, the writing itself must be produced; oral evidence cannot be offered as a substitute for it even after an offer to prove its loss.[1]

When a dentist is suing a patient for a single piece of work or an isolated service he will ordinarily find no difficulty in swearing to the work done and to the contract price, or the value thereof. Where, however, he is suing for services rendered on several occasions, and extending over a considerable period of time, it is a very difficult matter for him to remember the various services rendered, the times when rendered, and the value or charge for each

[1] See Greenleaf, Evidence, secs. 82 to 88.

service, so as to be able to swear to these facts, on which his suit is based, without having recourse to his books of account. At first sight his books of accounts might seem to be the best evidence possible to prove his claim. It must be remembered, however, that the law has to deal with the dishonest as well as the honest, the careless as well as the methodical, and to frame its rules so as to do justice in the majority of cases; these books are kept by the dentist himself and not seen by the patient; the dentist may be dishonest and make any entry he pleases; he may be careless and make an error in his entry; he may make it some time after the service is rendered, and from his imperfect memory of what the service was, or its value. It is evidence made by himself, for himself. These, and other considerations, have, to some extent, governed the courts in framing rules as to the admissibility of books of account in evidence.

The courts of the different States are not agreed on the question of admitting these books in evidence. In the first place it may be said that books of account may be used in court for two purposes: (1) Merely to refresh the mind of the dentist while he is testifying as to the services and charges of which they contain a record. (2) As evidence themselves to prove the claim. The general rule is that books of account may be used by the witness merely to assist his memory, in any event, provided, after inspecting it, he can testify to the facts from his own recollection, and providing the writing was made either at the time the service for which the suit was brought was performed, or shortly afterward.[1]

When the books of account are used not merely to refresh the memory of the witness, but are sought to be introduced as evidence of the claim itself, the rules of the several States are not uniform as to their admissibility. In general it may be said, however, that the books may be so used when it is shown that the book is a book of original entries, that the entries were made at the time the services were rendered

[1] Greenleaf, Evidence, sec. 438.

and by the person whose duty it was at the time to make them, that true and honest accounts were kept, that the entry was reasonably specific and particular.[1]

The form of the book is immaterial provided it be regularly kept as a book of original entry. It is not necessary that the entry be made at the very moment the service was rendered. In Landis *v.* Turner[2] entries had been transferred from a slate to a book from one to three days after the transactions. This book was offered in evidence during the trial. The court admitted the book in evidence. The Supreme Court held that this was not error, saying: "The fact that the charges were made in the first instance on a slate, and subsequently transferred, does not affect the character of the book as one of original entries. The charges on the slate were mere memoranda, not intended to be permanent. If the transfer had been long delayed, that circumstance, without satisfactory explanation, would have constituted a valid objection to the admission of the book; for it is a settled rule that entries to be received must be made at or near the time of the transaction to which they relate. What interval elapsed before the transfer of the particular charges against the defendant does not appear, assuming that it was three days . . . the delay was not so great as to justify, in itself, the exclusion of the book on the ground that its entries were not original.

On the other hand, an interval of one day between the transaction and the entry of it in the book has been held a valid objection to the admission of the book in evidence.[3]

Proof that the dentist's books were honestly and correctly kept must be proved as a preliminary to receiving the books in evidence. The precise mode of proving this varies in different jurisdictions. Some courts require the proof to be by persons who have settled with the plaintiff, for other services, upon his books.[4] No hard and fast rule can be laid down as to the definiteness and particularity required of

[1] Greenleaf, Evidence, sec. 118; see also Wigmore, Evidence, secs. 1546 to 1562.
[2] 14 Cal. 575 (1860).
[3] Walter *v.* Bollman, 8 Watts (Pa.), 544 (1839).
[4] Wigmore, Evidence, 1552, n.

the entries. They must, however, be fairly intelligible. They should charge the person who is to pay, by name, give the date on which the service was rendered, set out the item charged for, and the price charged.

In Cummings *v.* Nichols[1] the court said: "There is no particular form in which the book of a party must be kept, in order to its admission as evidence, in support of his account. But it must be kept in such a mode as to show, of itself, a charge against the adverse party, and the nature of that charge, so that the book, in connection with the party's oath that the book is his original book of entries, that the charges are in his handwriting, that they were made at the time they purport to have been made, and at or near the time of the delivery of the articles, or the performance of the services, will show the nature of the claim, without further evidence from the party to interpret the meaning of arbitrary characters, the signification of which is known only to himself. It may be in such characters as are in use by persons of a particular trade or profession, and which would not readily be understood by persons not conversant with the subject matter; and in such case, evidence of other persons may be admitted, to explain the meaning usually attached to characters of that description. But in ordinary cases the suppletory evidence of the party, in support of his book, goes no farther than to the particulars above specified. (See 3 N. H. Rep., 157, Eastmen *v.* Moulton.)

"The charges must be specific and particular; but in this respect some latitude is allowed, depending upon the nature of the case. (See 11 N. H. Rep., 167, Bassett *v.* Spofford.) In a charge for work and labor continuing from day to day, for several days, it is not necessary to set down a charge for each day by itself. But a bricklayer's charge for '190 days' work,' and a physician's charge of '13 dollars for medicine and attendance in curing the whooping cough,' have been rejected as too general and indefinite. It has been

[1] 13 N. H., 425 (1843).

said that this is a matter which must reside very much in the discretion of the judge, to be exercised according to the nature of the subject, and its susceptibility of being precisely charged. (See the cases collected in 2 Cowen and Hill's Phil. Ev., 699; Greenl. Evid., 141.) If the charge be for labor, and it be a continuing service for three or four days, there seems to be no very cogent reason why it may not form the subject matter of a single charge. On the other hand, if it continues for months, there is no reason, if the party relies upon his book, why he should not make his charges from week to week, or in other limited terms."

It is said that to be admissible in evidence the books must be fairly intelligible. Under this rule it has been held that the record of the charges need not be wholly in English, and that the use of well-known abbreviations will not render the book inadmissible. In Bay *v.* Cook[1] a physician's book of account was received, though it charged the medicine furnished by its Latin name and the amount of medicine by the usual abbreviations used in apothecary's measure. On the other hand, it has been held in two cases in Pennsylvania that a physician's account book which consisted principally of hieroglyphics and signs, unintelligible without a glossary, would not be admitted in evidence to prove the claim. Such a writing, said the court in one case,[2] "would be as unintelligible to an ordinary jury as a Hebrew Bible to a deputy sheriff." In another case,[3] the court said: "It is a matter of surprise that physicians are so lax in this respect, and the present case furnishes an illustration of the danger of depending upon that which is simply a memorandum book for their own information and to refresh their recollection. In fact, in the case before us, if the testimony of the niece of the decedent had not been attainable, the claim would be entirely without support, and this alone prevented its entire rejection."

Books of account when admitted in evidence are *prima*

[1] 22 N. J. L., 343 (1850).
[2] Estate of German, 16 Phila., 318 (1883).
[3] Kelley's Estate, 5 Pa. Dist., 263 (1896).

facie evidence of the claim shown by them, and if not impeached by the defendant they are sufficient proof to enable the dentist to recover the fees shown by them to be due.[1]

8. STATUTE OF LIMITATIONS

Statutes exist generally providing that if claims are not sued on within a certain time fixed by the statute after they become due, no suit can be maintained to enforce them. The general statute applicable to other simple contracts applies, it has been held, to contracts of physicians (except in Louisiana where there is a special statute governing contracts of physicians and attorneys[2]), and would, therefore, be held to apply to contracts of dentists likewise. The period of limitation differs so greatly in different States, that no general statement of the law can be given here. A distinction must be made, however, in the different kinds of contracts a dentist may make. As we have seen, certain contracts of the dentist have been held to be contracts of sale, *e. g.*, a contract to make a set of false teeth, while other contracts are contracts for services. In most States contracts of sale and contracts for services are governed by different statutes, the time within which the suit must be brought being different in the two cases. It may follow from this that where a dentist agrees with a patient to pull a tooth and to make a plate, his action against the patient for services in pulling the tooth may be barred after two years from the time the tooth was pulled and his claim for making the plate not be barred until five years after making the plate. The time prescribed by the statutes begins to run against the claim from the day the claim accrues, *i. e.*, from the day on which payment of the claim could be legally demanded. This date, of course, depends on the contract between the dentist and the patient. If the agreement between them is that payment shall be made as soon as the work is completed, the statute begins to run from that day,

[1] Landis *v.* Turner, 14 Cal., 537 (1860).

[2] 25 Cyc., 1032.

and, in general, where no time is expressly agreed on between the dentist and the patient, since, by law, in cases of personal service, the right to demand payment accrues as soon as the service is performed, in the absence of a stipulation to the contrary the statute will begin to run as soon as the services are rendered.[1] In the case last cited, the plaintiff, a physician, attended the defendant's wife at different times without any express agreement to attend her for any stipulated length of time, or any stipulated sum of money. The court held that the physician was free to render his account for services at any time and collect for same, and therefore he could recover only for services rendered within two years of the date of the commencement of the suit; two years being the statutory limitation.

If the agreement is that payment is to be made at some fixed date in the future then the statute begins to run against the claim from that date. In order to bring a case within this rule it is believed it is not necessary that there be an express agreement for credit. Such an agreement may be inferred from the dealings between the parties, as where it is understood between the dentist and the patient that the patient will be called on to pay for services rendered at certain intervals as monthly, quarterly, etc.

Where the contract between the dentist and the patient is one of sale and not of service, the statute begins to run from the date of the breach of the contract by the patient. Though, as has been said, the statute limiting the time within which the dentist can bring an action on his claim either for services or on a sale begins to run from the time the cause of action against the plaintiff accrues; under certain circumstances this time will be postponed, and the time at which the statute begins to run against the claim will date from a later time. Thus, in general, both in England and in the United States, if the patient makes a new unconditional promise to pay the debt, either while the statute is running

[1] Gurlick *v.* Fortson, 1 Tex. App. Civ. Cas., sec. 425 (1883); Ackley *v.* Fishbeck, 124 Cal., 409 (1899).

against the claim, or even after the time fixed by the statute has actually expired, the cause of action will revive and the right to sue be extended for a further period equal to the time prescribed by the statute for bringing the suit in the first instance. So an acknowledgment of the debt from which a promise to pay will be implied, will have a like effect, as will likewise a conditional promise to pay, if accompanied by a sufficient showing that the condition on which the promise was made to depend has been performed. A partial payment of the debt by the patient will, in most jurisdictions, have the same effect, and the date of such payment mark the time from which such statute of limitation begins to run anew.[1]

[1] 25 Cyc., 1325 to 1370.

CHAPTER V

LIABILITY OF DENTIST TO PATIENT FOR BREACH OF CONTRACT

IN GENERAL

In treating of the contract between the dentist and his patient we have seen that whether the contract be express or implied, the law imposes an obligation on both parties to perform their part of the contract. If the dentist fails in this he will be liable to the patient in damages. In general these damages will be measured by the financial loss suffered by the patient from the breach of the contract by the dentist. If the dentist has agreed with the patient to treat him, and then without good cause refuses to do so, he has rendered himself liable to the patient for breach of his contract, and the patient may in a suit at law recover such damages as he has suffered by such breach.

Ordinarily, when there are other dentists in the same locality to whom the patient can resort, his damages will be nominal. In other cases they may be more or less considerable. If there are other dentists in the locality, the patient must go to one of these for treatment, or he can recover no damage. If he resorts to such other dentist the amount of damages he can recover from the defaulting dentist will depend on the charge made by the former for the work. If such charge be the same or less than that agreed on between the patient and the defaulting dentist the patient's damages will be nominal—one cent. If, however, such charge be greater the dentist will be liable to the patient for the difference between such charge and the charge agreed on between him and the patient. If there be no other dentist in the locality, the patient may

resort to the nearest reliable dentist, and recover in addition to the damage above mentioned, the expense to which he was put in his journey to and from the dentist selected.

If there is no dentist to whom the patient can resaonably resort, there is no more specific rule for the measure of his damages than that he can recover the amount of damage he has suffered. The amount of damage, of course, in such a case will depend entirely on the circumstances of each individual case. If the result of the dentist's failure to treat him be, for example, the loss of a tooth, or necrosis of the jaw bone, the amount of damage may be considerable. Even the physical pain, and in some cases the anguish of mind, suffered, will be considered in estimating the damage. The amount is in all cases left for the jury to determine, and, unless the amount awarded by them be grossly excessive or inadequate their determination of the amount is final.

A similar rule governs when the dentist has made a contract with a patient for a continuous service, or for a continuous course of treatment, and after performing part of such service refuses to complete same. If, for example, the dentist agrees to fill a particular tooth, or all the patient's teeth that need filling, or to make a plate and, after having prepared one tooth, for filling, or filled some of the teeth, or taken an impression of the mouth, he refuses without legal cause to finish the work, not only can the dentist not recover any remuneration for that portion of the service performed, but he will be liable to the patient for refusing to complete the service, and the patient's damages will be measured according to the rules set out in the preceding paragraph. The patient may seek another dentist to complete the service and recover an amount equal to the difference between the charges of the two dentists, and may recover from the defaulting dentist, in addition, any sum he may have paid him on account of the unfinished work, and also for any further damages he may actually have suffered by the dentist's default. This is where there is a contract, express or implied, to finish work undertaken. But suppose a person go to a dentist for examination? The

dentist examines him and finds that several of the patient's teeth need filling, or that the patient has pyorrhea, or an abscess—work that will require several sittings on different days; and so informs the patient. Suppose then that the patient instructs the dentist to proceed. The patient has thereby contracted with the dentist to pay him for the work done at that sitting. But does the contract extend farther than that? If the patient leaves the office without any further agreement, is there any obligation on his part to return for further treatment, or on the part of the dentist to treat him further, should the patient subsequently apply to him for treatment? It is believed that as far as any contract is concerned there is no such obligation and the patient will not be liable to the dentist if he fails to return for further treatment. Whether such a state of facts might in certain cases render the dentist liable for malpractice should he refuse to continue to treat the patient is another question which is treated elsewhere.

FAILURE TO USE PROPER MATERIALS

If the nature of the materials to be used by the dentist in making a plate, filling a tooth, or any other work requiring materials, be specified, the dentist must of course use the materials specified. Failing to do so he will be liable to the patient for breach of his contract. The liability this breach will entail may take one or more forms: (*a*) Loss of his services; (*b*) damages. If the dentist agree to make a plate and the materials he will use be also agreed on between him and the patient, if he use other and different materials (even though the materials used be as good or better for the purpose than those specified) the patient may refuse to accept the plate when finished, and will, if he refuse to accept it, not be liable to pay any part of the remuneration agreed on. Nor does the liability of the dentist end here. He will also be liable in damages to the patient for breach of the contract. The measure of these damages will ordin-

arily be the difference, if any, between the agreed price of the plate and what the patient must pay to have a similar plate to the one agreed on made elsewhere, together with any special damage the patient has suffered from the delay entailed. Of course, if the dentist offer to make a second plate according to the specifications first agreed on, and for the same sum, the patient cannot have it made elsewhere for a larger sum and recover the balance. He is under no obligation, however, to accept the dentist's second offer of another plate, and may still hold the dentist liable, notwithstanding such offer, for any special damage he has suffered.

A different case arises where the contract is not to make a plate or a palate, or a false tooth, things that may be accepted or rejected by the patient when examined by him, and if rejected, returned to the dentist. If the dentist agree to fill the patient's tooth with gold and, without the patient's knowledge, use amalgam instead, he has broken his contract even though he charge only the usual price for an amalgam filling. In such a case the patient can require the dentist to remove the amalgam and put in a gold filling, and, on refusal, refuse to pay for the amalgam filling put in unless indeed, the amalgam filling is as effective as a gold one.

Ordinarily the patient does not specify the kind of filling he desires. If he does not, the dentist is under no obligation to inform him what materials he intends to use. If no material is specified, and no sum is agreed on for the work, the dentist must use such material as a reasonably skilful dentist would use in the given case. Of course this would depend on the size of the cavity, the position of the tooth, etc. If the dentist fulfil this requirement, the patient cannot complain, even though he desired and expected a different material. If he desired a certain material he should have so informed the dentist.

If the material be not specified but a specific sum be agreed on for the work, a different case may arise. If the dentist have a different scale of prices for his work depending on the kind of material used, and the patient know of the

fact, the dentist must use the kind of material the patient has the right to expect from the charge. If the agreed price for the filling be $10, that being the usual charge for a gold filling, and that be known to the patient, the dentist is under an implied obligation to use gold.

Quality of Material.—If not only the kind of material to be used but also the special quality of such material be specified, the dentist is of course bound to use such quality and kind. If he does not, but uses an inferior quality, he is liable for breach of contract. Whether the contract expressly provides for the kind of material to be used, or whether the kind of material be implied from the circumstances of the case, the obligation of the dentist as to the quality of the material is the same. It need not be of the best quality obtainable, unless indeed only the best quality is fit for the kind of work being done. The quality must, however, be such as is reasonably fit for the work, and such as a reasonably skilful dentist would use under similar circumstances. If a quality, not fit for the purpose, or such as a reasonably skilful dentist would not use for that character of work, be used, the dentist will be liable for any damages that result from the breach of this duty.

It is generally immaterial in the application of this rule, whether the dentist knew of the unfitness of the material used, or whether such material was unfit when procured by him, or became unfit through deterioration while in his possession. The patient trusts to his superior skill, knowledge and judgment in the matter and the dentist holds himself out as possessing such skill. The dentist has undertaken not only to do a certain piece of work, in a skilful manner, but also to supply the materials, both as to kind and quality, necessary to make the work as a completed whole such as a reasonably skilful dentist would do. The dentist does not warrant that his work will last any certain length of time, it is true, for whether it will last any given length of time depends on matters, such as the patient's general health, habits, food, etc., beyond both the dentist's knowledge and supervision, but such is not the case in the selection of the kind and quality of

materials used by him, he has, or should have, expert knowledge of these matters, and the patient has the right to trust to such knowledge.

The amount of damages the dentist may be obliged to pay for breach of this duty may be merely nominal or it may be considerable. If no real damage result from the use of inferior material, while the patient may sue for breach of contract, the amount he will recover will not be substantial. If, however, the use of inferior material result in real damage to the patient, as the loss of his tooth, etc., the patient may recover whatever damages the jury thinks will compensate him for the injury suffered. If the patient discover that the dentist has used inferior material, he may require the dentist to remove such material and substitute material of proper quality, or he may engage another dentist to do the substitution and recover from the defaulting dentist the amount charged by the former, together with damages for any injury suffered.

FAILURE TO COMPLETE WORK IN TIME

If the dentist expressly agree to perform the work undertaken in a specific time, he is bound by his promise, and will be liable to his patient in damages for breach of contract. If the contract be to complete the work in a given number of hours, at a specified sum per hour, or for a lump sum, and he does not complete the work in the time agreed on, he must continue the work until it is completed, and he cannot charge for the extra time expended, for he has agreed specifically, or in effect, to complete it for a certain sum. Not only can he not charge for the extra time expended but he will himself be liable for any loss or damage suffered by the patient by reason of his (the dentist's) failure to keep his contract. The amount of this damage will be usually the value of the patient's time consumed in the extra hours required, together with extra travelling expenses, if any, involved. But there may be special damages as well; if,

for example, the dentist should agree to fit the patient with a false palate in time for his wedding and should fail to complete it at the date set, he would be liable to whatever damages, in reason, a jury might find the patient has suffered in his feelings for the humiliation caused on such an occasion by the dentist's default.

Not only may the dentist be liable in damages where he has broken his contract to finish work in a prescribed time, but in certain cases he will in addition thereto lose the value of the services he has actually performed under the contract. Thus in the example given above, not only would the dentist be liable in damages to the patient, but the patient could refuse to accept the palate when finished and to pay the agreed sum for it.

The liability of the dentist for the loss of the value of his services, in addition to damages, is confined to cases where time is of the "essence of the contract," as the legal expression is. That is, where the time within which the services are to be performed is an important element of the contract, and is so understood by both parties. The mere fact that a time is fixed, as if the dentist should say "I will have this finished for you by Friday next," or "it will not take more than three weeks," will not render the dentist liable either for the loss of the value of his work, or for damages if the work is not completed at the time mentioned.

It is believed that the liability of the dentist for the total loss of the value of his services in addition to damages is confined to cases where, for the patient's purposes, the work is practically valueless to him unless completed within the time specified, or where the work is of such a character that the patient can refuse to accept or enjoy the benefits of it. For example, while in the case supposed above of the false palate, the dentist could not recover for his services, or the materials used, in the making of the palate; if the dentist agreed to fill eleven of the plaintiff's teeth by the day of his wedding, and did in fact fill ten, but failed to fill the eleventh, while he would be liable to the patient for damages for breach of his contract in failing to finish the

work in the agreed time, and could not even recover the fee agreed on, as such, yet the patient would not be allowed to continue to enjoy the benefits of the dentist's work without remunerating him therefor; and would be required to pay the dentist a reasonable sum for the service performed. But even where time is not important in the sense that the patient desires for some specific reason to have the work done by a certain date, yet if the contract is for certain specified work to be done at a certain charge per hour, and the dentist agrees to perform the work in a certain number of hours, while he may not be liable to damages or to loss of his services if he fail to finish his work in the agreed number of hours, since the time, as such, was not important to the patient, yet the dentist cannot charge for the extra hours necessary to finish the work, for in effect he has agreed to do the work for a certain sum, and he can charge no more than that sum, because the price is always of the essence of the contract.

Meaning of the Word "About."—Frequently the dentist does not make a definite promise to complete the work for the patient by a certain date, but informs the patient that it will take "about" such and such a time. In such a case if a lump sum is to be charged for the work and there are no circumstances making it desirable from the patient's point of view, known to the dentist, to have the work completed by a given date, as treated of above, it usually makes little difference whether the work occupies a longer or shorter time. If, however, the dentist's services are paid for by the hour, the length of time consumed in doing the work becomes of immediate importance to the parties, since it measures the sum to be paid and received. In such a case it becomes necessary to determine what the word "about" signifies. Since the very object the dentist has in using the word is to guard against binding himself to finish the work at a definite date, it is plain that his promise to do the work in "about" say two months will not render him liable for damages for breach of contract if he fails to complete it in exactly two months; nor in such a case will the patient necessarily be

justified in refusing to pay him for such services, after the two months have expired, as may be necessary to complete the work. On the other hand, since the object of the patient in demanding to be informed of the length of time required to do the work may be to enable him to decide whether or not he will have the work done at all, or done by this particular dentist, it would be palpably unjust to require him to pay for any number of hours consumed by the dentist in doing the work no matter what relation that number of hours bore to "about" the time set. In this class of case the law has laid down no hard and fast rule governing the meaning of the word "about." If "about six months" was the time agreed on, the patient could not refuse to pay for one or two hours' services in excess of six months. On the other hand, he would not be required to pay for services, even though such services were necessary to complete the work, extending over ten months instead of "about six." The circumstances must govern the case, the court endeavoring to ascertain as nearly as possible the intention of the parties in the use of the word "about" and to do justice to both parties in construing the contract.

BREACH OF WARRANTY OF CURE

If the dentist should undertake to treat the patient for a disease of the mouth, say pyorrhea, the law does not imply a promise or warranty that he will cure the disease any more than it implies such promise when a physician undertakes to treat a case of typhoid fever. "The rule 'no cure no pay,' governs only where there is an express agreement to that effect" says the court in Bronson *v.* Hoffman.[1] All that the law requires of him is that he treat the patient in a reasonably skilful manner and with due care.[2] As was said by Pryor, J. in Becker *v.* Janinski:[3] "A physician does not contract to cure a patient—he is not an insurer—but his undertaking

[1] 7 Hun (N. Y.), 674 (1876).
[2] Wilkins *v.* Ferrell (Texas), 30 S. W., 450 (1895).
[3] 15 N. Y. Suppl., 675 (1891).

is only, and the duty which the law imposes is only, to exercise due skill and due care in the treatment of his patient." In Wilkins *v.* Ferrell,[1] a dentist was sued for malpractice in extracting a tooth, whereby the patient's jaw bone was fractured. On the trial the dentist's counsel asked the trial court to instruct the jury that "A dentist never insures the result, and simply engages that he possesses a reasonable degree of skill, such as is ordinarily possessed by the profession generally, and to exercise that skill with reasonable care and diligence." The trial court refused to give this instruction, and the appellate court held that the instructions asked for correctly stated the law, and should have been given, and, a verdict having been found against the dentist, the court reversed the judgment and ordered a new trial. If, however, the dentist should in express words warrant a cure from his treatment the law will hold him to his promise if the patient places himself under the dentist's care relying on such promise. In such case if the dentist fail to effect the cure he has promised he not only cannot recover anything for his services, but will himself be liable to his patient for damages for breach of his contract.

There is no legal objection to a dentist and his patient entering into a contract that the patient is not to pay the dentist anything for his services unless the dentist effect a cure. Such a case was Davis *v.* Ball and another.[2] In this case the defendants, who were dentists, made an upper and a part of a lower set of teeth for the plaintiff's wife, for which he received payment, $110, under an agreement—"Warranted for one year; and if on trial they cannot be made useful, the teeth to be returned and the money refunded." The teeth were returned within the year —but the defendants refused to refund the money paid for them. The court allowed a recovery of the $110 paid for the teeth. It is not essential to such a contract that a definite sum be agreed on for the services—the contract

[1] 10 Tex. Civ. App., 231 (1895).

[2] 60 Mass., 505 (1850).

is valid if the promise of the patient is merely to pay the dentist a reasonable sum in case of a cure. A case of this kind must be distinguished from a case where a dentist warrants a cure. In the latter case, as has been said, the dentist not only cannot recover his fee if he fails to effect a cure, but he will be liable for damages for failing to effect it. He has promised to cure the patient, and has broken his promise; he should therefore be liable for any damages the patient has suffered because of his default. Where, however, the dentist merely agrees to make no charge unless he effects a cure, he has made no promise to effect it and, hence, cannot be held liable for his failure. He merely loses the fee he would have been entitled to if he had succeeded.

In the event of a disagreement between the parties as to whether the tooth is cured, or the plate fits, neither the dentist nor the patient is the ultimate judge. If the dentist is driven to sue for his services, or the patient brings a suit on the warranty, the jury must be the final arbiters of the question.

Sometimes a dentist promises to make a plate that will "please" or be "satisfactory" to the patient. That this is a very rash promise to make all courts are agreed. All courts, however, are not agreed as to the standard of performance required by such a warranty. Some hold that the dentist under such a warranty must strictly perform his contract, and must make a plate which "pleases" or is "satisfactory" to the patient. These courts hold that it is immaterial whether the work be carefully done, or even perfectly done, whether everyone but the patient would be pleased or satisfied, or that the patient should be satisfied. The dentist has promised to please or satisfy him, and if he is not satisfied for any cause, no matter how whimsical, the dentist cannot recover for his services. These courts leave it to the jury to say whether the work is satisfactory to the patient or not; as there is no way of determining this, except by the word of the patient, if he does not want to pay for the work, he merely has to say that it is not satisfactory. Other courts have treated such promises more

leniently, and hold that if the work *ought* to be satisfactory to the patient the dentist may recover whether it is satisfactory or not. These courts leave it to the jury to say whether the work ought to be satisfactory or not. The effect of this is that if such work would be satisfactory to the jury, they find that it ought to be satisfactory to the patient, and the dentist is allowed to recover for his services. This interpretation of the contract practically makes the promise to do work satisfactory to the patient, nothing more than a promise to do the work in a skilful manner.

Other words are sometimes used in warranting the work. Whatever the words used the rules above stated apply, and different courts may be expected to construe the effect of the words differently. In Davis *v.* Ball, and another above cited,[1] the warranty was: "If on trial they cannot be made useful, the teeth to be returned and the money refunded." The defendant contended that the words "made useful" were ambiguous, and wanted to introduce evidence to show what the parties meant by them, and also to prove the meaning of the words among the profession, by other dentists. The court refused to hear such evidence, and said: "According to the true construction of the contract, the plaintiff's wife was to make trial of the teeth by using them; that if they did not fit her, and she could not make them useful to herself by a fair and proper trial of them, according to her knowledge and the instructions given her by the defendants at the time of the sale, she had a right to return them." On appeal, the Supreme Court approved of these instructions, saying: "There is no ambiguity in the words 'made useful,' and no difficulty arises from the inquiry—made useful by whom? The answer to the inquiry is very obvious 'made useful by the person who was to try them and for whom they were designed.' The teeth were made, completed, finished. Though ever so skilfully made, it was uncertain, as it necessarily must be from the nature of the case, whether the person for whose use they were designed

[1] 60 Mass., 505 (1850).

would be able to use them. It was therefore agreed that if the plaintiff's wife, upon trying them, should find she could not use them or make them useful, she might return them and the money should be refunded. There is nothing in the contract to warrant the construction that anything more was to be done to the teeth by the defendants. They had done what they could do while Mrs. Davis remained here, and as to the future, the contract clearly had reference only to what would be done upon trial by her to make them useful to her."

CHAPTER VI

LIABILITY OF DENTIST TO PATIENT FOR MALPRACTICE

DEFINITION OF MALPRACTICE

MALPRACTICE, in law, as applied to physicians and surgeons, means generally, professional misconduct toward a patient which is considered reprehensible either because immoral in itself, or because contrary to law or expressly forbidden by the law. In a more specific sense, it means bad, wrong, or injudicious treatment of a patient professionally and in respect to the particular disease or injury, resulting in injury, unnecessary suffering, or death to the patient, and proceeding from ignorance, carelessness, want of proper professional skill, disregard of established rules or principles, neglect, or a malicious or criminal intent.[1]

This definition of malpractice applies to dentists, the courts, in suits against dentists for malpractice, applying the same principles as in cases against physicians and surgeons.[2]

TIME AT WHICH LIABILITY COMMENCES

The liability for malpractice is founded on the duty the practitioner owes to the patient. If that relation has not subsisted no liability is incurred. Therefore a dentist is not liable for malpractice in refusing to treat a patient, even though no other dentist is available and the case is urgent.[3]

In the case last cited the administrator of a deceased

[1] Black's Law Dict. (2d ed.), 751.

[2] See McCracken *v.* Smathers, 122 N. C., 799 (1898).

[3] Hurley *v.* Eddingfield, 156 Ind., 416 (1900).

person sued the defendant, a physician, for $10,000 damages for wrongfully causing the death of his intestate. The trial court dismissed the suit, and the administrator appealed. The Supreme Court in affirming the judgment of the trial court said: "The material facts may be summarized thus: At and for years before decedent's death appellee was a practising physician at Mace, in Montgomery County, duly licensed under the laws of the State. He held himself out to the public as a general practitioner of medicine. He had been decedent's family physician. Decedent became dangerously ill and sent for appellee. The messenger informed appellee of decedent's violent sickness, tendered him his fees for his services, and stated to him that no other physician was procurable in time and that decedent relied on him for attention. No other physician was procurable in time to be of any use, and decedent did rely on appellee for medical assistance. Without any reason whatever, appellee refused to render aid to decedent. No other patients were requiring appellee's immediate service, and he could have gone to the relief of decedent if he had been willing to do so. Death ensued, without decedent's fault, and wholly from appellee's wrongful act.

"The alleged wrongful act was appellee's refusal to enter into a contract of employment. Counsel do not contend that, before the enactment of the law regulating the practice of medicine, physicians were bound to render professional service to everyone who applied. The act regulating the practice of medicine provides for a board of examiners, standards of qualification, examinations, licenses to those found qualified, and penalties for practising without a license. Acts of 1897, p. 255; Acts of 1899, p. 247. The Act is a preventive, not a compulsive measure. In obtaining the State's license (permission) to practise medicine, the State does not require and the licensee does not engage, that he will practise at all or on other terms than he may choose to accept. Counsel's analogies, drawn from the obligations to the public on the part of innkeepers, common carriers, and the like, are beside the mark."

LACK OF SKILL OR CARE GIVING RISE TO LIABILITY

1. **In General.**—In determining the degree of care and skill which the physician, surgeon, and dentist must exercise in order to escape liability for damages that the patient may suffer from his treatment, the courts are not entirely agreed. All the courts hold that the practitioner cannot be held liable by showing that he did not exercise the highest degree of skill and care possible.[1] All agree that to fasten such liability upon him, it is not necessary to show that he was grossly negligent in the given case. It is certain that he must have treated the patient "negligently" in order to be liable; and that if he exercised "reasonable" care and skill, he is not liable.

The negligence which renders a dentist liable in an action for malpractice is simply a failure to perform the duty which he, as a professional man, owes to his patient. This duty is usually expressed in the formula; a physician, surgeon or dentist is required to possess and exercise that degree of skill and learning ordinarily possessed and exercised by the members of his profession in good standing, practising in similar localities; and it is his duty to use reasonable care and diligence in the exercise of his skill and the application of his learning, and to act according to his best judgment.[2]

The duty and consequent liability is very clearly expressed by Pryor, J., in charging the jury in Becker *v.* Janinski,[3] "a physician does not contract to cure a patient, he is not an insurer—but his undertaking is only, and the duty which the law imposes upon him is only, to exercise due skill and care in the treatment of his patient. But as he cannot exercise due skill unless he possess it, the law requires that a physician shall have and shall exert due skill in the

[1] See Simonds *v.* Henry, 39 Me., 155 (1855).

[2] 30 Cyc., 1570. In the text cited, the writer is speaking of the duty of physicians and surgeons. As has been said, the courts, in cases where dentists were defendants, have applied the same principles.

[3] 15 N. Y. Supp., 675 (1891).

treatment of his patient. So that as, on the one hand, he cannot exercise the skill which he does not possess, on the other, no matter how consummate his skill, if in the particular case he fail to apply the degree of skill which the law exacts of him. But the law requires of a physician not only due skill, but due care also in the treatment of his patient; and he is as responsible for the want of due care as of due skill. What, then, are the due skill and that due care which the law requires of a physician in the treatment of a patient? As a physician is not bound in law to cure his patient so neither is he required to treat him with the greatest skill or the greatest care. On the other hand, a physician does not discharge his legal duty to a patient by treating him merely with little skill or with slight care. Between these extremes lies the duty which the law requires of a physician in the treatment of a patient; and it is this: The law exacts of a physician, in the treatment of a patient, that reasonable degree of skill, and that reasonable degree of care, which are ordinarily possessed and exercised by the profession, and he is liable in damages only for injuries resulting to the patient from the lack of either of these requisites."

Malpractice may consist in acting, or in omitting to act when there is a legal duty to act. It may consist in a failure to make a diagnosis, or in making an erroneous diagnosis, it may consist in treating the patient ignorantly or negligently, or in treating him without the exercise of ordinary skill or ordinary attention, provided the patient suffers damage as the result of the treatment, or lack of treatment.

It is said and repeated in the books that the dentist must possess a reasonable degree of skill, but whether he possesses such skill or not seems, in fact, unimportant in cases of malpractice, for the possession of such skill, if he does not properly exercise it in the given case will be no defence; and the absence of such skill if, without it, he treats the patient properly, will not make him liable. The patient must show injury in order to recover in an action for malpractice. If the patient is not injured he cannot recover, no matter how

ignorant the dentist who treated him may have been; and it is difficult to see how he can be injured by mere lack of knowledge apart from the application of or omission to apply such knowledge to the patient. If the dentist should, with an utter lack of knowledge of the learning of his profession on the subject, treat a patient for Rigg's disease, whether the patient could recover would depend on whether he was damaged by such treatment, not on whether the dentist was ignorant on the subject. If by chance the dentist should, in his ignorance, hit on the proper treatment, the patient could not recover from the dentist, whether or not he was cured of the disease. If the dentist, through such ignorance, prescribed the wrong treatment, and the patient was injured thereby, the dentist would, of course, be liable, but so would a skilled and learned dentist if he applied a similar erroneous treatment. It is the application or non-application of knowledge or skill which is important, not the mere possession of it.

2. **Effect of Locality.**—In determining the degree of skill or care that must be exercised by the practitioner, some courts lay down the rule that he is required to use only such care and skill as is ordinarily exercised by practitioners in the *particular* locality or neighborhood in which he practises.[1]

Other courts hold that the practitioner must exercise such care and skill as is exercised by those practising, not in the same, but in similar localities generally. Thus, in McCracken *v.* Smathers,[2] a dentist was sued for malpractice in first filling a tooth upon a live nerve without proper packing, and for boring through the jaw bone when the patient returned for treatment. On the trial the court refused to instruct the jury, as requested by the defendant, that "the care and skill required of the defendant is not the highest degree of knowledge and skill known to the profession, but such as is possessed by the men of his profession

[1] Wood *v.* Wyeth, 106 N. Y. App. Div., 21 (1905); Mullin *v.* Flanders, 73 Vt., 95 (1900); Force *v.* Gregory, 63 Conn., 167 (1893).

[2] 122 N. C., 799 (1898).

in the neighborhood." The defendant appealed against a verdict rendered against him, claiming that the trial judge erred in refusing to charge as requested. The Supreme Court affirmed the judgment saying: "The degree of care and skill required is that possessed and exercised by the ordinary members of his profession. It need not be the highest skill and knowledge known to the profession, but it must be such as is ordinarily possessed by the average of the profession. It cannot be measured simply by the profession *in the neighborhood*, as this standard of measurement would be entirely too variable and uncertain. 'Neighborhood' might be construed into a very limited area, and is generally so understood among our people. It might contain but few dentists, in sparsely settled sections perhaps only one or two. Both might be men of very inferior qualifications, and to say that they might set themselves up as the standard of a learned profession, and prove the standing of each by the ability of the other, would be equally unjust to the profession and to its patients. The words 'the neighborhood' as used in the prayer are essentially different from the phrases 'the same general neighborhood' or 'the same general locality,' which are found in some decisions from other States. In the well-considered case of Gramm *v.* Boener (56 Ind., 497, 501) the court says: 'It seems to us that physicians or surgeons practising in small towns, or rural or sparsely populated districts, are bound to possess and exercise at least the average degree of skill possessed and exercised by the profession in such localities generally. It will not do, as we think, to say that if a surgeon or physician has exercised such a degree of skill as is ordinarily exercised in the particular locality in which he practises, it will be sufficient.' The third prayer of the defendant was therefore properly refused."

The same rule was laid down by the court in Burk *v.* Foster,[1] the court, after holding that the test was not what care and skill were exercised by practitioners in the same

[1] 114 Ky., 20 (1902).

locality, saying: "On the other hand, it must be recognized that the most efficient and talented in the profession generally, and very naturally, seek better and more lucrative fields of employment; that those living in a sparsely settled neighborhood will not have, in all probability, the experience, the opportunity for acquiring skill by practice in such cases, that comes to the practitioner of medicine and surgery in the city. It generally follows, then, that the practitioners in rural localities have not the same high degree of skill, or knowledge, or education that may be found in large cities and populous communities. As the physician engages to bring to bear upon the case only such skill and care as is ordinarily practised by others of the same profession in like situation, his liability should be measured by that standard. We think the sounder rule is, not that the physician's skill and degree of attention should be measured by those of his community, but by such as is exercised generally by physicians of ordinary care and skill in similar communities. As said in Small *v.* Howard (128 Mass., 131, 35 Am. Rep., 363), 'He was bound to possess that skill only which physicians and surgeons of ordinary ability and skill, practising in similar localities, with opportunities for no larger experience ordinarily possess.'"

3. **Effect of the State of the Science.**—Manifestly, when judging of the degree of care and skill exercised by the practitioner, regard must be had to the state of the science of dentistry at the time the treatment which is alleged to be negligent, was given, and such is the doctrine of the cases. As expressed by Beck, C. J., in Almond *v.* Nugent,[1] "The physician and surgeon are required to keep up with the progress of the day." The practitioner, however, is not liable for malpractice merely because he does not exercise the skill and diligence exercised only by the thoroughly educated.[2] Nor is he so liable because he has failed to apply himself to "the most accredited sources of knowledge." As said by Beck, C. J., in Almond *v.* Nugent,[3] when the trial

[1] 34 Iowa, 300 (1872).

[2] Peck *v.* Hutchinson, 88 Iowa, 320 (1893).

[3] 34 Iowa, 300 (1872).

court had instructed the jury: "The standard of ordinary skill in the profession is on the advance, and he who would not be found wanting must apply himself with diligence to the most accredited sources of knowledge." "The rule announced . . . imposes a requirement that cannot be admitted. It demands that the surgeon shall be educated by instructors of the most established reputation, that he shall resort to schools of the widest fame, and study books of the first authority. To these sources of knowledge he must continue to apply himself. The rule condemns all knowledge not acquired in this way, and fixes, as a standard of ordinary skill, attainments gained from the prescribed course of preparation for the discharge of professional duties. It is not supported by reason and the experience of every day. Humble and unknown instructors of obscure schools may be sources from which the professional man may gain thorough knowledge of the principles of his profession. Diligent application to his pursuit, and attention to the proper sources whence he may gain knowledge of improvements and discoveries of the day, will enable him to build upon the foundation thus laid, a professional structure of excellence. Instances are within the observation of all, where men, eminent for attainments and usefulness in the profession, have been deprived of the advantages of instruction in the schools. The law requires skill and makes no inquiry as to the source whence it is obtained."

4. **Effect of Established Methods of Treatment.**—It is generally agreed that practitioners are bound by what is universally settled in the profession, and where an established practice or a particular mode of treatment has been followed for a long time and is upheld by the consensus of opinion among the members of the profession, any departure therefrom is evidence of negligence sufficient to render the dentist liable for malpractice, if injury results.[1]

As said by the court in the case last cited: "Much was said on the argument as to the right of a surgeon to exercise

[1] See Patten *v.* Wiggin, 51 Me., 594 (1862); Carpenter *v.* Blake, 60 Barb. (N. Y.), 488 (1871).

his own judgment as to the mode of treatment he will adopt in the case of a wound, or of a disease which he is called upon to treat; that neither the rules prescribed by writers, nor those acted upon by other physicians or surgeons, can apply to every case, and hence latitude must be allowed for the application of remedies which the attending physician or surgeon has found to be beneficial. If this is not allowed, the argument is, that all progress in the practice of surgery or physic must cease, and the afflicted lose altogether the benefits of experience and of remedies that science furnishes for the alleviation of human suffering. It must be conceded that if a surgeon is bound, at the peril of being liable for malpractice, to follow the modes of treatment which writers and practitioners have prescribed, the patient may lose the benefits of recent improvements in the treatment of diseases, or discoveries in science, by which new remedies have been brought into use; but this danger is more apparent than real. Some standard, by which to determine the propriety of treatment, must be adopted; otherwise experience will take the place of skill, and the reckless experimentalist the place of the experienced practitioner. If the case is a new one, the patient must trust to the skill and experience of the surgeon he calls; so must he if the injury or the disease is attended with injury to other parts, or other diseases have developed themselves, for which there is no established mode of treatment. But when the case is one as to which a system of treatment has been followed for a long time, there should be no departure from it, unless the surgeon who does it is prepared to take the risk of establishing, by his success, the propriety and safety of his experiment.

"The rule protects the community against reckless experiments, while it admits the adoption of new remedies and modes of treatment, only when their benefits have been demonstrated, or when, from the necessity of the case, the surgeon or physician must be left to the exercise of his own skill and experience."

If it is shown that some practitioners have abandoned the established mode of treatment, and applied a new mode, and

found it to succeed as well or better than the established one, it is not negligent to resort to the system thus practically tested. But before the new practice can be used, to shield the practitioner from the charge of malpractice, it must appear that the cases in which it was tested were substantially the same as the case at bar; and that the treatment resorted to has been successful in a sufficient number of instances to establish satisfactorily the propriety and safety of adopting it. The practitioner cannot try experiments on his patient.[1]

The dentist is not liable for malpractice in not following the established method of treatment, if the condition of the patient was such that this method of treatment would have resulted in injury to the patient.[2]

5. **When Services are Gratuitous.**—The rule was formerly laid down that the practitioner, when his services were rendered gratuitously, was liable for gross negligence only.[3] Later authorities deny this, and lay down the rule that when one assumes to be a dentist and acts as such, the fact that he did not charge for his services will not affect the rule as to the degree of skill and care required of him.[4] He is still liable for any injury resulting to the patient from lack of ordinary care and skill.

LIABILITY FOR INSUFFICIENT OR WRONG DIAGNOSIS

If through negligence, or the want of ordinary skill, care, or diligence, the practitioner fails to make such a sufficient examination as would enable him to correctly diagnosticate the case, he is guilty of malpractice, and liable for any damages resulting therefrom. As was said in Burk *v.* Foster,[5] "The patient was entitled to an ordinarily careful

[1] Carpenter *v.* Blake, 60 Barb. (N. Y.), 488 (1871).
[2] Hallam *v.* Means, 82 Ill., 379 (1876).
[3] Shearman and Redfield on Neg. (2d ed.), sec. 604.
[4] Peck *v.* Hutchinson, 88 Iowa, 320 (1893).
[5] 114 Ky., 20 (1902).

and thorough examination of his injuries, such as the circumstances attending their infliction, the condition of the patient, and the surgeon's opportunities for proper examination suggested and allowed."

The dentist is not only under a duty to take care to make an examination, he is under the further duty to bring to bear in making the examination, ordinary care and skill, and if through lack of such care and skill he fails to discover a lesion which exists,[1] or makes an erroneous diagnosis and follows it with improper treatment, he is liable therefor.[2]

It is said that an erroneous diagnosis alone, not followed by improper treatment, does not render the practitioner liable for malpractice.[3]

In that case, however, the erroneous diagnosis did not result in injury to the patient, as the treatment followed was equally proper whether the injury was as diagnosticated, or as claimed by the patient. It would seem that if the patient was injured by an erroneous diagnosis due to negligence or lack of ordinary knowledge or skill he should recover on the same principle that he is allowed to recover where no diagnosis is made. Suppose a dentist should, through gross ignorance, diagnosticate a case of Rigg's disease as a boil, and tell the patient that no treatment was necessary, and the patient relying on the diagnosis, suffered the loss of all his teeth; all the elements which the law relating to malpractice require are present, and there can be no doubt that the dentist would be liable. Indeed, an action for negligence has been upheld for a wrong diagnosis alone.[4] In this case the plaintiff was engaged to marry the daughter of one X. X was informed that plaintiff was diseased and thereupon employed the defendant, a physician, to examine plaintiff. The defendant did so and reported to X that the plaintiff was diseased. Whereupon X broke the engagement. The plaintiff brought suit against the physician

[1] Lewis *v.* Dwinell, 84 Me., 497 (1892).
[2] Grainger *v.* Still, 187 Mo., 197 (1904).
[3] Tomer *v.* Aiken, 126 Iowa, 114 (1904).
[4] Harriott *v.* Plimpton, 166 Mass., 585 (1896).

for negligence in making the examination, and it having been proved that the plaintiff was not diseased, the court said: "Having undertaken for compensation to be paid by another to examine the plaintiff, and to report whether he was diseased the defendant was bound to have the ordinary skill and learning of a physician, and exercise ordinary diligence and care, and if he failed, and the plaintiff was injured (by breaking of the engagement) because of his want of such skill and learning, or his want of such care, the defendant was answerable to him in damages." This case further establishes the rule that the practitioner is liable for a negligent diagnosis when he acts merely as a consultant and no treatment is contemplated.

It has even been held that when a reasonably careful diagnosis would have shown that a disease was incurable, or would not yield to usual treatment or that it was probable that the patient would not be benefited by such treatment, a failure to make such discovery or to advise the patient thereof, would be such negligence as would entitle the plaintiff to damages.[1]

LIABILITY FOR ADVISING ERRONEOUS TREATMENT

A dentist is liable in a suit for malpractice not only when he negligently performs work he has undertaken, but for advising a certain course of treatment, operation, extraction, etc., if, in his opinion, or in the opinion of a dentist of reasonable skill, such treatment is unnecessary and unreasonable, and results in injury to the patient, even though the actual treatment were skilfully administered; for when the patient submits his case to the dentist he has a right to rely on the knowledge of the dentist as to the proper course of treatment, and his good faith in advising the proper course, as well as his skill in performing the actual work. Even though the patient does not expressly ask

[1] Logan *v.* Field, 75 Mo. App., 594 (1898).

the dentist's advice as to the proper treatment in the particular case, but merely requests the dentist to perform a certain work, say to extract a tooth, it is the duty of the dentist if, in his opinion, extraction is unnecessary, to advise the patient to that effect, and the patient would have the right, in the absence of contrary advice by the dentist to assume that the dentist considered the operation proper.[1]

If, however, the dentist advises the patient that the operation is unnecessary and improper, if the patient—at least, if the patient be of mature years and sound mind—insist on the operation, and the dentist thereupon performs it, doing the work skilfully, the dentist is not liable to the patient for any damage sought on the ground that the operation was improper and injurious.[2]

LIABILITY FOR ERRONEOUS PRESCRIPTION

The care and skill required of the dentist is not confined to his acts in actually treating the patient. The same care is demanded of him by the law in writing prescriptions. If through negligence or ignorance in writing a prescription the patient suffers damage, the dentist is liable therefor in a civil action.[3]

LIABILITY FOR OMISSION TO GIVE INSTRUCTIONS

It is the duty of the dentist not only to use proper care and skill in the actual work done by him for the patient, but to give proper instructions to the patient as to the care or use of his teeth or mouth so far as such instructions are necessary to obtain the result desired from the treatment. A failure to give any instruction when such instruction should be given, or the giving of erroneous instructions

[1] Gramm *v.* Boener, 56 Ind., 497 (1877). [2] Ibid.
[3] Murdock *v.* Walker, 43 Ill. App., 590 (1892).

will, if injury result, render the dentist liable for malpractice.[1] In that case the court said: "The jury found especially that defendants properly set plaintiff's leg; that they properly treated it until he was discharged; and that they used proper and approved methods and appliances in the treatment of the leg—but it is nowhere found, directly or by implication, that they gave plaintiff proper instructions, or did not give him improper instructions, for the care and use of his injured leg. Defendants may have exercised proper care, and used proper skill in all things, yet, under the law of the case, if they omitted to give plaintiff proper instructions for the care and use of his wounded leg, they were rightly held liable by the jury. As we have said, the jury was authorized to find for plaintiff under the evidence, on the ground of defendant's negligence in the omission to discharge their duty to instruct plaintiff as to the care and use of his injured leg. For these reasons we reach the satisfactory conclusion that the judgment of the district court ought to be affirmed."

LIABILITY FOR ABANDONMENT OF PATIENT

It has been decided many times by the courts that a physician who undertakes the treatment of an ill person, renders himself liable in damages if without the patient's consent, or notice to the patient, he prematurely abandons the case. The law on this subject was well expressed by the court in the case of Ballou *v.* Prescott:[2] "The care and skill which a professional man guarantees to his employer are elements of the contract to which he becomes a party on accepting a proffered engagement. They are implied by the law as resulting from that engagement, though it be but verbal, and nothing said in relation to such elements. So continued attention to the undertaking so long as attention

[1] See Beck *v.* The German Klinik, 78 Iowa, 696 (1889).
[2] 64 Me., 305 (1872).

is required in the absence of any stipulation to the contrary, is equally an inference of the law. If a counsellor at law undertakes the management of a cause, nothing more being said or done than simply an offer and acceptance of a retainer for that purpose, it will hardly be denied that an abandonment of the cause before its close would be as much a violation of the contract with the client as a neglect to use the requisite care and skill in its prosecution, and the duty of continued attention is equally an implication of the law as that of exercising the required care and skill.

"That the same principles apply to the employment of a physician or surgeon there can be no doubt. If he is called to attend in the usual manner, and undertakes to do so by word or act, nothing being said or done to modify this undertaking, it is quite clear as a legal proposition that not only reasonable care and skill should be exercised, but also continued attention so long as the condition of the patient might require it, in the exercise of an honest and properly educated judgment, and certainly any culpable negligence in this respect would render him liable in an action. Barbour *v.* Martin, 62 Me., 536; Shearman and Redfield on Negligence, sec. 441."

This rule of law has usually been applied by the courts in cases where the physician or surgeon undertook to treat the patient at the patient's home or at a hospital. There can be no doubt that the courts would apply the same rule to a dentist who should undertake a case under similar circumstances; as where the patient from illness or other cause could not visit the dentist, and the latter therefore undertook to attend the patient. In such a case if the dentist should neglect to visit the patient without notifying the patient, and the patient relying on the implied undertaking of the dentist, should suffer from such neglect, the dentist would be liable in damages for malpractice. The obligation of the dentist is, however, only to continue to treat the patient unless (1) he notify the patient that he does not propose to continue his attendance, in time for the patient to secure the services of another dentist; or (2) unless the patient

consents to the discontinuance of the treatment; or (3) the condition of the patient is such as no longer to require treatment.

1. **Notification.**—It seems that the dentist who has undertaken the treatment of a patient without any express agreement as to the length of time of the continuance of the treatment, can, by notifying the patient in time for the patient to obtain the services of another dentist, that he intends to discontinue his visits, the patient understanding that further treatment is necessary, relieve himself of all liability for neglect to continue treatment, whatever may be his reasons for such discontinuance, or whether he has any reason other than a whim. At least there is no intimation in the books to the contrary, and the language of the cases would seem to justify the above statement of the rule of law. Of course, such notification and abandonment of the case would not relieve the dentist for any injury caused by his negligence in the actual treatment of the case.

2. **Consent of Patient.**—Of course if the patient consents to the abandonment of the case by the dentist, and much more if the patient discharges the dentist, the dentist is under no obligations to hold himself in readiness to treat the patient further, and is no more liable for refusing to treat the patient if the latter should subsequently require and demand his services, than he would be if he had been called in originally and had refused to attend the patient. But if his defense in a suit for abandoning a patient be the consent of the patient, he must be able to prove clearly such consent. Not only must the consent be proved, but it must be a consent obtained without fraud or misrepresentations on the part of the dentist. As said by the court in Carpenter *v.* Blake:[1] "I agree with the defendant's counsel, that it was the right of the defendant to give up the care of the limb at any time, especially with the plaintiff's assent; but if the defendant insists upon that consent as a shield from liability for any neglignce of which he may

[1] 60 Barb. (N. Y.), 488 (1871).

have been guilty, or for any malpractice committed, it was competent for the plaintiff to show, if she could, that her consent was obtained by representations that were false."

3. **Discharge of Patient.**—The dentist may, in defence of a suit for malpractice in abandoning the patient, show that the patient was no longer in need of his services, and that it was for this reason that he ceased his visits to the patient. To sustain this defence he must prove it. It is not sufficient to relieve him from liability that he thought the patient no longer needed his attention. He is required by law to exercise the same care and skill in determining whether the patient needed further attention as he is in the actual treatment of the case itself, and if a dentist of ordinary skill in the exercise of a reasonable care would not have discontinued his visits under the circumstances he will be liable in damages in a suit for malpractice.[1]

What has been said above applies to cases where the dentist has undertaken to treat the patient at the patient's home or at a hospital, or some place other than the dentist's office. In other words, to cases where, under the circumstances, the dentist was by the implied agreement of the parties to visit the patient. In the usual case the agreement of the parties, express or implied, is that the patient shall attend for further treatment at the office of the dentist. It remains to inquire what are the duties of the dentist as to continuance of treatment in such cases, and under what circumstances, if any, in such cases he can be held liable for malpractice on the ground that he has abandoned the patient after having undertaken the treatment of such patient.

The question may arise in two ways: (1) When the patient has been ordered by the dentist to return but fails to do so; (2) when the patient having been ordered to return does so at the time ordered but the dentist has absented himself from his office or being there refuses to treat the patient, whereby the patient suffers injury. In the first case the dentist is seen to be without fault, unless indeed he is under

[1] Lawson *v.* Conaway, 37 W. Va., 159 (1892).

an obligation notwithstanding the patient's default, either to visit the patient or further communicate with the patient to ascertain the reason of his default, and to fix a time for subsequent visits from the patient. It would seem that there is no such obligation on the part of the dentist. He may assume from the patient's failure to return, either that the patient has decided to discontinue the treatment or that he has sought another dentist. A similar case has arisen in the case of a physician.[1] In this case the physician was sued for malpractice and the physician defended on the ground that the injury complained of was not caused by his negligence but by the negligence of the patient in not returning for treatment. The trial court said: "If the plaintiff (patient) after having been treated for some time by the defendant (physician) upon going away from the place where the treatment had been given, was instructed by the defendant to return for further treatment as soon as he began to suffer pain, and he neglected for a week to return for treatment, this is a fact for you (the jury) to take into consideration, with the other facts in the case, in determining whether the plaintiff himself was not negligent." On appeal, the Supreme Court approved of this charge to the jury.

So in the case of Dashiell *v.* Griffith[2] the Supreme Court said: "If an office patient fails to come to the office of the physician or surgeon whom he employs and from whom he has received careful and skilful treatment, and then fails to return to the office for further treatment, and in consequence thereof suffers injury, he is not entitled to maintain an action against the physician, because it is his own default and misfeasance."

On the other hand, when the patient obeys the instructions of the dentist and returns for treatment, but finds the dentist absent, or the dentist being present, refuses to treat him, the dentist, not the patient is in default. Here the dentist having contracted to treat the patient at the time

[1] Jones *v.* Angell, 95 Ind., 376 (1883).

[2] 84 Md., 363 (1896).

appointed, is no doubt liable to the patient, as we have seen above, for breach of contract, unless he can show some legal excuse for his default, such as illness. Absence for pleasure, or for business reasons would be no defence.

We have seen in treating of the dentist's contract, that for breach of contract the dentist would be liable if he refused to perform his contract with the patient but that the patient must in such case minimize the damages; that he must, on the refusal of the dentist to perform the particular work seek another dentist; that he could not lie back, refuse to employ another dentist, and allow the trouble for which he sought relief to accumulate and then charge the first dentist with the accumulated damages he had suffered. This is true when the dentist in breaking his contract with the patient gives the patient to understand clearly that he will not treat him at all. But suppose the dentist instead of giving the patient to understand that he will not treat him, is simply absent from his office on a business or pleasure trip at the time appointed. In such a case the patient on finding the dentist absent, if the dentist have left no explanation of his absence, and all the more if he has left notice that his absence is only temporary, may assume that the dentist expects to treat him on his return, and certainly in the absence of knowledge that immediate treatment is necessary, need not seek another dentist and, not doing so, may recover damages for all injury suffered through the neglect of the dentist to treat him on the day appointed.

Of course, since ordinarily damages are given only to actually compensate a person for injury actually suffered, if the patient on finding the dentist absent, should seek another dentist, he cannot recover for injury he might have suffered had he not done so.

If the dentist before absenting himself notify the patient of his expected absence, and instruct the patient to seek another dentist, he has done all the law requires of him, and is not liable in an action for malpractice for any injury suffered by the patient in neglecting to treat him at the time appointed, at least if another dentist is available.

If no particular day or hour be agreed on at which a patient whom the dentist has begun to treat shall return for further treatment—say for necrosis—we have seen that the patient is under no obligation to return even if the dentist should offer him a satisfactory appointment. In such a case is the dentist under any obligation to follow up the patient, and offer him another engagement, or can he leave it to the patient to take the initiative and seek him for further treatment? This is a difficult question. The patient has gone to the dentist for examination, and the dentist, we will suppose, has discovered that the patient has necrosis of the jaw. He so informs the patient, who then requests the dentist to treat him. The dentist begins the treatment at that sitting, and the patient leaves the office without anything being said as to his return, or no definite date being fixed therefor. The patient does not realize the seriousness of the disease or that the next treatment should follow shortly on the first. This the dentist does or should know. The patient through his ignorance of the necessities of the case takes no steps to make another engagement with the dentist for six weeks. When he does the dentist gives him an immediate engagement, but the delay has caused the patient serious injury. Is the dentist liable for the injury caused by the delay? For the dentist it may be said that as the patient had the right to seek another dentist without rendering himself liable to the first dentist, that the first dentist may assume that the patient has availed himself of this right. If the relation between the first dentist and the patient began with the examination supposed above, and was not of long standing, and if the dentist at the time of the examination informed the patient of the serious nature of the disease, or had reason to believe that the patient knew its nature, and gave the patient no reason to suppose that he, the dentist, would take the initiative in fixing a date for subsequent treatment, it is believed that the dentist would not be liable for a failure to offer another engagement to the patient.

If, on the other hand, the relation between the dentist and

the patient was one of long standing, and especially if the dentist did not inform the patient, and had no reason to suppose that the patient knew of the serious nature of the disease, there would seem to be an obligation on the dentist to take the initiative and offer the patient an opportunity for further treatment. If the patient should seek another appointment but the dentist should refuse to give it to him, would the dentist be liable for malpractice? In the ordinary case it would seem not. It has often been held that a physician may, after undertaking the case of a patient, dismiss the patient on giving such patient reasonable notice that he will not attend him further. The same rule would seem to apply to the dentist, if the refusal of the dentist, when the appointment was sought, was given at such time and under such conditions, at least, as would enable the patient to obtain the necessary treatment from another dentist.

LIABILITY FOR COMMUNICATION OF DISEASE TO PATIENT

It is the duty of the practitioner while treating his patient, to use reasonable care, and employ reasonable skill not to communicate infectious or contagious diseases to the patient. This rule applies not only to the communication of a disease from which the practitioner himself is suffering, but also to the communication by the practitioner of a disease from one patient to another. If a dentist knowing he has such disease, allows the patient to visit him, without apprising the patient of the danger, and without taking proper precautions on his own part, and communicates the disease to the patient, he is liable to the patient for any damage the latter suffers thereby.[1]

Not only is he liable for damages resulting from thus communicating a disease from which he suffers, but he is

[1] See Piper *v.* Menifee, 12 B. Monroe (Ky.), 465 (1851).

also liable if he negligently transmits a disease from one patient to another, as where, having treated one patient known to him to have an infectious or contagious disease, he proceeds to treat another patient without warning such patient, and without taking proper precautions against the communication of the disease.[1]

The same rule applies whether the transmission of the disease was effected through the medium of the practitioner himself, or by the use of infected instruments.

LIABILITY FOR IMPROPER USE OF ANESTHETICS

In the use of anesthetics, as in the treatment itself, the dentist is liable for any injury, due to lack of proper care and skill, the patient may suffer. If the particular anesthetic used was such as would not have been employed by a reasonably skilful and careful practitioner, or if it was administered negligently either as to quantity or the length of time during which it was used, malpractice may be inferred.[2] It was further held in the case last cited, that the dentist in using an anesthetic is only bound to look to natural and probable effects; that he is not answerable for negligence for results arising from the peculiar condition or temperament of the patient, of which he had no knowledge. This doctrine would seem to need qualification. It being established at the present day that certain anesthetics are dangerous to persons suffering from certain diseases, it would seem incumbent on the dentist to use reasonable care and skill to discover whether the patient had such disease before administering the anesthetic, and to abstain from using it if it would be dangerous.

It has been held that the dentist, in treating a patient to whom an anesthetic had been administered, must exercise the highest professional skill and diligence to avoid every

[1] Piper *v.* Menifee, 12 B. Monroe (Ky.), 465 (1851).
[2] Bogle *v.* Winslow, 5 Phila., 136 (1863).

possible injury to the patient.[1] The court said: "There was nothing hurtful in the anesthetic administered to the plaintiff, and the fact that he was put under its influence is material only in determining the amount of care which the defendants were called upon to exercise. They knew that the plaintiff, while under the influence of the anesthetic, had no control of his faculties; that they were powerless to act, and that he was unable to exert the slightest effort to protect himself from any of the probable or possible consequences of the operation which they had undertaken to perform. He was in their charge and under their control to such an extent that they were required to exercise the highest professional skill and diligence to avoid every possible danger, for the law imposes duties upon men according to the circumstances in which they are called to act. In this case skill and diligence must be considered as indissolubly associated. The professional man, no matter how skilful, who leaves an essential link wanting or a danger unguarded in the continuous chain of treatment, is guilty of negligence, and if the omission results in injury to the patient, the practitioner is answerable.

"The defendants were employed to take the diseased tooth out; instead of doing which they allowed part of it to go down the plaintiff's throat. This was out of the ordinary course of treatment, and how such an unusual result was brought about was a fact peculiarly within the knowledge of the defendants, which they were required to explain, and it was for the jury to say whether their explanation was satisfactory or not."

LIABILITY FOR TREATING PATIENT WITHOUT CONSENT

Every person has the right to the inviolability of his person. This right forbids anyone, dentist, physician, surgeon or other, as a general rule, to do any act involving

[1] Keily *v.* Colton, 1 City Ct. R. (N. Y.), 439 (1882).

the physical touching of the patient, without the patient's consent. "The patient must be the final arbiter as to whether he shall take his chances with an operation, or take his chances of living without it . . . Consent, therefore, of an individual must be either expressly or impliedly given before a surgeon may have the right to operate."[1]

"Ordinarily," says the court in Pratt *v.* Davis,[2] "When the patient is in full possession of all his mental faculties, and in such physical health as to be able to consult about his condition without the consultation being fraught with dangerous consequences to the patient's health, and when no emergency exists making it impracticable to confer with him, it is manifest that his consent should be a requisite to a surgical operation."

If the practitioner operates without the consent of the patient when he is in a condition to be consulted, he is liable in damages in an action for assault and battery, no matter how imperative the practitioner may deem the operation.[3]

It is said, at least by inference, in the books that if the patient is unconscious, or his physical condition is such that a consultation to obtain his consent would be dangerous, and the emergency is great, that the practitioner should not be liable, if, in the exercise of reasonable knowledge and skill and his best judgment, deeming an operation necessary, he operates with the consent of relatives but without the consent of the patient,[4] or, it being impracticable to secure the consent of relatives, without their consent.[5]

It is believed, however, that it has never been actually decided that even under such circumstances the practitioner would not be liable for operating without consent. Certainly, it would be the moral duty of the practitioner to operate in what he, as a skilled man, believed to be a case of life and death, and take the chances of a suit.

[1] 1 Kinkead, Torts, sec. 375; State *v.* Housekeeper, 70 Md., 162 (1888).
[2] 224 Ill., 300 (1906).
[3] State *v.* Housekeeper, 70 Md., 162 (1888).
[4] Littlejohn *v.* Arbogast, 95 Ill. App., 605 (1900).
[5] Kinkead, Torts, sec. 375; Pratt *v.* Davis, 224 Ill., 300 (1906).

Consent of Relatives.—If the patient himself is of the age of discretion, it would seem that his consent is sufficient. It has been held in State *v.* Housekeeper,[1] that if a married woman consents to an operation on herself, it is not necessary to obtain the consent of her husband also. Writers are not agreed, however, whether in the case of young children, or persons *non compos mentis*, the consent of the parent or guardian is necessary to justify a practitioner in performing an operation.[2] It has been held in one case that the consent of the father is not necessary to justify an operation on a child, aged seventeen years.[3] Certainly such consent should be secured whenever possible, and the practitioner should never operate without such consent except in extreme cases and when he is prepared to take the consequences of a possible suit.

Consent Presumed.—The consent of the patient to a particular act of the dentist need not be express. Such consent may be presumed if the facts warrant it, and a consent to the greater includes a consent to the less if the less is included in the greater. Under our law Shylock would have been entitled to draw the blood necessary to the taking of the pound of flesh, if the contract for the pound of flesh had been valid. If a patient consents to have a tooth drawn his consent will cover the necessary laceration of the gum and consequent spilling of blood. A consent to the extraction of a specifically designated tooth, however, is not a consent to the pulling of another tooth, either instead of or in addition to the tooth indicated. This is true though the necessity for pulling the second tooth was greater than for pulling the first, and though that necessity was not discovered until the patient was under the influence of an anesthetic and hence unable to be consulted as to the extraction of the second tooth. If the patient should tell the dentist to do whatever he deemed necessary, the dentist could justify the pulling of any number of teeth which, in the

[1] 70 Md., 162 (1888).

[2] See 1 Kinkead, Torts, sec. 376.

[3] Bakker *v.* Welch, 144 Mich., 632 (1906).

exercise of reasonable skill, he considered it necessary to abstract, providing, at least, the pulling of any teeth was in the contemplation of the parties.

Consent may be presumed not only to what is necessary in the actual performance of the operation consented to, but to the extension of the operation, or even to the performance of another operation if the facts warrant the inference of consent. Whether they do warrant it is a question for the jury to decide. In Mohr *v.* Williams[1] a patient sued a surgeon for assault and battery in operating upon her left ear. She had consulted the defendant about her right ear and he had advised an operation, to which she consented. After being put under the influence of an anesthetic, the defendant discovered that her left ear was in greater need of an operation than the right. He called the attention of the plaintiff's family physician, who was in attendance on the operation at the plaintiff's request, to the condition he had discovered, and decided to operate on the left ear instead of the right. The family physician made no objection. The defendant contended that the plaintiff had impliedly consented to the operation on the left ear. The jury gave damages for the plaintiff. The court said: "The contention of defendant that the operation was consented to by plaintiff is not sustained by the evidence. At least, the evidence was such as to take the question to the jury. This contention is based upon the fact that she was represented on the occasion in question by her family physician; that the condition of her left ear was made known to him, and the propriety of an operation suggested, to which he made no objection. It is urged that by his conduct he assented to it, and that the plaintiff was bound thereby. It is not claimed that he gave his express consent. It is not disputed that the family physician of plaintiff was present on the occasion of the operation, and at her request. But the purpose of his presence was not that he might participate in the operation, nor does it appear that he was authorized

[1] 95 Minn., 261 (1905).

to consent to any change in the one originally proposed to be made. Plaintiff was naturally nervous and fearful of the consequences of being placed under the influence of anesthetics, and the presence of her family physician was requested under the impression that it would allay and calm her fears. The evidence made the question one of fact for the jury to determine."

In Beatty *v.* Cullingworth:[1] "The defendant, one of the most eminent of London surgeons, performed the operation of double ovariotomy on the plaintiff, a single woman at that time engaged to be married. Just before the operation the plaintiff told the defendant that if both ovaries were found to be diseased he must remove neither. He replied, 'You must leave that to me.' The plaintiff denied hearing this remark. Defendant and his assistant affirmed under oath that the patient's health and life would have been imperilled by failure to complete the double operation; that after the first operation she might have lived ten years, but the second was absolutely necessary for a radical cure. When she learned that the defendant had taken out both ovaries, she broke her engagement, and later brought the suit in question for malpractice and assault. The charge of the judge to the jury was, in effect, that the plaintiff had tacitly assented to the operation. The jury found a verdict for the defendant." The charge of the court has been generally criticised, as the patient directly prohibited the operation.

Extending Operation. — It is said in Mohr *v.* Williams[2] that "if in the course of an operation to which the plaintiff consented the physician should discover conditions not anticipated before the operation commenced, and which, if not removed, would endanger the life and health of the patient, he would, though no express consent was obtained or given, be justified in extending the operation to remove or overcome them." It would seem that the right to extend an operation is no greater than the right to operate in the

[1] 44 Cen. L. J., 153 (1897).

[2] 95 Minn., 261 (1905).

first instance; therefore, what is said above would seem to apply to extending an operation, except as the consent of the patient may more easily be presumed to the extension of an operation consented to than to an operation in the first instance.

EFFECT OF ADMISSION OF LACK OF SKILL

Where one does not assume to be a dentist, to practise as such, or to act as such in a particular case, but gives his advice, or does some act merely as a friend or neighbor, he does not incur the responsibilities of a member of the dental profession.[1] If, however, one assumes to be a dentist, or to act as such, the presence or absence of the legal qualifications to practise, such as possession of a diploma, or license, is immaterial; at least unless the patient knows of the absence of such qualifications.[2] So, though one be a practising dentist, if, when consulted, he makes known to the patient his lack of knowledge and skill, or the patient is in any way fully aware of it, the latter cannot complain of the lack of that which he knew did not exist.[3]

It is said that if the practitioner, when called upon, is incompetent to treat the case, he should recommend the patient to employ another practitioner; that if he feels that he is competent, but is uncertain or in doubt as to the nature or the extent of the injury, he is required to use his best judgment as to whether he should consult another practitioner.[4] His refusal to consult another practitioner, or to

[1] McNevins *v.* Lowe, 40 Ill., 209 (1866) (1888).

[2] Nelson *v.* Harrington, 72 Wis., 591 (1888). In Dickson *v.* Hygienic Institute (1910), Sessions Cases (Scotland), 352, suit was brought against an unlicensed dentist for malpractice; it was contended by the defendant that as he was an unlicensed dentist he was only bound to exercise such skill as he possessed. The court said: "An unregistered practitioner, if not known to the person operated upon to be unregistered, must attain the standard of skill of the registered practitioner at the place and in the circumstances where the services are rendered; if known to be unregistered, then the skill of his profession—that is the skill which he professes or announces."

[3] Lorenz *v.* Jackson, 88 Hun. (N. Y.), 200 (1895).

[4] Mallen *v.* Boynton, 132 Mass., 443 (1882).

accept the proffered assistance of another, neither increases nor decreases the obligation the law imposes on him, in the exercise of his profession. His refusal is no more than an implied declaration of his ability to treat the case properly.[1]

LIABILITY FOR MALPRACTICE OF OTHERS

1. **Assistant.**—The dentist is liable for malpractice not only for his own negligent treatment, but for the negligent treatment of an assistant over whose actions in the premises the dentist has dominion and control; or for such treatment by a person who, under the circumstances, a reasonably prudent person would be justified in believing, was aiding the dentist in his professional work; or who was held out to the public as his assistant; if the patient, relying on such representations, presented himself at the dentist's office for treatment, and submitted himself to a dentist in defendant's office, relying upon the defendant and not upon the individual who, in fact, treated him as the responsible head of the business.[2]

Thus in Mandeville *v.* Courtright,[3] a patient brought suit against the directors and officers of a corporation chartered to practise dentistry, for the negligence of one of its employees. The jury having awarded a verdict of $4000 against the defendants the court affirmed the judgment.

2. **Partner.**—A dentist is liable for the malpractice of his partner. It is immaterial whether the partner alone treated the patient, or whether he was treated jointly by both partners, or whether the defendant first treated the patient skilfully and his partner later, in the same, or another case, treated him unskilfully or negligently.[4]

The doctrine is thus expressed by Simpson, C. J., in Hyrne *v.* Erwin:[5] "In a partnership the parties associated are, in one sense, agents of each other, and the act of one within

[1] Potter *v.* Warner, 91 Pa., 362 (1879).
[2] Wilkins *v.* Ferrell, 10 Tex. Civ. App., 231 (1895).
[3] 142 Fed. 97 (1905).
[4] Whittaker *v.* Collins, 34 Minn., 299 (1885).
[5] 23 S. C., 226 (1885).

the scope of the partnership or business is the act of each and all, as fully as if each was present and participating in all that is done. And each guarantees that within the scope of the common business reasonable care, diligence, and skill shall be displayed by the one in charge. Or, at least, that a failure on the part of one thus to exercise such reasonable care, diligence, and skill is a failure in law of each and all, and an injury resulting from such failure is the act of all. Where, however, the injury results from a wanton or wilful act of one of the parties committed outside of the agency or common business, and not from negligence or the failure to bestow reasonable care, diligence, and skill within the agency, then a different principle applies, to wit, that the party doing the act and causing the injury is alone responsible—the distinction between the two cases growing out of the fact that the relation which the party doing the act bears to the others is different in the one case from the other. In the first his act being within the scope of the business, he acts both for himself and as agent of the others; in the other his act being beyond and outside of the scope of the business, he acts for himself."

3. **Substitute.**—While a dentist is liable for injury caused by the malpractice of his assistant, or partner, he is not liable for injury caused by the malpractice of another dentist whom he has recommended to the patient, the latter being in independent practice, and having no business connection with the former, and not being employed by the former as his agent.[1]

4. **Druggist.**—The dentist is not liable for the negligence of a druggist, over whom he has no control, in filling a prescription.[2]

He is, however, liable for his own negligence in giving a wrong prescription, and if he has negligently given a wrong prescription, he is not excused by the fact that the druggist was also negligent in filling the prescription, if the prescription was filled as written.[3]

[1] Myers *v.* Holborn, 58 N. J. L. 193 (1895).
[2] Stretton *v.* Holmes, 19 Ont., 286 (1889).
[3] Murdock *v.* Walker, 43 Ill. App., 590 (1891).

EFFECT OF CONTRIBUTORY NEGLIGENCE OF PATIENT

It is the duty of the patient to coöperate with his professional adviser, and to conform to proper and necessary treatment; and if he will not, or under the pressure of pain cannot, his neglect is his own wrong or misfortune, for which he has no right to hold the practitioner responsible.[1]

If, therefore, the patient disobeys the reasonable instructions of the dentist he cannot recover damages even though the dentist did not exercise proper skill and care, if the patient's disobedience directly contributed to produce the injury.[2]

But the negligence of the patient, to bar recovery, must have contributed to the injury. In McCracken *v.* Smathers[3] a patient sued a dentist for two acts of malpractice, (1) in filling a tooth upon a live nerve without proper packing; (2) with unnecessarily boring through the jaw bone after the patient had returned for treatment. The dentist in defence set up the contributory negligence of the patient in not returning for treatment according to his instructions. The court said, in affirming a judgment in favor of the plaintiff, "In any event the alleged negligence of the plaintiff in not returning within a proper time could not have contributed to the second act of malpractice in improperly boring into her jaw bone."

It is not sufficient to bar recovery that the patient was negligent, if his negligence only aggravated the effects due to the malpractice of the dentist, but did not bring them about or conduce to them; such negligence of the patient merely goes to mitigate the damages he can recover, not to bar a recovery.[4]

[1] Shearman and Redfield, Neg. (2d ed.), sec. 615.
[2] Hibbard *v.* Thompson, 109 Mass., 286 (1872).
[3] 122 N. C., 799 (1898).
[4] McCracken *v.* Smathers, 122 N. C., 799 (1898).

EFFECT OF RECOVERY OF FEE

In some States recovery by the dentist, in a suit at law for his services, bars an action by the patient for malpractice founded on the same services. The reason for this rule is that the patient, in the suit against him for the dentist's fee, might have defended in whole, or in part, by showing that in rendering the services sued for the dentist had been guilty of malpractice. If he omits to set up this defence, and a recovery is had against him, he cannot afterward litigate the question of malpractice.[1]

In other States it is held that the above rule applies only when, in the suit by the dentist for his fees, the patient appears and bases his defence on the ground that in rendering the service the dentist was guilty of malpractice. If the patient does not appear in answer to the suit for services, or appearing, defends on some other ground than that of the malpractice of the dentist, he is not barred from subsequently suing the dentist for malpractice.[2]

The ground on which these courts base their ruling is well set forth by Cole, C. J., in the case last cited. He says: "The plaintiff's claim for damages resulting from malpractice constitutes a separate and independent cause of action, which he can enforce without disturbing any matter litigated in that case. He was not compelled to make the defence before the justice that the defendant's services were of no value, in order to save his rights. He had his election either to recoup his damages *pro tanto* in the justice's court or go for his entire claim in this. It seems to us that this is the better and more convenient rule to lay down upon the subject. If the plaintiff were compelled to make his defence in the justice's court, that the professional services were of no value, and that he had been injured by the defendant's

[1] Bellinger *v.* Craigue, 31 Barb. (N. Y.), 534 (1860); Ely *v.* Wilbur, 49 N. J. L., 685 (1887).

[2] See Bigelow, Estoppel (2d ed.), 98; Goble *v.* Dillon, 86 Ind., 327 (1882); Ressequie *v.* Byers, 52 Wis., 650 (1881).

negligence, then it would follow that he must either split up his demand, so that there might be two suits instead of one upon it, or content himself with merely defeating the claim for services, or limit his damages to $200, the extent of the jurisdiction of the justice. We are not inclined to adopt a rule which would lead to any inconvenient consequences."

PROOF OF MALPRACTICE

When a patient has brought suit against a dentist for malpractice, the burden of proof is on the patient. To establish his case he must prove: (1) The duty of the dentist to treat him properly, *i. e.*, that the relation of dentist and patient subsisted between them. (2) That the dentist neglected this duty. (3) That the patient suffered injury. (4) That the injury was caused by the negligence of the dentist. It is not sufficient to prove that he was not benefited by the treatment, the dentist does not, in the absence of express agreement, undertake that his treatment will be beneficial. Nor can he recover by showing merely that his condition was worse after treatment than before; the dentist does not undertake that it shall be better. He only undertakes that he will treat the patient with ordinary skill, care, and diligence. If he does this he is not ordinarily liable for the result.

While the burden of proving negligence is on the plaintiff, he is not required to prove it beyond a reasonable doubt, as is the case where the negligence is made the basis of a prosecution by the State; but only by a preponderance of the evidence.[1]

From the nature of the charge against the dentist, generally speaking, proof of his negligence can be made only by expert witnesses. As said by Johnston, J., in Pettigrew *v.* Lewis:[2] "Negligence cannot be presumed. The mere fact that the plaintiff's eyes have been weak and sore since the

[1] Wood *v.* Wyeth, 106 N. Y. App. Div., 21 (1905). [2] 46 Kan., 78 (1891).

operation was performed, does not prove negligence in the defendants, nor establish a liability against them. To maintain her action, the plaintiff should have offered the evidence of skilled witnesses to show that the present condition of her eyes was the result of the operation, and that it was unskilfully and negligently performed. This evidence must, from the very nature of the case, come from experts, as other witnesses are not competent to give it, nor are juries supposed to be conversant with what is peculiar to the science and practice of the profession of medicine and surgery to that degree which will enable them to dispense with all explanations.

"The question whether a surgical operation has been unskilfully performed or not is one of science, and is to be determined by the testimony of skilful surgeons as to their opinion, founded either wholly on an examination of the part operated upon, or partly on such examination and partly on information derived from the patient; or partly on such examination, partly on such information, and partly on facts conceded or proved at the trial. McClelland, Civil Malpractice, 304.

"It would have been easy for the plaintiff to have submitted to an examination by an experienced physician or oculist capable of determining whether the condition of her eyes was the result of the operation, and whether that operation was performed with reasonable skill and care. Cases may arise where there is such gross negligence and want of skill in performing an operation as to dispense with the testimony of professional witnesses, but not so in the present case. It is not conceded or proved that the weakness of her eyes had materially resulted from the operation; and even if it was, the questions would still arise: Was she in fit physical condition to undergo the operation? Did the defendants, before beginning the operation, make a due examination to determine her condition and the necessity of an operation? Was the operation performed in a careful and skilful manner? What was the standard of professional skill and scientific knowledge required of these men in that

locality? Was the after-treatment, and were the directions given for the subsequent care of the eye, such as would meet the approval of the profession in its present advanced condition? If a mistake was made, was it a case of reasonable doubt or uncertainty, or a mere error in judgment for which there is no responsibility? It was the duty of the defendants 'to exercise ordinary care and skill'; and this being a duty imposed by law, it will be presumed that the operation was carefully and skilfully performed, in the absence of proof to the contrary. As all persons are presumed to have duly performed any duty imposed on them negligence cannot be presumed, but must be affirmatively proved. This principle is specially applicable in suits against physicians and surgeons for injuries sustained by reason of alleged unskilful and careless treatment. The State *v.* Housekeeper, 70 Md., 171."

The injury may be of such a nature, however, as itself to show negligence, at least *prima facie*. In such a case the burden of disproving negligence is on the dentist. In Shockley *v.* Tucker[1] the patient was severely burned by *x*-rays while undergoing treatment for appendicitis. In an action against the surgeon for malpractice, the court said, "We think the fact that plaintiff was severely burned is some evidence in itself that the treatment was improper."

When sued for malpractice the dentist should go to the trial prepared both by his own knowledge and the evidence of experts to disprove the charge of negligence. Many verdicts have gone against practitioners for lack of this precaution. Is the charge founded on the infection of the plaintiff by the use of unsterilized instruments? It may be met not only by proof that the instruments were sterilized but also by raising a doubt in the minds of the jurors whether, even though unsterilized instruments were used, the patient did not become infected by his own negligence or failure to obey instructions. Is the basis of the charge injury due to medicine prescribed? The dentist should be prepared to testify as to the ingredients of the medicine, and its effect.

[1] 127 Iowa, 456 (1905).

DAMAGES FOR MALPRACTICE

The damages recoverable in an action against a dentist for malpractice may be: (1) Nominal; (2) compensatory; or (3) punitive. Nominal damages are awarded by the jury where negligence of the dentist has been proved but it is impossible to distinguish between the consequences of the malpractice and the consequences of the trouble the dentist was treating. Nominal damages are usually computed at six cents.[1]

Compensatory damages are damages designed to compensate the patient for the injury suffered by the maltreatment of the dentist. They are measured by the loss or injury to the plaintiff directly and naturally resulting from the dentist's fault or negligence, not alone by such loss or injury as an ordinary man might have expected would follow from the negligence.[2]

In estimating the damages suffered by the patient the jury should take into consideration all the circumstances of the case, the pecuniary loss, resulting from inability to labor, the bodily and mental suffering, loss of time, actual expenses incurred by the patient, the ephemeral or permanent character of the injury, and the circumstances of the injured party; and award the patient such a sum of money as will compensate him for what he has suffered; or will suffer as the result of the dentist's maltreatment.[3]

Punitive, or exemplary, damages are given by way not only of compensation to the patient, but of punishment to the dentist. The jury may properly award them when the dentist in treating his patient has been guilty of gross negligence amounting to reckless indifference, or where the manner of treatment shows an evil motive toward the patient.

The doctrine of exemplary damages is well illustrated by the case of Mandeville *v.* Courtright.[4] The defendants in

[1] Becker *v.* Janinski, 15 N. Y. Supp., 675 (1891).
[2] Challis *v.* Lake, 71 N. H., 90 (1901).
[3] 30 Cyc., 1590.
[4] 142 Fed., 97 (1905).

this case were stockholders and officers of a dental company incorporated in New Jersey. They conducted in Pennsylvania in the name of the corporation, dental offices in violation of the laws of the latter State. The plaintiff in ignorance of the existence of such a corporation, and supposing that she was in the hands of licensed dentists submitted to an operation by an authorized employee of the establishment, who performed the work so negligently as to fracture the plaintiff's jaw bone. In a suit for malpractice the jury rendered a verdict in favor of the plaintiff for $4000, whereof they reported that the sum of $1500 was assessed as punitive damages. The Circuit Court of Appeals sustained the verdict, saying: "With reference to the matter of exemplary damages little need be said . . . There was evidence that the operator upon the plaintiff's jaw was unlicensed as a dentist. The operation itself called for experience, knowledge, and skill. These the person who operated seemed to have lacked. It was a great wrong to the plaintiff and a reckless indifference to her welfare to put her in the hands of such an incompetent person. Moreover, the evidence justified a finding by the jury that he acted with reckless disregard of the consequences to the plaintiff in extracting from her jaw what he supposed to be a root or piece of process, but what was in fact a portion of her jaw bone. We think that the facts disclosed by the evidence fully justified the jury in awarding to the plaintiff exemplary damages."

STATUTE OF LIMITATIONS

In some States there are statutes of limitation expressly applicable to actions for malpractice. In those States if the patient does not bring suit within the time prescribed by the statute he cannot, of course, recover. In most States there is no statute expressly applicable to actions for malpractice. In these States, however, there are statutes of limitations applying to actions for breach of contract and

sometimes a different statute applying to actions of tort. As a patient may ground his suit for malpractice either on the breach of the contract of the dentist to treat him with care and skill, or may ground it on negligence, what period of limitation will apply will depend on the remedy chosen by the plaintiff. The statutes in the different States vary in the length of time they prescribe within which the action must be brought.

As a general rule the statute begins to run against the claim of the patient from the time of the breach of the contract, or the negligence, of the dentist.[1] If the malpractice is continuous it has been held that the cause of action becomes complete when the practitioner relinquishes the case, and that the statute begins to run from that date.[2]

In the case cited the defendant had performed an operation for appendicitis on the plaintiff and had left a sponge in the patient's abdominal cavity. The wound did not heal and the physician continued to treat the patient for a year. Later he dismissed her and refused to treat her further. The defendant claimed that the cause of action of the plaintiff accrued when the operation was performed, and that the statute began to run against the plaintiff's claim for damages from that day. The court held, however, that the statute did not begin to run until the day on which the physician severed his professional relation with the plaintiff. The court said: "We have seen that it was a continuous obligation and recognized by the law, and it was alive and binding so long as the relation of physician and patient subsisted. If so, it was the ever-present duty of the surgeon to remove the sponge from the body of the patient. It was a constant and daily obligation to use ordinary skill and care, and if by omission and negligence he had left a foreign substance within the walls of the incision at the operation, it behooved him to afford timely relief. Neglect of this duty imposed by a continuous obligation was a continuous and daily breach of the same, and as the facts show, caused continuous, increasing, daily and uninterrupted injury."

[1] 25 Cyc., 1116.

[2] Gillette *v.* Tucker, 67 Ohio St., 106 (1902).

CHAPTER VII

LIABILITY OF THE DENTIST TO THE STATE

LIABILITY FOR ILLEGAL PRACTICE

1. **In General.**—The statutes regulating the practice of dentistry usually provide that it shall be a misdemeanor to practise dentistry without complying with the provisions of the statutes as to license, registry, etc. Under these statutes it is immaterial how well qualified a person is to practise from the point of view of the profession; if he has not strictly complied with the law of the State in which he attempts to practise, he is liable to criminal prosecution, and payment of a fine ranging from twenty to five hundred dollars, and in some cases to both fine and imprisonment.

By the statutes in some States not only is the person practising liable to the punishment provided by the law if he fails to register his license when and where he begins to practise, but he is likewise liable if he afterward removes into another county of the same State and there practises, or even if while still practising where he is registered he "practises" in any other county.

The crime defined by the statute is "practising," without a license, or without registration. Where the statute requires as a prerequisite to the right to practise both a license and registration, the same acts that would make the dentist liable for practising without a license would seem to render him liable where he has not registered a license issued to him. The legislature has the right to define what is "practising," and many of the statutes specifically state what acts constitute "practising." For example, the statute in California provides: "Any person shall be understood to be practising dentistry who shall for a fee, salary, or reward,

paid directly or indirectly, either to himself, or some other person, performs an operation of any kind upon the human jaws or teeth."[1]

Of course, where the statute sets out the acts constituting practice, any person who does those acts without having complied with the requirements of the law entitling him to practise at that time and place, is liable to the punishment imposed by the statute. The extent of the work done, or time consumed in doing it, is immaterial.

In State *v.* Littooy[2] the defendant was indicted for practising without a license under the statute defining practice as "performing operations or parts of operations, treating diseases or lesions of the human teeth or jaws." The facts proved were that the defendant filled a cavity in the tooth of a person, and that he was occupied about twenty minutes in the work. The supreme court affirmed a conviction. In State *v.* Sexton[3] a conviction under the same statute was affirmed where the proof showed that the defendant cleaned a patient's teeth, removed tartar therefrom, and made an examination for the purpose of estimating the cost of further treatment.

Under a statute making it a misdemeanor "for anyone to practise dentistry . . . without being registered," etc., it was held, in Ferner *v.* State[4] that the defendant could be convicted on proof showing that he leased and occupied rooms for several months for the declared purpose of practising dentistry; that he had done dental work for three or more persons; that at times he engaged in filling teeth, and at other times did work at the bench.

A provision is contained in some of the statutes allowing an unlicensed student of a licensed dentist to assist his preceptor in dental operations while in his presence and under his supervision. A student, in order to claim the exemption thus allowed from the penalty of practising without a license, must bring himself clearly within the

[1] People *v.* Furtch, 110 Pac. (Cal.), 823 (1910).
[2] (Wash.), 100 Pac., 170 (1909).
[3] 37 Wash., 110 (1905).
[4] 151 Ind., 247 (1898).

terms of the exemption; he must show not only that he was a registered student of a licensed dentist, but that the operations performed by him were performed under the supervision of his preceptor. Where there is no such provision exempting an unlicensed student, he is liable for practising without a license even though all the work he does is done under the immediate supervision of a preceptor.[1]

It has been held, however, that under an act making it a misdemeanor to "*engage* in the practice of dentistry," without a license, but not defining the terms "practice of dentistry," a person employed in the office of a licensed dentist, but himself without a license, could not be convicted, on proof showing that on one day he placed cotton in a tooth of a patient, and on a later day filled this tooth, collecting a fee of $1.50, not for himself but for the proprietor of the office. The court said: "The practice of dentistry is the practice of the art or profession of a dentist. Engaging in the practice of dentistry without a license is made a crime by the law. . . The theory of this prosecution is that an unregistered assistant or student of a licensed dentist cannot perform a single dental operation without becoming liable under the act. . . 'To engage in the practice of dentistry' means vastly more than is embraced in the charge of 'performing a dental operation.' The latter might easily be done without the operator's 'engaging in the practice of dentistry' in the sense used in the statute. And a man might engage in the practice of dentistry before he had performed a single dental operation. 'Engaging in the practice of dentistry' and 'performing a dental operation' cannot be the same thing, if we are to attach to these expressions, as we must, the meaning which standard lexicographers give to the words composing the phrase used in the statute as descriptive of this crime. It is utterly impossible that the charge of 'performing a dental operation, or two operations' embraces, in legal effect or grammatical sense, the offence

[1] Board of Dentistry *v.* Terry, 73 N. J. L., 156 (1905); State *v.* Reed, 68 Ark., 331 (1900).

prohibited in this Act. A blacksmith or a joiner might pull an aching tooth for a neighbor, but we would hardly say that he was engaged in the practice of dentistry, although we could say with entire accuracy that he had performed a dental operation. A mother who saturates a bit of cotton with camphor and crowds it into the hollow of an aching tooth of her child is performing a dental operation, but no one could properly say that she was engaged in the practice of dentistry within the meaning of this Act, and therefore liable to be arrested and prosecuted as a criminal for this motherly act.

"A young man may be preparing to enter the dental profession but he cannot, within the meaning of the statute, be said 'to engage in the practice of dentistry' until he embarks in it, until he holds himself out as a dentist, either by a series of continuous acts, covert or open, or by advertising himself in some way as a dentist or as a doctor of dental surgery. If he hold himself out to the public as a duly qualified dentist, embarked in the profession, and offers to practise as such, this would be engaging in the practice of dentistry within the true sense and meaning of this Act, even though his first patient had not yet called.

"Had the legislature really intended to make it a crime to perform any dental operation without a license, it could and would have found language to express that intention with clearness and certainty. It had no difficulty in expressing that intention clearly in the Act relating to the practice of medicine, passed at the same session. Public Acts of 1907, p. 640, Chap. 82, sec. 1. In that Act it is expressly provided that 'no person shall treat, operate, or prescribe for any injury, deformity, ailment, or disease, actual or imaginary, of another person, . . . until he has obtained such a certificate of registration' as the statute provides for. There is no such clear and explicit language as this to support the public prosecutor's contention that this act makes it a crime to perform a dental operation without a license. Had the legislature anticipated the case now before the court, it perhaps would have employed in this statute expressions pro-

hibitory of the act which this defendant is being prosecuted for. Such expressions, however, do not appear there, and this statute therefore has not been violated. The information does not charge any offence under the Act in question, hence the demurrer should have been sustained upon that ground."

Many of the statutes define the practice of dentistry in the words "correct malpositions of the teeth or jaws." Under such a statute one who takes an impression for a plate is guilty of "practising dentistry" since that act "was for the purpose of correcting a malposition of the jaw by inserting a tooth in place of one removed."[1]

If the statute forbidding the practice of dentistry without a license does not require the receipt of a fee as an element of the crime, it is not necessary for the State to prove, in order to convict, that the dentist received compensation for the work done by him.[2]

Under some statutes it is necessary in order to convict one of practising to prove that some fee or reward was received for the work done. On a prosecution under such a statute it is not necessary to prove that a separate fee was charged for any specific act done, it is sufficient to show that a fee was charged and collected for a series of acts in violation of the provisions of the law, and that the act complained of was one of the series. Nor is it necessary to show that the payment for the services was made after the services were performed.[3]

On a trial for practising without a license the defendant cannot excuse himself by showing that he was entitled to a license from the board of examiners, and that such license had been wrongfully, dishonestly, and fraudulently withheld from him.[4]

When the statute makes it a prerequisite to practise that the applicant file a statement that he had been entitled to

[1] State *v.* Thompson (Wash.), 94 Pac., 667 (1908): see also State *v.* Newton (Wash.), 81 Pac., 1002 (1905).

[2] See State *v.* Hale, 15 Mo., 606 (1847). [3] State *v.* Brown, 37 Wash. 106 (1905).

[4] Ibid.

practise before the act was passed, showing his name, residence, date of commencing practice, etc., and the statement he files does not show when he commenced to practise, he cannot on an indictment for practising illegally, excuse himself on the ground that the proper officers did not perform their duties.

Where a statute requires a statement to be filed with a designated officer stating certain facts, a person indicted for practising illegally cannot defend by showing that he filed a statement with another officer, stating some but not all of the facts required by the law. Nor that the officer with whom he should have filed his statement did not furnish him with blanks as required by law.[1]

On an indictment for practising without a license it is no defence that the patient requested the dentist to perform the dental work for the doing of which he is indicted.[2]

Some statutes provide that it shall be unlawful for any person to practise under the name of any company, or corporation, excepting those who have been in actual business for fifteen years. Under this statute it has been held that it was unlawful for a dentist to practise under the name of any company though he had been entitled to practise for fifteen years, unless the company had been in business under one name for fifteen years, and the dentist has been in its employment under such name for fifteen years.[3]

It has been held that the word "person" in the English Dentists Act does not include a corporation or company, and that a company cannot be convicted under the act for assuming a name which includes the words "surgeon dentists."[4] But if a company use the word "dentist" or its equivalent in such a manner as to amount to a false representation, calculated to induce the public to believe that the persons whom it comprises or employs are qualified dentists,

[1] State *v.* Hicks, 143 N. C., 689 (1907).
[2] State *v.* Littooy, 100 Pac. (Wash.), 170 (1909).
[3] Hodgen *v.* Commonwealth, 142 Ky., 722 (1911).
[4] O'Duffy *v.* Jaffe, (1904) (Ireland), 2 I. R., 27.

it may be restrained from so doing by an injunction at the suit of the Attorney-General.[1]

2. **Liability for Practising under a False Pretence.**—We have seen that the duties and obligations of the dentist to a patient do not arise until the relation is established. That the display of a name-plate or sign, or the opening of an office, places him under no obligation to accept any person as a patient.

Some statutes, however, make it an indictable offence for an unqualified person to use the title "dentist" or "dental practitioner," or any "name, title, addition, or description implying that he is registered, or that he is a person qualified to practise dentistry." Under such statutes it is not necessary to a conviction that a person use his own name in connection with a description implying that he is a registered dentist. Thus in Panhaus *v.* Brown[2] an unqualified dentist was indicted under the English Dental Act, which contains a provision such as is mentioned above. The evidence was that the defendant was the sole director and manager of a joint stock company chartered as the "West Central Dental Institute, Limited," and that the name of the company appeared on the plate at his office, but the name of the dentist did not appear on the door-plate or elsewhere on the premises. There was no evidence that any one, other than the defendant, practised dentistry on the premises. The defendant did so practise. The court of King's Bench affirmed a conviction of the defendant.

Statutes in some jurisdictions make it an offence for any person not a registered dentist to "use or have attached to or exhibited at his place of business or residence . . . any name, title, words, letters, addition, or description implying or tending to the belief that he . . . is qualified to practise dentistry, or is carrying on the practice of dentistry."

On a prosecution of one L under such a statute it appeared

[1] Attorney-General *v.* Myddletons, (1907) (Ireland), 1 Ir., 471; Attorney-General *v.* Smith (1909), (Eng.), 2 Ch., 524.

[2] 68 J. P. (Eng.), 435 (1904).

that L, who was not a registered dentist, practised dentistry in a house in the city of V, outside of which were displayed various signs, one of them being "D. Dentist," and another "Teeth extracted." D was a registered dentist but was absent from V. L's name did not appear on any of the signs, but he was the only person who at the time practised dentistry in the house. The High Court of Australia held that L was properly convicted of the offence created by the statute, notwithstanding that in reply to questions put to him by persons visiting the house and asking for D, L said that D was absent, that his own name was L, and that he acted for D and was carrying on the business for D.[1]

Aside from any statutory provisions punishing practice under an assumed name or degree, a person will be liable to indictment under the general law against obtaining money under false pretences if, by a false pretence of an existing or past fact he, with intent to defraud, procures money from another. The punishment for this crime is fine, imprisonment, or both.

To render the dentist liable for the crime of obtaining money under a false pretence, the false pretence or statement must be of an existing or past fact. A false promise is not sufficient. If a dentist should say to a patient, "If you will allow me to treat you, I *will* cure you," and the patient relying on this statement should suffer the treatment, and pay therefor, the dentist would not be indictable for obtain-

[1] Joske *v.* Lubrano (Victoria), 4 C. L. R., 71 (1906). It is held in England, construing section 3 of the English Act forbidding any person to use any name, title, etc., implying that he is a person specially qualified to practise dentistry, unless he is registered; that the words "specially qualified" to practise dentistry refer to a qualification by diploma, certificate, or other hall mark, and not to competence or skill; and that, therefore, one who being unlicensed puts up on his premises a notice containing his name followed by the words: "Finest artificial teeth. Painless extraction. Mr. X attends here"; was not guilty of a breach of the Act. Bellerby *v.* Heyworth (1910), Appeal Cases, 377 [overruling Barnes *v.* Brown (1909), 1 K. B., 38 (1908)]; see also Byrne *v.* Rogers, (1910) 2 Ir., R., 220. In a later case the defendant went farther. He advertised his business as follows: "English and American Dentistry. Painless Extraction. Consultation and advice free. Minter & Snow, Dental Institute, No. 213 Richmond Road, Twickenham. Hours, 9 A.M. to 8 P. M." On appeal to the House of Lords, it was again held that the defendant had not used any words forbidden by the Act. Minter *v.* Snow, 74 J. P., 258 (1910).

ing the patient's money by a false pretence, even though the dentist knew at the time he made the statement that he could not cure the patient, and made it for the purpose of defrauding the patient. His statement related to the future, not to the present or past. If, however, the dentist said: "I have cured X of the same trouble;" or "I *can* cure you," and this statement was made knowing that it was false, and with the intent to defraud, and the patient was defrauded thereby, the dentist would be guilty of this crime, for his statement "I have cured X" relates to the past; and his statement "I can cure you" is a statement of his present ability.

3. **Liability for Practising after Revocation of License.**—The statutes, as a rule, provide for the revocation of the license in certain events. As we have seen elsewhere a license once granted cannot be revoked without an opportunity to the holder to be heard in his own defense.[1]

While the statutes generally make it a crime to practise without first obtaining a license or certificate, they do not generally, in terms, provide that one whose license has been revoked shall be guilty of a crime if after the revocation he knowingly continues to practise. It would seem in reason, however, that such person should be in the same position as though he never had had a license. Under a rule of the criminal law, however, that penal statutes shall be strictly construed, that is, construed in favor of one accused of a crime, it has been held that where the statute did not in terms make it a criminal offence to practise after a license had been revoked, such practice was not indictable.

In Ex parte McNulty[2] the statute provided that no person should practise medicine who had not obtained a certificate from a board of examiners. The statute also provided that the certificate might be revoked by the board for "unprofessional conduct." The statute further provided that any person practising medicine in the State without having first secured a certificate so to do from the board should be guilty

[1] See ante p. 38.

[2] 77 Cal., 164 (1888).

of a misdemeanor. X, a physician, had secured a certificate from the board; later the board revoked his certificate for what it deemed unprofessional conduct. X continued, nevertheless, to practise. He was indicted for so doing, and convicted. The court of appeal reversed the conviction saying, "Nothing is declared in this act to be a crime except practising 'without first having procured a certificate.' Practising after an order of the board revoking the certificate for unprofessional conduct is not declared to be a crime, and no penalty is attached to it."

A similar case has arisen in Illinois.[1] In this case the court said: "The only penal clause in the statute, under which plaintiff in error was convicted, and which is at all applicable to the case, is in these words: 'Any person practising medicine or surgery in this State without complying with the provisions of this act, shall be punished,' etc. The case shows that plaintiff in error had complied with each of those requirements. But it appears that some three years thereafter said board passed an order purporting to revoke such certificate or act of certification of plaintiff's diploma. The whole stress of this case rests upon that circumstance. Counsel for the prosecution maintain that, by the tenth section of the act, the board was vested with the power to revoke any certificates it had made. That section says, the board may refuse certificates to individuals guilty of unprofessional or dishonorable conduct, and they may revoke licenses for like causes. And they say that the effect of such revocation was the same as if the plaintiff in error had never had any such certification of his diploma."

The statute prescribes no such effect. Indeed, it is wholly silent as respects any consequences of such revocation. The question here arises whether such effect can follow by implication, so as to bring the party within said penal clause, the statute being silent and containing no prohibition against his practising thereafter. It seems to us, that the statute itself emphatically repels and rebuts any such

[1] Williams *v.* People, 17 Ill., App., 274 (1885).

implication or presumption. Section 1 enacts: "That every person practising medicine in any of its departments shall possess the qualifications prescribed by this act. If a graduate in medicine, he shall present his diploma to the State Board of Health for verification as to its genuineness. If the diploma is found genuine, and if the person named therein be the person claiming and presenting the same, the State Board of Health shall issue its certificate to that effect, signed by all the members thereof, and *such diploma and certificate* shall be *conclusive*, as to the right of the lawful holder of the same to practise medicine in this State." The word 'conclusive,' as there used, has a well-defined legal signification. Its proper synonyms are irrefutable, final. With the question as to what powers the board possesses in regard to the making such certification of a diploma, we have no concern in this case. What was the legal effect of it after it was made is the question. The declaration of the legislature that such diploma and certificate shall be *conclusive* as to the right of the holder to practise medicine, is subject to no limitation as to time or qualification as to circumstances. It is clear and unambiguous, admitting of no construction. And there is no other provision of the statute which is necessarily in conflict with it. For the court to coin and interject a counteracting phrase, would, in our opinion, be nothing but judicial legislation, which, in theory, is always condemned, but not infrequently practised."

4. **Burden of Proving Right to Practise.**—Where a statute makes it an indictable offence to practise without having complied with the requirements of the statute, the burden of proving that the accused has complied with such requirements is generally on the accused.[1]

If he relies for his defence on a section of the statute allowing persons to practise who had been engaged in practice before the passage of the act, the burden of proof is on him to show not only that he was engaged in practice before the

[1] People *v.* Fulda, 52 Hun. (N. Y.), 65 (1889); Williams *v.* People, 20 Ill. App., 92 (1886).

act went into effect, but that he was legally engaged in practise at that time.[1]

5. **Construction of Statute.**—On a prosecution for practising without compliance with the requirements of the statute, the statute will be strictly construed in favor of the defendant, and if the facts of the case do not bring it clearly within the terms of the statute, he cannot be convicted.[2]

6. **Statute of Limitation.**—In some States a prosecution for illegally practising dentistry is barred if not brought within a certain time after the act or acts relied on as constituting the practice were done. Where such statutes are in force, the burden of proving that the offence was done within the time prescribed by the statute is on the prosecution.[3]

ASSAULT AND BATTERY

Assault and battery consists in any unlawful touching of the person of another; and is a crime. If a dentist should, without the consent of the patient, pull a tooth, or perform any other operation on the patient, he would be liable not only to a civil suit for damages, as we have seen, but also to an indictment for this crime. A dentist should always, therefore, inform the patient what he proposes to do before operating, and procure the patient's consent thereto. Such consent may be general or specific. If the patient puts himself into the hands of the dentist, telling the dentist to do whatever may be necessary, this will amount to a consent by the patient to any act of the dentist which in his honest and *bona fide* judgment is necessary. If, however, the consent of the patient is to a specific act, say to the pulling of a certain tooth, and the dentist should deliberately pull another tooth, the dentist would be guilty of assault and battery. Nor would it be any defence that the extraction of the tooth pulled was necessary to the welfare of the patient.

[1] Morris *v.* State, 117 Ga., 1 (1902).
[2] Robinson *v.* People, 23 Col., 123 (1896).
[3] State *v.* Newton (Wash.), 81 Pac., 1002 (1905).

If the tooth extracted was pulled, not deliberately, but by mistake, then whether the dentist would be liable for assault and battery would depend on the question whether the mistake was an honest one, and one that a cautious and skilful dentist would have made under the circumstances. If it were, the dentist would not be guilty; but if the mistake was due to negligence it seems that the dentist would be guilty. If the tooth wrongfully pulled were a front tooth, the dentist would be guilty of the graver crime of mayhem. Mayhem being defined as the violently depriving another of the use of such of his members as may render him the less able, in fighting, either to defend himself, or annoy his adversary.[1]

RAPE

There have been a number of accusations of rape brought against dentists. Rape is the carnal knowledge of a woman by a man by force and without her consent. It has long been decided that intercourse with a woman while she is unconscious is by force and without her consent, and therefore rape.[2]

As said many years ago by a great judge, rape is the crime of all others of which it is easiest to accuse and which it is most difficult to disprove. Add to this that on a charge of this crime the sympathies of the jury are always strongly on the side of the woman; that the punishment, on conviction, is very severe; and that even if the charge is disproved the defendant's reputation is seriously injured and his business destroyed, it is readily seen that precautions should be taken against even a charge of the crime. If possible, the dentist should always, when treating a woman, have someone in his office other than himself and the patient. He should never, on any account, place a female patient under the influence of an anesthetic without a third person, preferably a woman present during the whole time the patient is under the influ-

[1] 4 Blackstone, Com., 203.

[2] Payne *v.* State, 40 Tex., Cr. R., 202 (1899).

ence of the drug, for it is a well known-fact that one of the effects of anesthetics is to induce hallucinations of a sexual character.

HOMICIDE

We have seen that the dentist is liable in damages to the patient for any injury suffered by the latter due to the negligence of the dentist. The liability of the dentist for negligence is not, however, confined to the payment of damages to the patient. If the patient should die as the result of negligence on the part of the dentist, the dentist may find himself involved in a charge of manslaughter.

Manslaughter is committed in causing the death of a person by negligence. The negligence may consist either in doing an act or in omitting to do an act. No intent to cause the injury, no ill will to the person injured, not even an actual knowledge that death is likely to result from the act or omission is necessary to constitute the crime. If the death of the patient was the result of the negligence of the dentist, his inattention or ignorance, he is guilty of manslaughter. By the weight of authority the same rules apply whether the dentist is practising with or without authority of law.

A dentist is not guilty of manslaughter merely because a patient dies from his act in performing an operation, or administering an anesthetic, if it is done in good faith, even though the dentist made a mistake or did not possess the highest skill. The act or omission must be negligent to make him guilty. As to just what degree of negligence is necessary, the courts are not agreed. It is usually declared that it must be gross negligence.[1]

In an English case,[2] where a physician was indicted for manslaughter in causing the death of his wife by an overdose of morphine, Justice Denman in charging the jury said: "If he dealt with dangerous medicines he was bound to use

[1] See 2 Bishop, New Criminal Law, sec. 664.

[2] Reg. *v.* Macleod, 12 Cox C. C., 534 (1874).

them with proper skill, and was bound to bring proper care, and employ proper caution, so that persons would not be endangered by want of skill on his part, or want of caution or care in dealing with the deadly ingredients . . . the main point was whether the man did not do his best, not in the sense of doing a bad best—but in doing a good best . . . if it was administered without proper care, skill, and caution, and without a proper knowledge of morphine by the prisoner —whether in the weighing of the drug, or in any other way, that would be clear negligence—he would not use the term 'gross negligence,' because it was liable to misinterpretation—and if that was so, the prisoner would be guilty of manslaughter. But if the drug was administered without want of skill, and intending to do for the best—doing nothing, in fact, a skilful man might not do, then if the jury merely thought it was some error of judgment which anybody might have committed, the prisoner should be acquitted."

If, therefore, a dentist should perform an operation or administer an anesthetic being ignorant of the proper method of performing one or administering the other; or, being competent, should act with gross, or perhaps a lesser degree of negligence, either by not using the skill he possessed or not using it with proper caution, he would be guilty of manslaughter if his act resulted in the death of the patient.

The same principle applies when the death of the patient results from an omission to do an act that the condition of the patient he has agreed to treat requires. If the omission, under the circumstances, was grossly negligent, the dentist is guilty of manslaughter.

Consent of Patient.—On an indictment for manslaughter by negligence, the dentist cannot defend by showing that the patient consented to the treatment, knowing him to be incompetent, unless, perhaps, the physical condition of the patient was such that unless the operation was performed the patient was in danger of death or serious bodily injury and there was no more competent person within reach.

PRACTISING ON SUNDAY

We have seen in treating of contracts that it is generally forbidden to labor on Sunday, and that contracts for work on that day are void. Many statutes not only make contracts made on Sunday void, but also make it a criminal offence to work on that day. Under these statutes a dentist is as liable to indictment as anyone else, unless he can bring himself within the exceptions usually made in the statute as to works of necessity.[1]

[1] See Contracts, ante, p. 48.

CHAPTER VIII

THE DENTIST AS A WITNESS

SECURING ATTENDANCE

EVER since the statute of Elizabeth enacted in 1562–63, it has been recognized as fundamental that the public has a right to every man's evidence in a civil suit pending in a court of law; and since 1701 that they have the same right in a criminal suit.[1] The dentist is not excepted from this rule, and he, like any other citizen, is bound to attend the trial of any case in court when properly summoned thereto to testify, like any other witness, to facts of simple observation by eye and ear. To this end a process called a subpena is issued from the court and served on the witness ordering him to appear at a certain court on a certain day to testify what he knows in a cause between certain parties, and to attend the court for that purpose until discharged. The service should be made a reasonable time before the day specified for his attendance, and the witness is usually not held to be in default unless the service of the process conforms to these requirements.[2]

Expert evidence may be as necessary as ordinary evidence in the administration of justice, therefore the considerations of public policy that require that an ordinary witness be compelled to appear and testify in a case apply with equal force to the expert. As was said by Biddle, C. J., in Dills *v.* State:[3] "The administration of justice is the highest duty and crowning excellence of a State; and without the power to compel a witness to appear and testify, this duty would

[1] 4 Wigmore, Ev., sec. 2190.
[2] Ibid., sec. 2199.
[3] 59 Ind., 15 (1877).

be embarrassed, and this great public good unattained. And in this we can perceive no difference whether a witness is called as an expert or as to ordinary facts. In judicial trials, justice demands the truth as to facts in all departments of human knowledge, and the State has the right to compel witnesses to appear and testify concerning all matters within their knowledge belonging to human affairs wherein their testimony is not prohibited by law."

While theoretically speaking an expert can be compelled to appear and testify in any case, in practice he will rarely be called on to testify if he does not wish to do so. When approached and asked to become a witness he should decline if he feels that, due to lack of theoretical knowledge or of experience in the particular matter on which his opinion is desired, he will not be of assistance in the case.

EXCUSES FOR NON-ATTENDANCE

The dentist, like other witnesses, is excused from attending on court if he cannot do so without direct and serious danger to his health or his family's welfare. In rare cases a witness has been excused from attendance where the distance to be travelled was great, the interruption to his business considerable, and his testimony not very important. The general rule is well expressed by Cowen, J., in People *v.* Davis:[1] "The process of the subpena demands great and extraordinary efforts on the part of the witness to obey. It commands him expressly to lay aside his business and excuses. . . . It is not denied that serious sickness in his family, such as would prevent a prudent father or husband from leaving home on his own important business, would save him from the imputation of a contempt, and, perhaps from an action. But such a case ought clearly to be shown to the court. Above all, where the summons allows him full time, he should struggle to get ready as he would to go abroad on his own

[1] 15 Wend. (N. Y.), 602, 608 (1836). (Quoted in Wigmore, Ev., sec. 2204.)

pressing business. If inevitably disappointed, after exhausting every reasonable expedient, he ought certainly to be excused from the payment of a penalty which pre-supposes some neglect, at least."

WITNESS FEES

The statute of Elizabeth provided, and ever since that statute it has been required, that the witness be tendered in advance of the trial, and at the time of the serving of the subpena, the amount of the expense to which he will be put in attending the trial, and on demand of such payment, at the time of service of process, and refusal, the witness is not bound to attend. If, however, he do not demand his expenses when served with process, but voluntarily attends the trial, he cannot refuse to testify when called to the stand, on the ground that his expenses have not been paid.[1]

This law of the tender of expenses in civil suits differs in the different States. Generally the statutes provide for the tender of expenses for one day's attendance, and for travel one or both ways. In criminal cases by statute in most jurisdictions, neither the prosecution nor the accused is required to tender the witness' expenses in advance.[2]

We have seen above that the non-expert witness cannot be compelled to testify until he is tendered the fees prescribed by law in the different jurisdictions. The same rule applies in the case of the expert witness. He may refuse to obey the subpena unless his fee is tendered him at the time of the service of process, unless he waive such tender. As to the amount of the fee demandable by him, however, there is much difference of opinion. It is contended on the one side—chiefly by the experts themselves—that they should not be required to attend and to testify on tender of a fee equal only in amount to that demandable by non-expert witnesses. It is contended that the professional experience

[1] 4 Wigmore, Ev., sec. 2203.

[2] Ibid., sec. 2201.

and knowledge of the expert are his individual property, and that neither the public nor an individual has a right to compel him to bestow them without adequate compensation in addition to the fee paid the non-expert witness; that the time of the expert is more valuable than that of the non-expert, and that he should be compensated in proportion for the time lost from his professional duties in attending court. As said by the court in Buchman *v.* State:[1] "If the professional services of a lawyer cannot be required in a civil or criminal case without compensation, how can the professional services of a physician be thus required? Is not his medical knowledge his capital stock? . . . When a physician testifies as an expert, by giving his opinion, he is performing a strictly professional service. . . . If physicians and surgeons can be compelled to render professional services, by giving their opinions on the trial of criminal cases, without compensation, then an eminent physician or surgeon may be compelled to go to any part of the State, at any and all times, to render such service, without other compensation than such as he may recover, as ordinary witness fees, from the defendant in the prosecution, depending upon his conviction and ability to pay. This under the general principles of law and the constitution of the State, he cannot be compelled to do. If he knows facts pertinent to the case to be tried, he must attend and testify as any other witness, in respect to facts within his knowledge; his qualifications as a physician or surgeon are entirely unimportant. In respect to facts, as before stated, he stands upon an equality with all other witnesses, and the law, as well as his duty to the public, requires him to attend and testify for such fees as the Legislature has provided. Not so, however, in respect to his professional opinions. In giving them he is performing a 'particular' service, which cannot be demanded of him without compensation."

Professor Wigmore has answered these arguments as follows: "The grounds upon which it may be concluded

[1] 59 Ind., 1 (1877).

that no different privilege should be established for expert witnesses than for others may be summarized as follows: (1) The expert is not asked to render professional services as a physician or chemist or engineer; he is asked merely, as other witnesses are, to testify what he knows or believes. (2) The hardship upon the professional man who loses his day's fees of fifty or one hundred or more dollars is no greater, relatively, than upon the storekeeper or the mechanic who loses his day's earnings of two or ten dollars; each loses his all for the day; moreover, though the recoupment of the witness fee of one or two dollars is relatively greater for the mechanic, yet his risk of losing continued employment by enforced absence is greater than for the professional man, and more than equalizes the hardship to him. (3) It is only by accident and not by premeditation or deliberate resolve with reference to the ligitation, that either has become desirable as a source of evidence; neither the expert in blood stains nor the bystander at a murder has expressly put himself in the way of qualifying as a witness, so that no claim based on a special dedication of services for the case can be predicated of one rather than another. (4) The practical difficulty of discriminating between various kinds of experts and their earnings, and between that testimony which they give as such and that which they give as ordinary observers, would be serious, and would introduce confusion and quibbling into the law. (5) Finally, so far as concerns the policy of doing whatever should attract and not deter desirable witnesses. No one will ever refrain from entering a professional calling because of the fear of having to spend his time gratuitously at trials; and yet an ordinary person is often deterred from observing (or disclosing his observation) a street accident or the like, because of the apprehension of being summoned as a witness; so that the latter sort, if either, should be the one to be encouraged by special compensation."

Professor Wigmore adds, "It has therefore been generally held that an expert witness is not entitled to demand addi-

tional compensation, other than the ordinary witness fees, before attending the testimony on the stand."[1]

While, generally, the expert witness cannot demand before testifying, in the absence of a statute, the tender of compensation in amount above that of the non-expert witness, statutes have been passed in some States providing for the payment of additional compensation to expert witnesses. These statutes commonly provide that the amount of such fee shall be fixed by the court.[2]

The general rule that the expert cannot demand fees other than those provided for non-experts, does not apply to preliminary work that may be required of the witness necessary to enable him to testify as an expert in a given case. Thus if it should be necessary, in order for a dentist who was later to be called as a witness to identify a dead body, to examine the body, dissect the jaw, and make tests, he is entitled to compensation for such work.[3]

It is necessary, sometimes, when the opinion of the expert is not given from his own examination, but from the facts testified to by other witnesses, that the expert must be present during the whole, or a part of the trial other than that during which his own testimony is being given. Such attendance cannot be required of him; and if demanded he may refuse to attend, absolutely, or demand extra compensation as a condition of such attendance.[4]

While in most jurisdictions in the United States the expert witness cannot demand extra compensation as a witness, it is the practice in all important cases to pay him additional compensation, and such payment is not regarded as against the policy of the law.

In Barrus *v.* Phaneuf,[5] Barrus, an expert witness, a civil engineer, sued Phaneuf for extra compensation, above the ordinary fee allowed witnesses. It appeared that the defendant had engaged the plaintiff six weeks previous to a certain trial to appear at the trial and testify for him as an

[1] 4 Wigmore, Ev., sec. 2203.
[2] Ibid.
[3] See ante, chapter IV, p. 72.
[4] Rogers, Expert Test. (2d ed.), sec. 187.
[5] 44 Northeastern Reporter (Mass.), 141 (1896).

expert in regard to a matter which the plaintiff had examined as an engineer. The plaintiff agreed to appear and testify as an expert, and talked over the matter with the defendant. He was regularly summoned and paid the regular statutory fee of an ordinary witness. He went into court and testified as an ordinary witness *but was asked no question which called for his opinion as an expert.* During the progress of the trial he advised the defendant's attorney in regard to questions to be asked himself and other witnesses. The defendant in the suit against him for extra compensation defended on the ground that if he had promised to pay the plaintiff extra compensation such promise was without consideration, and void, and that the plaintiff in testifying did no more than he was legally bound to do under his subpena. (There is a general rule of law that a promise to pay a person to do an act he is already legally bound to do is void, *e. g.*, a promise to pay a fireman to save a person's life at a fire.) The plaintiff recovered in the trial court and, on appeal by the defendant, the judgment of the trial court was affirmed, the court saying: "We are of opinion that upon the facts in evidence, there was sufficient consideration to support a promise to pay a reasonable compensation, in addition to the statutory fees, and that the jury was warranted in finding a promise to that effect, or a mutual understanding that the plaintiff was to be so paid. If such promise was made, or such understanding existed, the plaintiff's right to recover would not be taken away or lost by his omission to claim or demand extra compensation, or to notify the defendant that he should make such claim, or by his acceptance of the statutory fee without objection, or by the omission of the defendant at the trial to put any question to him as an expert witness, and the consequent omission of the plaintiff to testify as an expert. All these were merely matters for the consideration of the jury in determining whether any such promise was made, or such understanding existed. Exceptions overruled."

A promise, however, to pay an expert witness for giving

testimony on the condition that his testimony leads to a termination of the suit in favor of the person making the promise, is against public policy, and void.[1]

PRIVILEGED COMMUNICATIONS

Ordinarily a witness when called on to testify in a case between other parties, must answer all questions put to him which do not incriminate him. There is, however, an exception made to this rule in the case of witnesses occupying certain confidential relations. Thus an attorney may not only refuse to answer any question concerning communications made to him by his client for the purpose of obtaining professional advice or aid, but he is actually forbidden to answer any such question.[2] So statutes have been enacted in many jurisdictions forbidding the disclosure in evidence, against the will of the patient, of information acquired by physicians in their professional capacity, and in some States by priests in the way of confession.[3]

As the privilege is accorded to physicians only by statute, in the absence of a statute the privilege cannot be claimed. It is believed that there is not as yet any statute expressly forbidding dentists, *eo nomine*, to testify as to information acquired by them in their professional capacity. In the absence of such a statute they would therefore not be excused from testifying as to such information, unless dentists are embraced within the term "physicians and surgeons" used generally in the statutes. Whether they are included in these terms has already been discussed in the chapter on the "Status of the Dentist." In those jurisdictions where it has been held that the term physician or surgeon includes dentists, the courts to be consistent should hold that the dentist is not at liberty to disclose information acquired in his professional capacity.

[1] Pollak *v.* Gregory, 9 Bosw. (N. Y.), 116 (1861).
[2] 23 Am. and Eng. Enc. Law (2d ed.), 53.
[3] Ibid., 83, 92.

The only case the writer has been able to find directly on this question is People *v.* De France.[1] In this case the defendant was indicted for forgery. His defence consisted in a denial of identity with the person who had committed the forgery, and the evidence showed that the teeth of the defendant presented an appearance different from that of the person who had given the forged check; that the two front incisors of the latter were separated distinctly while this peculiarity did not appear in the defendant. A dentist was called as a witness by the State who testified that between the time of the forgery and the trial he had inserted three false teeth in the place of the two incisors, for the prisoner. The prisoner's counsel objected to the evidence on the ground that the witness being a dentist, was forbidden by a statute of the State to testify as to acts done by him in a professional capacity for a patient. The statute provided: "No person duly authorized to practise physic or surgery shall be allowed to disclose any information which he may have acquired in attending any patient in his professional character, and which information was necessary to enable him to prescribe for such patient as a physician, or to do any act for him as a surgeon." The Supreme Court of Michigan in passing on this question said: "The question presented is whether this language includes a dentist. At the common law, information gained by a physician or surgeon while in attendance upon his patient was not privileged. The purpose of this statute was to throw around such disclosures as the patient is bound to make for the information of his attending physician the cloak of secrecy, and the prime object was to invite the confidence in respect of ailments of a secret nature, and the spirit of the act would not include a case where the infirmity was apparent to everyone on inspection. In practice, however, the statute has not been so limited in construction for the reason that the words of the act are broad enough to include any information necessary to enable the physician to prescribe or the surgeon to

[1] 104 Mich., 563 (1895).

act. Nevertheless, the purpose of the act is to be considered in determining whether the dentist was intended to be included within its terms. Certainly the terms 'dentist' and 'surgeon' are not interchangeable, and if a dentist is to be held to be a surgeon within the meaning of this act, it must be because his business as a dentist is a branch of surgery. It is apparent that the act relates to general practitioners, and to those whose business as a whole comes within the definition of 'physician' or 'surgeon.' A dentist is one whose profession is to clean and extract teeth, repair them when diseased, and replace them when necessary, by artificial ones. The only case which we have found which bears directly upon this question is that of State *v.* Fisher (Mo. Sup.), 24 S. W., 167, 22 L. R. A., 799, in which the majority of the Supreme Court of Missouri held that a dentist is not to be considered a surgeon. We think there was not error in admitting the testimony of this witness; that he is not within the terms and spirit of this act."

Several objections may be urged against this decision.

The court says truly, that the purpose of a statute is to be considered in determining whether the dentist is to be included within its terms; and then adds, "The purpose of this statute was to throw around such disclosures as the patient is bound to make for the information of his attending physician the cloak of secrecy, and the prime object of the act was to invite confidence in respect to ailments of a secret nature, and the spirit of the act would not include a case where that infirmity was apparent to everyone on inspection." The court admits that the operation of the statute has, in practice, not been so limited. But even if it were so limited, dentists might well be held to come within its terms, for "ailments of a secret nature" are not infrequently among the causes that lead the patient to the dentist. Whether other courts will, when they are confronted with this question, hold that the dentist is forbidden to testify as to information acquired in attending a patient will probably depend in part on the literal terms of the statute, and in part on whether the court has come to recognize the real position the practice of

dentistry has come to occupy. In the very case referred to by the court in the case we have just been discussing—State *v.* Fisher—three out of seven of the judges held that a dentist was within both the letter and the reason of a statute exempting "a practitioner of medicine" from jury duty. As Brace, J., said in that case: "The fact that this branch of the medical profession has grown to such proportions as to have its own independent colleges, and to confer its own degrees, and that it has become necessary that its practice should be regulated by statute, indicates the importance of the exercise of its functions to the public welfare. The fact that it is regulated in a separate article and as an independent calling from that of M. D. does not in any manner affect the character of those functions."

Many dentists have the degree of M. D. in addition to their dental degree, and may be licensed either to practise as physicians or as dentists, or as both physicians and dentists. In the case of a person holding both degrees the question may arise whether such person is forbidden to testify as to information acquired by him in the exercise of his professional duties. If such person is licensed to practise as a physician, or both as a physician and as a dentist, and the information was acquired by him in treating a case, say of tuberculosis of the throat, there can be no doubt that he could not testify as to such information. He is a physician, acting as such in the particular case, and the mere fact that he also possesses a diploma and certificate as a dentist could not alter the case. If, on the other hand, he was licensed to practise only as a dentist, and the information was acquired by him in making a set of false teeth, it is probable that courts holding the views of the Michigan court in the case of People *v.* De France, would compel the disclosure of such information on the witness stand, on the ground that being licensed as a dentist only, and the information having been acquired in rendering services that only a dentist could perform, the mere fact that he possessed a medical diploma, would not bring him within the spirit of the statute. If, however, such person were licensed to practise both medicine

and dentistry, and the information was acquired, in say the treatment of pyorrhea, or in lancing an abscessed gum, treatment that might well be given by either a physician or a dentist, there can be no doubt that all courts would hold that information thus acquired could not be divulged. On the other hand, if such person were licensed to practise dentistry only, and was called on to give information acquired by him in treating the same class of case, those courts which are inclined to adopt the view of the Michigan case would probably compel the disclosure of such information, on the ground that the person being licensed to practise dentistry only, and rendering services commonly performed by dentists, was a dentist and not a physician *quoad* such service.

Suppose, however, a person having both degrees and licensed to practise both medicine or surgery, and dentistry should acquire the information desired in making a set of false teeth—work of a purely dental character—would such person be allowed to testify as to such information? While, of course, this would depend in any given case on the terms of the statute of the state where the trial was being held; under the usual form of the statute, it is probable that the court would hold that such information should not be divulged. For the case would be within the letter of most statutes, and even within the reason of them as the reason has been extended.

If a person were licensed only as a dentist but was called on to render services not usually performed by dentists—say to treat a case of diphtheria—and in so doing acquired the information desired by the court, it is not likely that any court that would be inclined to follow the Michigan court, would hold that the dentist could withhold such information. Such person is not a practising physician in the view of that court, and the fact that he was treating a case that general practitioners would ordinarily be called on to treat, would not bring him within the rule that the court holds applies to physicians as distinguished from dentists. It is doubtful, however, if many courts would follow the Michigan

case. Professor Wigmore, the learned author of the most recent and authoritative treatise on Evidence, says, in speaking of the decision in the case of People *v.* De France, "the modern recognition of dental science as strictly a branch of medical science might here have justified the opposite conclusion."[1] And in State *v.* Beck,[2] the Supreme Court of Rhode Island held that a person having a license to practise medicine and surgery, but no license to practise dentistry, was not liable to indictment for practising dentistry. The court saying: "A person holding a certificate . . . is authorized to practise medicine and surgery in all its branches. Dentistry is now a well recognized branch of surgery. A dentist is a dental surgeon. He performs surgical operations upon the teeth and jaws, and, as incidental thereto, upon the flesh connected therewith. His sphere of operations then, as before intimated, is included in the larger one of the physician and surgeon. A fair and reasonable construction of the two statutes taken together, therefore, comes to this: That the General Assembly, by the broad and general language used in said chapter 165 relating to the authority to practise medicine and surgery, must be held to have intended to except physicians and surgeons from the restrictions imposed upon other persons, regarding the practice of dentistry by said chapter 155 and the amendments thereto. This view is strengthened by the fact, which is common knowledge, that it has always been the custom in this State, and probably everywhere else, for physicians to treat ailing teeth, to extract teeth, and to perform various other professional services which technically come within the purview of dentistry. Physicians who reside in the country towns especially have always been called upon, to a greater or less extent, for the performance of such services. And to now prohibit them from thus treating their patients would be a source of great inconvenience and in

[1] 4 Wigmore, Evidence, sec. 2382.

[2] 21 R. I., 288 (1899). The Virginia statute regulating the practice of dentistry, expressly provides that in that State dentistry is "a specialty of medicine and surgery."

many cases of extreme hardship and suffering to the latter, as well as an interference with the proper and legitimate functions of the former. And, as said by defendant's counsel, 'any construction of the law that prevents the general practitioner from treating any part of the human body, or restricts him in the discharge of his professional duties, would be a menace to the public health and would deprive the physician of the right to practise a branch of his profession that is as old as the history of medicine itself.'"

The privilege of refusing to testify is by most of the statutes given "to a physician duly authorized to practise;" sometimes to "a physician or surgeon," sometimes to "licensed" practitioners simply. Where the words "duly authorized to practise" are used, as in New York, it has been held that if the practitioner were duly licensed to practise, the fact that he had never registered his license, as required by the law of the State, did not make him eligible as a witness to testify to information received from the patient.[1] He must, however, be duly authorized to practise, and if he is not, though he does practise, and in practising acquires information from a patient, he is not privileged as to such information.[2] If his right to claim the privilege be contested on the trial, the burden of proof is on him to establish the fact that he is within the terms of the statute. The privilege, however, is the patient's, not the practitioner's; it is given for the patient's protection, not for the protection of the dentist. Therefore, the patient or his attorney may waive the privilege. If he does waive it the dentist cannot refuse to testify.[3]

The fact that the dentist is the plaintiff in the cause, seeking to recover his fees, does not affect the question. He cannot in such a case, more than in any other, testify as to communications made to him by the patient.[4]

On the other hand where the practitioner is the defendant,

[1] McGillicuddy *v.* Farmers' Loan and Trust Co., 26 Misc. (N. Y.), 55 (1899).

[2] Record *v.* Village of Saratoga Springs, 46 Hun. (N. Y.), 448 (1887).

[3] 23 Am. and Eng. Enc. Law (2d ed.), 90.

[4] Van Allen *v.* Gordon, 83 Hun. (N. Y.), 379 (1894).

as where he is sued by the patient for malpractice, the rule of privilege does not apply as to matters connected with the treatment of the disease or operation in reference to which the malpractice is alleged; he may in his own defence testify as to these matters. To close his mouth in such a case would be manifestly unfair.[1]

As the statutes make it a criminal offence for a dentist to practise without a license, and as our constitutions provide that no person shall be required to incriminate himself, a dentist, when acting as a witness, may refuse, after testimony has been introduced showing that he has practised in the State, to answer the question whether, at the time of such practice, he was duly qualified. But the privilege of refusing to answer is his own and not that of any other party to the suit, and if he is willing to answer the question he may do so.[2]

EXPERT TESTIMONY

1. **In General.**—Ordinarily a witness testifying in a case must confine his testimony to facts, he is not allowed to state his opinion or judgment from other facts as premises; the jury are as capable as he of forming their opinion. When, however, due to the peculiar knowledge or special qualifications of a witness, his opinion will add something valuable which the jury have not and cannot otherwise obtain from the rehearsal of facts, such opinion will be received in evidence.[3]

While a dentist may be called as any other person may to testify to facts which have come to his knowledge, it is as an expert, or person having peculiar qualifications, that we must treat of him as a witness.

"Experts" are persons examined as witnesses in a cause, who testify in regard to some professional or technical matter arising in the case, and who are permitted to give

[1] Becknell *v.* Hosier, 10 Ind. App., 5 (1893); Cramer *v.* Hurt, 154 Mo., 112 (1900).
[2] See San Antonio St. Ry. Co. *v.* Muth, 7 Tex. Civ. App., 443 (1894).
[3] See 1 Wigmore, Ev., sec. 557.

their opinions as to such matter on account of their special training, skill, or familiarity with it.[1]

The dentist is an expert witness within the definition, and therefore may be called upon to give expert as well as ordinary evidence. The difference between ordinary and expert evidence may be illustrated thus. A dentist may chance to witness a street fight in which A may be injured by a blow on the jaw, given by B; the injury resulting in necrosis of the jaw. He may be summoned to testify either in a criminal prosecution against B or in a civil suit by A against B, as any other person who saw the fight may be, as to what he saw; or, not having seen the fight, he may be called as an expert to give his opinion as to whether or not such a blow having been given, it could or did cause the necrosis. . Or if he saw the blow struck he may be called upon to testify both as an ordinary witness as to what he saw, and as an expert as to his opinion, from an examination of B, whether B suffered from necrosis, and whether it was or could have been caused by the blow. He may also be called as an expert witness in a suit for malpractice against another dentist to give his opinion as to the skill or lack of it exercised by the defendant dentist in treating the plaintiff patient. The position of an expert witness is much more difficult than that of the ordinary witness. The latter testifies to facts he has seen. If he testifies truthfully the worst he can be convicted of is that of making a mistake in what he thought he saw. The former testifies to his professional opinion. His opinion is the result of his knowledge of the learning of his chosen profession, or that learning plus his observation of the dental facts involved in the given case. If he is convicted of error in his testimony it shows either a lack of learning in the profession in which he claims to be an expert, or a lack of care or of ignorance in the observation of the dental facts on which his opinion is based. In either case his reputation as a dentist suffers; not to speak of the humiliation he undergoes at the time.

[1] Black., Law Dict. (2d ed.), 466.

Since the opinion the dental expert will be called to give upon the witness stand will be based on his learning alone or his learning and his examination of the facts, it is most important if he wishes both to forward the cause of justice and at the same time do himself credit that, before appearing, he prepare himself thoroughly on the dental aspects of the case from both points of view. No matter how great his general learning in his profession, or how long his experience, he should never wholly rely on them to carry him through the ordeal of examination and cross-examination. He should inform himself with exactness on what point his opinion is desired and what his opinion is expected to prove or aid in proving. Having done this, he should, if his opinion is to be based on dental facts which he himself is to investigate, make a careful and minute study of those facts, remembering that the same facts will be studied by an opposing expert of equal or perhaps superior ability to himself, and that no matter how great his own learning, if he is mistaken in his facts, his opinion based on those facts will be worthless.

It should be unnecessary to say that both in investigating the facts and in making up his opinion when he is not himself called on to investigate facts, he should begin with an absolutely open mind, unbiased by friendship or fee to incline to one side of the controversy or the other, but, unfortunately, the experience of the courts with other classes of experts has shown the contrary. The opprobrium that we hear so often visited on expert testimony is primarily due to the fact that experts so often are to be found who form their opinion not with an open mind but in accordance with the desire of the side that offers them the fee. The same expert has even been known to testify to diametrically opposite opinions on the same facts at different hearings of the same case.

Sometimes the expert is called upon to give his opinion, not upon facts investigated by himself, but upon facts testified to by other witnesses. He may be called in by the defence to rebut the force of an opinion given by a dentist for the plaintiff. He should in such a case, before testifying,

prepare himself thoroughly on all phases of the question that may arise that he may assist the court in arriving at a just conclusion and that he may do himself justice in his professional capacity. Particularly, if there may be more than one opinion about the matter in dispute—and there are very few matters that are disputed, about which there may not be more than one opinion—the dental witness should make himself familiar with the opinion of text writers on the subject and with the reasons for the opinions they respectively hold. After giving his own opinion, he will, most probably, on cross-examination be asked if such and such an authority does not hold a different opinion. If he does not know and so answers, his appearance of ignorance makes a bad impression and lessens if it does not nullify the weight of his opinion with the jury. He will, of course, not dare to guess at an answer; it may be a trap. While an appearance of ignorance on the stand may be bad, it is infinitely wiser—not to speak of the moral aspects of the matter—to acknowledge ignorance than to pretend a knowledge not possessed. The witness must remember that not only is the lawyer who is questioning him, probably coached by an expert, but that with a mind trained to absorb quickly all kinds of knowledge he himself knows considerable about the subject. It has frequently happened that experts have been confounded by the minute—or apparently minute—knowledge of the examining lawyer, of the most technical subjects.

There are usually two or three stages in the examination of the witness. In the first stage of the examination, the witness, after a few questions designed to show that he is qualified as an expert to give an opinion, is asked to give his opinion on some phase of the case. Having given his opinion he is then turned over to the opposing counsel for cross-examination. The cross-examination is undoubtedly the most potent engine for extracting truth; it is likewise when unworthily used the most potent engine for the distortion of truth. Unfortunately it is frequently made to serve the latter purpose. The success of the side represented by the cross-examiner may depend on his ability to mitigate or destroy the force

of the opinion given by the expert. This may be accomplished by forcing the expert to admit that it is not his bona fide opinion; by showing that his opinion was formed on insufficient data; by showing that though technically he is an expert yet from lack of learning or experience his opinion is not valuable; by showing that other equally capable experts entertain a different opinion; by showing that the witness at another time had expressed a different opinion; by showing that the science of dentistry has not yet advanced to the point where a reliable opinion could be formed about the matter; by so entangling the witness as to make him contradict, or seem to contradict himself in different portions of his testimony. The witness on cross-examination may be attacked on any one or all of these lines. The only hope the witness can entertain of withstanding these attacks, lies in his having told the simple truth, without exaggeration, evasion, or reservation, in a simple straightforward manner after thorough preparation.

If the witness does this he need not fear the most rigid cross-examination. Indeed, if he does this, and the lawyer on the opposing side is a skilful one, there will be little or no cross-examination, the opposing counsel will fear that cross-examination will only serve to strengthen the force of the witness's opinion as given, and will seek other means of winning his cause.

As not only what the witness says on the stand but also the manner in which he says it is important, a few words as to the latter may not be inadvisable. If the witness is going to testify at all it should be as a willing witness. He should testify fully and freely as to all questions asked him without, however, volunteering gratuitous information. It is important that he should not appear to be keeping back his evidence. Such a demeanor prejudices the jury against him and breaks the force of his affirmative testimony, while at the same time it leads the attorney on the opposing side to suspect that he is withholding something that would be useful to him, and thus compels him to a severer cross-examination to elicit it. Again, the witness should, in giving his

evidence, avoid as far as possible the use of technical words. His evidence is wanted to enlighten the jury, not to show his own knowledge. If he interlards his testimony with words with which the jury are unfamiliar he does not serve the purpose for which he was called and may bring ridicule on himself, as in a case related by Taylor[1] in which, on a trial for assault, a surgeon in giving his evidence testified that on examining the prosecutor he found him suffering "from a severe contusion of the integuments, under the left orbit, with great extravasation of blood and ecchymosis in the surrounding cellular tissue, which was in a tumefied state, and that there was considerable abrasion of the cuticle."

JUDGE: "You mean, I suppose, that the man had a black eye?" WITNESS: "Yes." JUDGE: "Then why not say so at once?" The dental witness should be very careful to refrain from the least exaggeration in all his answers, whether in stating facts that go to show his qualification as an expert, or in stating facts on which his opinion is based, or in stating the opinion itself. "Have you been practising long, Doctor?" asked in a casual, deferential manner by the cross-examiner may be the beginning of the undoing of the witness. "Doctor, have you had much experience in cases of this kind?" may end in sending the witness out of the court room a discredited man. The witness having offered himself as an expert is naturally desirous of maintaining his position as one, and "long" is a word of indefinite meaning; but if he answer simply "yes" and the question that is bound to follow, "How long, Doctor?" must be answered "three or four years," and "which, Doctor, three or four?" must be answered, "Three," the witness is already in an unenviable position. More than one expert witness has come to grief over the question, "Have you had much experience?" Here the witness has two temptations to exaggerate; the desire to maintain his position as an expert, and the wish to show that his practice is an extensive one. The witness would best not answer "Yes," unless he be prepared to state

[1] Med. Jur., 52.

immediately, from memory, a sufficient number of cases he has treated to satisfy a critical mind that they warrant him in saying he has had much experience.

The questions when they admit of the answer "Yes," or "No," are in general best answered so. If, however, the question is so framed that a simple affirmative or negative answer will not convey a correct impression, the witness should qualify his answer. The wiles of lawyers sometimes make this difficult. As an illustration of this may be mentioned a case recently tried in Philadelphia: Dr. X having testified, was under cross-examination. He was an eminent authority on the matter on which he had given his opinion and was presumably known by the jury as such, by name; though it was probable that the jury did not know the expert of that name by sight. The evidence he had given was so convincing, and given in such a manner that the cross-examiner knew that to cross-examine him would only strengthen the impression he had already made. This Dr. X, who was really the great expert, lived on B street. There was another Dr. X, who was unknown as an expert, who lived on C street. The first question of the cross-examiner was, "Are you the great Dr. X who lives on C street?" He was the great Dr. X, but he did not live on C street. To answer yes would have been untrue. To say he was the great Dr. X, but that he lived on B street, would have seemed both to claim greatness and to reflect on the other Dr. X. The witness hesitated, then answered "No." Whereupon the attorney, in a manner implying that the witness was an unimportant one, dismissed him without further questions.

The witness should give his testimony in a confident and decided but courteous and modest manner. He will not only not carry conviction if his evidence is given in a halting, undecided manner, but in thereby leading the opposing lawyer to believe that he is not certain either of his facts or of his opinion will draw upon himself a more severe cross-examination.

It is necessary that great latitude be allowed counsel in

cross-examination that the truth may be elicited. This allowance is not infrequently abused by counsel in the endeavor to frighten a timid witness, or to tempt a belligerently inclined witness to a war of words, or to make an irascible one lose control of his temper. If the witness will preserve a courteous demeanor no matter what the temptation or aggravation to depart from it, he will foil all such efforts and obtain the sympathy of the court and jury. If he become belligerent or lose his temper he will play directly into the hands of his cross-examiner; nor can he hope to succeed in getting the best of his examiner in such a contest, for he is fighting with weapons of which his opponent is likely to be a master, and as to which he, himself, is a novice.

2. **Use of Books.**—In England and in the great majority of States in this Union, medical books are not admissible in evidence to show the opinions of their authors.[1]

The dental expert need not necessarily form the opinion which he testifies to as his own, from his own observation, experiment, or experience. He may form it from his own observation fortified by the writings of standard writers on the subject, or wholly from such writings.[2] In order to be admissible, it must, however, be the witness's own opinion. He cannot give what is only the opinion of others. In Wehner *v.* Lagerfelt[3] a physician of thirty-five years' practice, being called as an expert witness to testify whether a shock from electricity, such as had been received by the appellee, would leave a permanent injury, stated that he had read the best authorities on the subject, and knew what the authorities said and claimed to be the result of electricity upon the human system; but that he did not feel qualified to give an opinion. The court held that the trial court was correct in refusing to permit the witness to testify, saying: "He only knew what the books said upon the subject. It was not sought to be shown that he had formed an opinion from the books, or, if he had, what such opinion was. While an expert

[1] *Contra*, Iowa and Alabama; see State *v.* Winter, 72 Iowa, 627 (1887); Stoudenmeier *v.* Williamson, 29 Ala., 558 (1857).

[2] Rogers, Expert Testimony, sec. 19.

[3] 27 Tex. Civ. App., 520 (1901).

may testify to an opinion of his own, derived from books, for one to do so, he must be an expert, and have an opinion of his own, upon the subject of inquiry. Books of science and art are not admissible in evidence to prove the opinions contained therein. Lawson on Exp. Ev., 202. If they are not, how can anyone who knows their contents, but has formed no opinion of his own upon the subject under consideration, be allowed to testify to what the books say?" Dental books of standard authority may be used by the witness on the stand to refresh his knowledge, but again his opinion when expressed must be his own opinion. The dental witness may also state the authority or authorities from which he derived his opinion, but he cannot testify what such work contains nor can he read to the jury from such book,[1] as that would be an indirect way of getting the book itself in evidence.

As the dental witness is not allowed to read extracts from dental books to the jury where the books themselves are not admissible in evidence, so, and for the same reason, counsel in the examination in chief of the witness cannot read extracts from such books and then ask the witness if he agrees or disagrees with what is read.[2]

Neither will the opposing counsel, in cross-examining the witness be allowed to do the same thing, where it appears it is for the purpose of getting the extracts in evidence to sustain the contention of the cross-examiner.[3] Where, however, a dental witness has referred to a treatise as authority for an opinion he has expressed, the book is admissible in evidence for the purpose of contradicting the witness. In Clark *v.* Commonwealth,[4] which was a trial for murder committed in performing an abortion, a medical witness stated that the *decidua reflexa* was not atrophied until after six months, and he also stated that he had read the authorities, and they so held; that he had read Hearst, and he so held. The witness was asked on cross-examination if Hearst

[1] See Huffman *v.* Click, 77 N. C., 55 (1877).
[2] Lawson, Exp. Ev. (2nd ed.), 216.
[3] Ibid.
[4] 111 Ky., 443 (1901).

did not state on page 143 that the *decidua* was atrophied at three months, to which question counsel for the State objected, and the trial court sustained the objection. On appeal, the Court of Appeals held the question was admissible. After citing many authorities the court said: "We think such must be the sound view; otherwise, an ignoramus in a profession might, by an assertion of learning, declare the most absurd theories to be the teachings of science of which he was a professed expert, and, when pressed upon cross-examination as to either his own experience or the basis of his learning, would be enabled to hide behind the formidable name of some standard author, and thus foist upon the jury a most hurtful falsehood as a scientific deduction, asserted by the most eminent in the profession, solemnly declared and promulgated by him for the guidance of his brethren and the service of mankind. Therefore, in a case where such a witness makes such an attempt, it is just and reasonable that the opposite side should be permitted to test the truthfulness of his statement, and expose his ignorance or mendacity by either compelling him to admit upon an inspection of the authority that it does not sustain his views, or by reading the authority to the jury to prove that it does not, and that the witness, either through ignorance or base motive, has falsely deposed." So it is competent on cross-examination, for the purpose of impeaching the witness, only, to read to him extracts from standard authorities upon the subject matter on which he has testified, and then to ask him if he agrees or disagrees with the authority cited.[1] Thus, counsel may ask the witness who has given a certain opinion, "Does not Doctor Blank, the great authority, on page 60, say thus and so?" When this is done the witness should always ask to see the passage cited before answering. It is possible that counsel misunderstands what Dr. Blank really says, or that Dr. Blank may say it, but may qualify it in the next sentence.

Likewise the knowledge of the witness may be tested on

[1] Sale *v.* Eichberg, 105 Tenn., 333 (1900).

cross-examination, by asking him if he has read a certain book on the subject involved.[1]

Re-examination.—After the cross-examination of the witness is finished, he may be re-examined by the attorney by whom the witness was called. The purpose of this examination is to allow the witness to correct any false impressions he may have been led into creating under cross-examination, by explaining, qualifying, or even correcting any statements then made by him.

[1] Darby *v.* Ouseley, 36 Eng. L. and Eq., 518 (1856).

CHAPTER IX

LIABILITY OF THE DENTIST TO JURY DUTY

THE statutes of some States contain a provision expressly excusing dentists from serving on juries.[1] Under such statutes a dentist cannot be compelled to serve as a juror. The exemption is a privilege, however, not a disqualification, and if a dentist who has been drawn on the jury chooses to serve he cannot be rejected by the parties to the suit merely because of his exemption.[2]

In the absence of a statute expressly exempting dentists from jury service they are liable to such service unless they are held by the court to come within the designation of some other class of persons who are exempted by statute. Physicians are generally exempt by statute, and those courts of which there are an increasing number, which tend to assimilate the profession of dentistry to medicine, may be expected to hold that dentists are included within the terms of the statute exempting physicians. The question has arisen once under such a statute in State *v.* Fisher.[3] In this case a dentist claimed to be exempt under a statute exempting a "person exercising the functions of a . . . practitioner of medicine." The court by a bare majority, four to three, decided that the dentist did not come within the terms of the statute strictly construed. Sherwood, J., for the majority said: "Relator claims the force and benefit of a certain exception which, he asserts, takes his case out of the operation of the general statute which compels the performance of jury duty by all male citizens, residents, etc., etc. In order to avail himself of such exception, he must show that

[1] See statutes, post, p. 186 et seq.

[2] 24 Cyc., 208.

[3] 119 Mo., 344 (1893).

his case falls strictly within it, since exceptions, privileges, and exemptions are not favored in the law. And, in this investigation, the familiar rule laid down by Lord Bacon is peculiarly apposite, 'that, as exceptions strengthen the force of a general law, so enumeration weakens, as to things not enumerated.' Page *v.* Allen, 58 Pa. St., 338. Service on juries is one of the general burdens imposed upon the male citizens of a State, and all men who receive the advantages of government are bound to contribute to its support, and 'none can claim exemption, unless the exemption be so clearly expressed in the statute as to admit of no other construction.' Miller *v.* Kirkpatrick, 29 Pa. St., 226. The State has an inherent and indisputable right to the service of all her male citizens as jurors, and, therefore, any statute which strips the government of any portion of its prerogative in this regard, by giving exemption from this general burden, should receive a strict construction. Academy *v.* Philadelphia County, 22 Pa. St., 496. It cannot be successfully claimed that relator finds any exemption in the *terms* of the statute, for certainly he is not a 'practitioner of medicine and surgery in any of their departments,' as defined in section 6871, nor does he exhibit the qualifications required by that section, to wit, a diploma from a legally chartered medical institution in good standing and a certificate from the board of health. His contention, stripped of all verbiage and disguises, and stated baldly and boldly, simply is, that, inasmuch as he possesses a diploma, granted him by a reputable dental college, and a certificate of the city register showing the filing of that diploma and the enrolment of his name on the 'Roll of Dental Surgeons,' that, therefore, he is entitled to the same exemptions from jury service as if, instead of qualifying under the provisions of section 6889, he had actually qualified under those of section 6871. This contention, for reasons already given, cannot prevail; it will not bear a moment's scrutiny. Either relator is a practitioner of medicine and surgery, or he is not. If not, that determines this litigation against him; if he is such a practitioner, then this fact avails him nothing until he complies

with the terms and conditions of section 6871 and its associate sections. The law by the terms it employs, means a *lawful* 'practitioner of medicine,' not one who fails to comply with its requirements. Relator makes no pretence of such compliance. The statute in question being couched in unambiguous terms, its words are to be taken 'in their plain or ordinary and usual sense.' R. S. 1889, sec. 6570."

Brace, J., delivering the opinion of the minority, said:

"Service upon a jury of the country is a privilege as well as a duty, and, however regarded by the individual in any particular case is, in fact and in law, a position of honor and trust charged with the gravest responsibility, from the discharge of the duties of which no citizen ought to be exempted who is personally fit for the position, except for the general welfare. Exemption from jury service is not granted as a personal favor, but for the public comfort and convenience, and in the light of this reason for its existence, should the law governing such service be interpreted and administered.

"While the law on this subject and the reason for its existence remains the same to-day as on the day of its first enactment, its application now is not so simple as it was in the beginning, and for many years thereafter. While the early practitioners of medicine in the State were not necessarily M. D.'s or doctors of medicine in the technical sense of the schools, they were all called doctors, and as such exercised the functions of doctors of medicine, surgeons, and dentists and generally treated indiscriminately all the ailments that human flesh and bone is heir to, whether external or internal, according to the light they possessed; and such continued to be the case down to the memory of the present generation, and doubtless still remains so in many of the rural districts of the State. But in the cities and more populous districts we find now the functions formerly exercised by the doctor or practitioner of medicine of the olden time divided up and exercised by specialists, each confining himself generally to the practice of a particular branch or department of the science, such as surgeons, dentists, oculists, aurists, etc.

"While dentistry, as an independent calling, may have an humble and comparatively recent origin, it has now become a very important branch of medical science (address N. S Davis, M.D., Pres. Amer. Med. Assoc.), and there are but few who have arrived at the age of those who are usually called to serve as jurors, who would not testify that when the exercise of its functions becomes necessary, it is as exigent as the exercise of most of the other functions of the general practitioner. The fact that this branch of the medical profession has grown to such proportions as to have its own independent colleges, and to confer its own degrees, and that it has become necessary that its practice should be regulated by statute (2 R. S. 1889, chap. 110, art. 3), indicates the importance of the exercise of its functions to the public welfare. The fact that it is regulated in a separate article and as an independent calling from that of an M. D., does not in any manner affect the character of those functions.

"When, in 1874, the legislature first began the regulation of the practice of medicine, by general law, they were careful to preserve the exercise of the functions of the old practitioner of medicine to him, by exempting him from the operation of its provisions (Laws, 1874, p. 111, sec. 3, and 1877, p. 343, sec. 1). And whatever changes may have been made in the law since on this subject, the question of jury service or exemptions therefrom is not treated therein, and they have nothing to do with the question in hand. The relator under the present law is authorized to exercise all the functions thus recognized that belong to his department of medicine. They are now more extensive, more important, and more exigent to the public welfare than they were ever before. He is within the purview of both the letter and reason of the law that exempts "a practitioner of medicine" from jury duty, and should have a peremptory writ commanding his discharge. In these views Black, C. J., and Macfarlane, J., concur."

It being remembered that exemption from jury service is given not for the benefit of the individual, but the public, a distinction might well be made between the dentist and

the physician or surgeon. Dentists sometimes feel it a hardship that they are obliged to close their offices for a week, with the consequent financial loss, to do jury service; but they should remember that the merchant, the carpenter, and the financier are under the same compulsion; and that the loss is as great in comparison in those cases as in his own. Physicians, along with members of fire companies, policemen, militiamen, and others are excused not because of the loss that would be entailed by serving, but because of the exigency of their employment. This exigency does not exist, generally, to the same extent, in the case of the dentist. Comparatively speaking, the public, as represented by the patients of the dentist, on the one hand, and the physician or surgeon on the other, will not be likely to suffer as much from the delay occasioned by the temporary withdrawal from practice of the former as of the latter.

CHAPTER X

STATUTES REGULATING THE PRACTICE OF DENTISTRY

ALABAMA

1911, March 21, Gen. Laws, page 122.

SECTION 1. That on and after the passage of this act, it shall be unlawful for any person, firm, or corporation not licensed as a dentist or dentists within the meaning of this act, to engage in the practice of dentistry, or any of its branches, in this State; and it shall be unlawful for the owner or manager of a dental office, dental parlor, or other place of business, to cause or permit any person who is not duly and legally licensed as a dentist to practise dentistry, or any of its branches, in such office, parlor, or other place of business; provided, however, that a student of dentistry may be permitted to remain in an office and practise under the supervision of a legal practitioner of dentistry in the interim between sessions for a total period of time not to exceed twelve months.

SECTION 2. That all persons now registered or licensed as dentists under the laws of the State of Alabama, shall be entitled to continue in the practice of said profession unmolested by the provisions of this act.

SECTION 3. Any person who shall hereafter desire a license to practise dentistry in this State shall file, or cause to be filed, with the secretary of the Board of Dental Examiners an application in writing, and under oath setting forth the name and age of the applicant, the school or college from which he or she graduated; and shall appear at such time and place as shall be designated by said board of dental examiners and submit to an examination, both practical and theoretical, as to his or her qualifications for registration as a licensed dentist.

SECTION 4. No person shall be licensed as a dentist under the provisions of this act who is not twenty-one years of age, and of good moral character; nor until he or she shall present to the said board of dental examiners satisfactory evidence that he or she has graduated in dentistry at some reputable school or college of dentistry recognized by the National Association of Dental Faculties; and shall also, upon examination, attain an average grade of 75 per cent. on all dental branches.

SECTION 5. That if, upon examination and investigation, said board of dental examiners shall determine that the applicant possesses the necessary qualifications as to character and education as herein provided, they shall enroll his or her name upon a register to be kept by said board for that purpose, and issue to him or her a license, which said license shall entitle such person to practise dentistry in the State of Alabama for life.

SECTION 6. That on and after the passage of this act it shall be unlawful for said board of examiners to grant a temporary license or permit to practise dentistry, or any of its branches to any person, firm, or corporation; except that a person coming into this State at a time between the regular meetings of the board, and who holds a permanent license as a dentist granted by any Board of Dental Examiners in the United States, may be granted a permit to practise during the interim between the time of making application for a license and the time of the next meeting of the Board of Dental Examiners.

SECTION 7. That the license herein provided for must be signed by the president of the board and countersigned by the secretary, and must within thirty days after the granting thereof, be filed and recorded in the office of the judge of probate of the county of the residence of the person to whom it is issued; and after the same has been recorded, the judge of probate shall endorse thereon, and certify under the seal of the court, the fact of its record, and the time of its filing, and for which he is entitled to a fee of one dollar.

SECTION 8. That such licenses so recorded and certified shall be evidence of authority of the person therein named to practise dentistry, and if the same is lost or destroyed a certified copy of the record shall be sufficient.

SECTION 9. That any person who shall engage in the practice of dentistry, or any of its branches without being duly licensed as herein provided shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined not less than one hundred dollars nor more than five hundred dollars, and in addition thereto, upon a second conviction may be sentenced to hard labor in the county jail for a period of not less than thirty days and not more than ninety days.

SECTION 10. That any license to practise dentistry obtained through fraud, or by any false or fraudulent representation or practice shall be void; and any person who shall procure by false or fraudulent representation or practice such license; or who shall make any false or fraudulent representation for the purpose of procuring such license shall be deemed guilty of a misdemeanor and on conviction thereof, shall be fined not less than fifty dollars, nor more than three hundred dollars.

SECTIONS 11 to 14. Board of Dental Examiners; Duties; Organization; Quorum.

SECTION 15. Salary of officers.

SECTION 16. Each applicant for license to practise dentistry in this State shall pay to the Secretary of the Board of Dental Examiners at the time of filing his application an examination fee of ten dollars.

SECTION 17. It shall be the duty of said Board of Dental Examiners to investigate all charges of violations of this act, or any other laws of this State regulating the practice of dentistry, brought to their knowledge; and whenever there has been a violation of said laws or when advised by any legal member of the profession that there has been a violation of the provisions of this act, or either of them, it shall be the duty of said board, through its secretary, to report such violations to the circuit or county solicitor, or other

prosecuting officer, of the county in which such violation is alleged to have occurred, whose duty it shall be to prosecute for all violations of this act.

SECTION 18. Any person violating any of the provisions of this act, not herein specifically provided for, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than fifty dollars and not more than five hundred dollars.

SECTION 19. All laws and parts of laws, both general and special, in conflict with the provisions of this act, are hereby expressly repealed.

ARIZONA

1903, March 17, Gen. Laws, p. 41.

An act regulating the practice of dentistry; to insure the better education of practitioners of dental surgery, and to regulate the practice of dentistry in the territory of Arizona, providing penalties for the violation hereof, and to repeal all acts now in force relating to the same.

SECTION 1. It shall be unlawful for any person to engage in the practice of dentistry in the territory of Arizona unless said person shall have obtained a license from a board of dental examiners, duly authorized and appointed under the provisions of this Act to issue licenses; provided that this act shall not affect the right under the laws of the Territory of Arizona, of dentists to practise dentistry who have lawful right to practise dentistry at the time of the passage of this Act.

SECTIONS 2, 3, 4. Creation and duties of Board of Examiners.

SECTION 5. Any person or persons who shall desire to begin the practice of dentistry in the territory of Arizona, after the passage of this act, shall file his name, together with an application for examination, with the secretary of the Territorial Board of Dental Examiners, and at the time of making such application shall pay to the secretary of said board a fee of twenty-five dollars, ($25.00) and shall present

himself at the next meeting thereafter of said board, to undergo examination before that body. The examination fee shall in no case be refunded where the applicant has proved himself eligible to examination.

SECTION 6. No person shall be eligible for examination by the Territorial Board of Examiners who shall not:

1st. Furnish satisfactory evidence of having graduated from a reputable dental college of the United States of America, which must be a member of the National Association of Dental College Faculties.

2d. Or who shall have graduated from a high school or similar institution of learning, in this Territory or some other State or Territory of [or] the United States, requiring a four years' course of study, and who can furnish to the board of dental examiners an affidavit containing his or her name, the name of his or her preceptor, and the name of at least two reputable witnesses, certified to before a notary public, showing that he or she has completed an apprenticeship of three years of twelve months each, with a licensed practitioner of dentistry; or

3d. Can furnish to said Board of Dental Examiners a certificate from the State Board of Dental Examiners or similar body of some other State or Territory in the United States, showing that he or she has been a licensed practitioner of dentistry in that State or Territory for at least five years.

Said board shall have the power to determine the good standing of any college or colleges from which such diplomas may have been granted. The examinations shall be elementary and practical in character, but sufficiently thorough to test the fitness of the candidate to practise dentistry. It shall include, written in the English language, questions on the following subjects: anatomy, physiology, chemistry, materia medica, therapeutics, metallurgy, histology, pathology, operative and mechanical dentistry, oral surgery and also demonstrations of their skill in operative and mechanical dentistry. The papers of all candidates shall be taken as evidence of his or her educational qualifications in English,

composition and grammar. All persons successfully passing such examinations shall be registered as licensed dentists in the board register provided for in section 3, and also receive a certificate of such enregistration, said certificate to be signed by the president and secretary and treasurer of the board.

SECTION 7. Recipients of said certificate of registration shall present the same for record to the clerk of the district court of the county in which they reside, and shall pay a fee of fifty cents to said clerk for registration of the same. Any failure, neglect, or refusal on the part of any person holding such certificate or copy of record to file the same for record, as hereinbefore provided, within sixty days from the issuance thereof, shall forfeit the same. Said board shall be entitled to the fee of five dollars for the re-issue of any certificate, and the clerk of the district court shall be entitled to the fee of one dollar for making and certifying a copy of the record of any such certificate.

SECTION 8. All persons shall be said to be practising dentistry within the meaning of this act, who shall, for a fee or salary, or any other reward paid either to himself or any other person, for operations or parts of operations of any kind, treat diseases or lesions of the human tooth or jaws, or correct malpositions thereof, or display a sign, or in any way advertise him or herself as a dentist, or if it be shown by the testimony of two or more reputable witnesses that he or she has performed any operation upon the teeth; and any person who shall, after the passage of this act, use any other than his or her individual name, or in case of a firm, the name of the individuals composing the firm, as dentists, shall be liable to the penalties hereinafter provided for the violation of the provisions of this act. This act shall not conflict with the rights and privileges of physicians and surgeons in the discharge of their duties.

SECTION 9. Any person who shall knowingly or falsely claim or pretend to have or hold a certificate of enregistration, diploma, or degree granted by a society or by said board, or who shall falsely and with intent to deceive the

public, claim or pretend to be a graduate from any incorporated dental college, not being such graduate, shall be deemed guilty of a misdemeanor and shall be liable to the penalties hereinafter provided for in Section 10 of this act.

SECTION 10. Any person who shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction may be fined not less than one hundred dollars nor more than two hundred dollars or to be confined not less than three months nor more than six months in the county jail, or both, for each and every offence.

SECTION 11. Compensation of Board.

SECTION 12. Every registered dentist shall in each and every year after the passage of this act pay to said board of examiners the sum of one dollar as a license for each year. Such payment shall be made prior to May 1st, in each and every year, and in case of default in such payment by any person, his or her certificate may be revoked by the board of examiners upon twenty days' notice of the time and place for considering such revocation. But no license shall be revoked for such non-payment if the person so notified shall pay before or at such consideration his or her fee and such penalty as may be imposed by said board. Provided, that said Board may impose a penalty of ten dollars and no more on any one so notified as a condition of allowing his or her license to stand. Provided, further, that said board of examiners may collect such dues by suit.

SECTION 13. Any person, company, or association shall be guilty of a misdemeanor, and upon conviction thereof shall be punishable with a fine of not less than five hundred dollars, or by imprisonment for not less than six months, or by both fine and imprisonment:

1. Who shall barter, or offer to sell or barter, any diploma, or document conferring or purporting to confer any dental degree, or any certificate or transcript, made or purporting to make, pursuant to the laws regulating the license and registration of dentists; or

2. Who shall purchase or procure by barter, any such diploma, certificate or transcript, with intent that the same shall be used as evidence of the holder's qualification to practise dentistry or in fraud of the laws regulating such practice; or

3. Who shall, with fraudulent intent, alter in a material regard any such diploma, certificate or transcript; or

4. Who shall use or attempt to use any such diploma, certificate or transcript, which has been purchased, fraudulently issued, counterfeited, or materially altered, either as a license or color of license to practise dentistry or in order to procure registration as a dentist; or

5. Who shall practise dentistry under a false or assumed name; or

6. Any person who, in an affidavit or examination, required of an applicant for examination license, or registration, under the laws regulating the practice of dentistry, shall make wilfully a false statement, in a material regard, shall be guilty of perjury, punishable upon conviction thereof by imprisonment of not less than one year nor more than fourteen years in the territorial prison.

SECTION 14. The Board of Dental Examiners shall make an annual report of its proceedings to the Governor of Arizona by the first of December of each year, together with an account of all money received and disbursed by them, pursuant to this Act.

SECTION 15. This act shall take effect immediately after its passage, and the laws heretofore enacted and existing prior to this act in the Territory of Arizona, referring to dentistry and the practice thereof, and to the several particular matters contemplated in this act, are hereby repealed; and all laws in conflict with this act are hereby repealed.

ARKANSAS

1901, May 23, Gen. Laws, p. 299.

An act to regulate the practice of dentistry in the State of Arkansas.

SECTION 1. It shall be unlawful for any person to practise, or attempt to practise dentistry or dental surgery in any county in this State without first having received from the Board of Dental Examiners a certificate of his qualifications and fitness to do so, and cause to be recorded in the office of the clerk and recorder of such county.

SECTIONS 2 and 3. Creation and Duties of Dental Board.

SECTION 4. It shall be the duty of said board to examine all persons who apply to them for license or certificate to practise dentistry and to issue certificates of qualification to all such applicants thereof, as are reasonably well qualified to engage in such practice of dentistry and to refuse certificates to such as are not qualified, whether the applicant has a diploma or not: *Provided*, That any person not now permitted to practise dentistry in this State shall be required to stand an examination before said board before they shall be allowed to practise under this act.

SECTION 5. If the applicant presents a diploma from a reputable college of dentistry, it shall not be necessary for the board to specially examine him, but they may do so and must if they doubt his qualification.

SECTION 6. It shall not be necessary for any person now holding a certificate under the present or any previous Board of Dental Examiners of this State, to undergo a further or additional examination.

SECTION 7. This act shall not be construed to prevent the extraction of teeth by practising physicians, nor by students of dentistry studying or assisting in the office or work of any regular practising dentist under his immediate supervision.

SECTION 8. In the intervals between the several meetings of the board, the president may, at the request and on the recommendation of the other members of the board, examine applicants and issue or refuse certificates with the same effect as though the same were done at a regular meeting of the Board.

SECTION 9. Each applicant shall on or before filing his application, pay to the treasurer the sum of five dollars as a fee for his examination, take his receipt therefor and file it

with the secretary, who shall endorse the fact upon his application, whereupon the application shall be presented either by the secretary or the applicant to the board or president as the case may be, and the fees so received shall be used for the expenses and only compensation of the board.

SECTION 10. The fee for recording such certificate, to be paid by the holder, shall be one dollar.

SECTION 11. For every violation of this act, the offender upon conviction, shall pay a fine not less than five dollars ($5) nor more than twenty-five dollars ($25), and every day of engagement or attempted engagement in such illegal practice shall be deemed a separate offence. All fines assessed and collected under this act shall be paid into the common school fund of the district in which the offence is committed.

SECTION 12. It shall be the duty of the several prosecuting attorneys of the various circuits of this State to institute, on notice from any member of the board, prosecutions by information or otherwise, against such persons as violate the provisions of this act in their respective circuits.

SECTION 13. All laws and parts of laws in conflict with this act are hereby repealed and this act shall be in force and effect from and after its passage.

CALIFORNIA

1885, March 12, as amended by the act of March 20, 1903, and the act of April 6, 1909.

SECTION 1. It shall be unlawful for any person to engage in the practice of dentistry in the State of California, unless said person shall have obtained a license from a Board of Dental Examiners, duly authorized and appointed under the provisions of this act to issue licenses; provided that this act shall not affect the right under the laws of the State of California, of dentists to practise dentistry who have lawful right to practise dentistry at the time of the passage of this act, and no dentist shall be exempt from paying an annual

license tax, as hereinafter provided. (As amended April 6, 1909. Stats. 1909, p. 800.)

SECTIONS 2 to 7. Creation, duties, rules and compensation of Dental Examiners Board.

SECTION 8. Said board shall examine all applicants for examination, who shall furnish satisfactory evidence of having complied with the provisions of this act relating to qualifications for examination, together with the payment of the fee provided for in section 12 of this act. The examination of applicants shall be sufficiently thorough to test the fitness of the candidate to practise dentistry. It shall include, written in the English language, questions on the following subjects: anatomy, physiology, chemistry, materia medica, therapeutics, metallurgy, histology, pathology, operative and prosthetic dentistry, oral surgery and orthodontia; the answers to which shall be written in the English language. Said written examination may be supplemented by an oral examination. Demonstrations of the applicant's skill in operative and prosthetic dentistry must also be given. All persons successfully passing such examination shall be registered as licensed dentists on the board register, as provided in Section 3, and shall be granted by the board a license to practise dentistry in the State of California, which license is subject to renewal, as hereinafter provided. In no case shall any applicant be examined or given a license who is not twenty-one years of age. (As amended April 6, 1909. Stats. 1909, p. 801.)

SECTION 9. Any member of the board may inquire of any applicant for examination concerning his character, qualifications, or experience, and may take testimony of anyone in regard thereto, under oath, which he is hereby empowered to administer.

SECTION 10. Every person now licensed to practise dentistry in this State, who has failed to register his license with the clerk of the county wherein his place of business is located, as provided by law, must register the same within sixty days after this law takes effect, and every person who shall hereafter be licensed to practise dentistry in this State,

shall within six months thereafter register in the office of the clerk where his place of business is located, in a book kept by the clerk for such purpose, and called a register of dentists, his name, age, office address, the date and number of his license to practise dentistry, and the date of such registration, which registration he shall be entitled to make only upon showing to the county clerk his license or a copy thereof certified by the secretary of the board over its seal, and making an affidavit stating his name, age, birthplace, the number of his license and the date of its issue; that he is the identical person named in the license; that before receiving the same he complied with all the preliminary requirements of this statute and the rules of the Board of Dental Examiners as to the terms and the amount of study and examination; that no money other than the fees prescribed by this statute and said rules, was paid directly or indirectly for such license, and that no fraud, misrepresentation or mistake in a material regard was practised, employed or occurred by any person in order that such license should be conferred. Said person need not personally register, before the county clerk, but may make the affidavit afore provided before any officer authorized by law to administer oaths, and which affidavit together with the other information and license, or the certified copy thereof as afore provided, shall be forwarded to the said county clerk, who shall act in the manner the same as if the party was personally present. The county clerk shall preserve such affidavit in a bound volume and shall issue to every licentiate duly registering and making such affidavit, a certificate of registration in his county, which shall include a transcript of the registration. Such transcript and license may be offered as primary evidence in all courts of the facts therein stated. A copy of such certificate of registration shall be sent by the county clerk to the secretary of the board within five days after it is made. The county clerk's fees for taking such registration and affidavit and issuing such certificate of registration shall be one dollar. A practising dentist having registered a lawful authority to practise dentistry in one

county of the State, and removing such practice or part thereof to another county shall show or send by registered mail to the clerk of such other county his certificate of registration. If such certificate clearly shows that the original registration was of an authority issued by the Board of Dental Examiners, or if the certificate or registration itself is endorsed by the Secretary of the Board of Dental Examiners as entitled to registration, the clerk shall thereupon register the applicant in the register of dentists of the latter county on receipt of a fee of fifty cents, and shall stamp or endorse on such certificate of registration the date and his name preceded by the words "registered also in . . . county," and return the certificate of registration to the applicant. Any lawfully registered person who shall thereafter change his name according to law shall register the new name with a marginal note of the former name with the clerk of the county or counties where he is practising. The clerk shall forthwith notify the secretary of the board of such change. Any county clerk who knowingly shall make or suffer to be made upon the register of dentists kept in his office any entry other than that provided for in this act, shall be liable to a penalty of fifty dollars to be recovered by and paid to the said State Board of Dental Examiners in a suit in any court having jurisdiction. Any failure, neglect or refusal on the part of any person holding such license to register the same with the clerk of said county as above directed for a period of six months after the issuance thereof shall *ipso facto* work a forfeiture of his license, and it shall not be restored except upon the payment to said board of twenty-five dollars. Any suspension, revocation, or reinstatement of a license shall, with the date thereof, be forthwith noted by the county clerk on the margin of the registration thereof upon receipt of notice from the secretary of the board. (As amended April, 6, 1909. Stats. 1909, p. 802.)

SECTION 11. Repealed. Stats. 1905, p. 430.

SECTION 12. No person shall be eligible for examination by the State Board of Dental Examiners who shall not furnish satisfactory evidence of having graduated from a reputable

dental college, which must have been endorsed by the Board of Dental Examiners of California, or who shall not furnish to said Board of Examiners a certificate from the State Board of Dental Examiners, or similar body, of some other State in the United States, showing that he or she has been a licensed practitioner of dentistry in that State for at least five years. Provided, that every person actually engaged as an apprentice to a regularly licensed dentist in the State of California at the time of the passing of this act, shall be eligible for examination if, within thirty days after the passage of this act, he shall file with the secretary of the board an affidavit stating his name, age, the length of time for which he has been actually apprenticed and with whom; and who, at the time of his application for examination, shall show to the satisfaction of the board that he has served an apprenticeship of at least four years and is a graduate from a high school or similar institution of learning in this or some other State of the United States requiring a three years' course of study, and, provided, that no examination shall be given to an applicant claiming the right to take the same as an apprentice later than June, 1913. (As amended April 6, 1909. Stats. 1909, p. 803.)

SECTION 13. Repealed April 6, 1909. Stats. 1909, p. 802.

SECTION 14. Before any person can practise dentistry in this State, he shall obtain a license to do so from the board of dental examiners. Each application shall be accompanied by a fee of twenty-five dollars, which shall in no case be refunded. Such license shall be good until the following first day of May when it shall expire by limitation. An annual license fee of two dollars shall thereafter be paid annually by every person practising dentistry in this State, and it shall be the duty of said board to issue to all regularly licensed dentists upon application and the payment of two dollars, if made before the expiration of the applicant's license, a new license which shall entitle said person to practise dentistry in this State for a period of one year, and which license shall expire upon the following first day of May. Said board shall have no authority to issue an annual license

to any person who is not a regularly licensed dentist, and who has not paid said license fee of two dollars on or before the date when his previous license expired. Every person who was a regularly licensed dentist and who failed to pay said annual license of two dollars before the expiration of his license, shall be considered as if no license had ever been issued to him, and before he can again practise dentistry in this State, shall make a new application therefor as in the first instance and pay the regular fee of $25 therefor, except that he shall not be required to submit to any examination. All renewal fees collected under the provisions of this section shall be used exclusively for the prosecution of violators of this act and for expenses of collecting said fees. All moneys received under this Act shall be deposited in some reliable bank in the name of the board, and shall be withdrawn only on the joint check of the president and secretary of the board. (As amended April 6, 1909. Stats. 1909, p. 804.)

SECTION 15. Any person shall be understood to be practising dentistry within the meaning of this act who shall display a sign or in any way advertise himself as a dentist, or who shall, for a fee, salary or reward, paid directly or indirectly either to himself or to some other person, perform an operation of any kind upon, or treat diseases or lesions of, the human teeth, or jaws or correct malimposed positions thereof; but nothing in this act contained shall prohibit bona fide students of dentistry from operating in the clinical departments of the laboratory of a reputable dental college, or an unlicensed person from performing merely mechanical work upon inert matter in a dental laboratory, or a licensed physician from practising oral surgery or treating diseases of the mouth. (As amended April 6, 1909. Stats. 1909, p. 807.)

SECTIONS 16, 17, 18. Repealed.

SECTION 19. Any person, company, or association shall be guilty of a misdemeanor, and upon conviction thereof shall be punishable by imprisonment in the county jail not less than ten days nor more than one year, or by a fine of not less than one hundred dollars nor more than one thousand dollars, or by both such fine and imprisonment, who (1) shall

sell or barter or offer to sell or barter any dental degree or any certificate or transcript, made or purporting to be made, pursuant to the laws regulating the license and registration of dentists; or (2) shall purchase or procure by barter, any such diploma, certificate or transcript, with intent that the same shall be used as evidence of the holder's qualification to practise dentistry, or in fraud of the laws regulating such practice; or (3) shall with fraudulent intent, alter in a material regard any such diploma, certificate or transcript; or (4) shall use or attempt to use any such diploma, certificate or transcript, which has been purchased, fraudulently issued, counterfeited or materially altered, either as a license or color of license to practise dentistry, or in order to procure registration as a dentist; or (5) shall practise dentistry under a false or assumed name; or (6) shall assume the degree of "doctor of dental surgery" or "doctor of dental medicine," or shall append the letters "D. M. D." or "D. D. S." to his or her name not having duly conferred upon him or her, by diploma from a recognized dental college or school legally empowered to confer the same, the right to assume said title, or shall assume any title or append any letters to his or her name, with the intent to represent falsely that he or she has received a dental degree or license; or (7) shall in an affidavit, required of an applicant for examination, license or registration, under this act, wilfully make a false statement in a material regard; or (8) shall engage in the practice of dentistry under any title or name without causing to be displayed in a conspicuous manner and in a conspicuous place in his or her office the name of each and every person employed in the practice of dentistry therein, together with the word mechanic after the name of each unlicensed person employed; or (9) shall within ten days after demand made by the secretary of the board, fail to furnish to said board the name and address of all persons practising or assisting in the practice of dentistry in the office of said person, company or association, at any time within sixty days prior to said notice, together with a sworn statement showing under and by what license or authority said person, company or association,

and said employee are or have been practising dentistry, but such affidavit shall not be used as evidence against such person, company or association in any proceeding under this section; or (10) is practising dentistry in the State with out a license, or whose license has been revoked or suspended. (As amended April 6, 1909. Stats. 1909, p. 805.)

SECTION 20. It is hereby further provided, that the conferring of degrees and the bestowing of diplomas, by reputable dental colleges of this State, which have been endorsed by the Board of Dental Examiners of California are not included in the penalties prescribed in section 19 of the said act of March 23, 1901, as amended by the act of March 20, 1903. (As amended April 6, 1909. Stats. 1909, p. 801.)

SECTION 21. Disposition of fines, penalties, forfeitures, etc.

SECTION 21½. Any dentist may have his license revoked or suspended by the Board of Dental Examiners 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 a certified copy thereof, certified by the clerk of the court, or by the judge in whose court the conviction is had, shall be conclusive evidence.

(2) For unprofessional conduct or for gross ignorance or inefficiency in his profession. Unprofessional conduct shall mean employing persons known as cappers, as steerers, to obtain business; the obtaining of any fee by fraud or misrepresentation; wilfully betraying professional secrets; employing directly or indirectly any student or any suspended or unlicensed dentist to perform operations of any kind, or to treat lesions of the human teeth or jaws, or correct malimposed formations thereof, except as heretofore provided in Section 13; aiding or abetting any unlicensed person to practise dentistry unlawfully; habitual intemperance; gross immorality.

The proceedings to revoke or suspend any license under the first subdivision hereof, must be taken by the board on the 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 party 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 of the accusation to be served upon the accused at least ten days before the day appointed in the order for said hearing. The accused must appear at the time appointed in the order and answer the charges and make his defence to the same, unless for sufficient cause the board assign another day for that purpose. If he do not appear the board may proceed and determine the accusation in his absence. If the accused plead guilty or refuse to answer the charges, or upon the hearing thereof the board shall find them or any of them true, it may proceed to a judgment revoking his license or suspending it. The board and the accused may have the benefit of counsel, and the board shall have the power to administer oaths, take the depositions of witnesses in the manner provided by law in civil cases, and to compel them to attend before it in person the same as in civil cases by subpena issued over the signature of the secretary and the seal of the board and in the name of the people of the State of California. Upon the revocation of any license, the fact shall be noted upon the records of the Board of Dental Examiners and the license shall be marked as canceled, upon the date of its revocation. (As amended April 6, 1909. Stats. p. 806.)

SECTION 22. Report of Board.

SECTION 23. Quorum.

COLORADO

1897, April 17, Laws of Colorado, p. 144.

SECTION 1. It shall be unlawful for any person to practise dentistry or dental surgery in the State of Colorado, unless

he or she shall first have obtained a license for such purpose as provided for in this act. Provided that nothing in this act shall be construed to prohibit anyone from extracting teeth.

SECTIONS 2 and 3. Creation, etc., of State Board of Dental Examiners.

SECTION 4. Any person desiring to practise dentistry in this State shall first submit to an examination before the State Board of Dental Examiners of this State, touching his or her qualifications, and every applicant for such examination shall, with his or her application for examination submit to the said board, as a prerequisite of such examination, a diploma of graduation of some reputable dental college, dental school, or university dental department, duly authenticated by the laws of this State or some other of the United States.

SECTION 5. Any and all persons possessing the diploma prescribed by Section 4 of this act, and upon deposit of the examination fee, shall be examined by the said board, at such times and under such rules as said board may prescribe, not inconsistent with this act, upon the science and practice of dentistry and dental surgery, and all who are found qualified shall be registered in a record book and shall receive a license from the said board to practise dentistry in this State, in accordance with the provisions of this act.

SECTION 6. The examination fee in all cases shall be ten dollars to be paid to the secretary of the said board before such examination is had, and in no case shall it be refunded. Said board by its secretary shall keep a record book in which shall be recorded the names and addresses of all persons so examined, and date and result of such examination, names and dates of all applications, and such other matters as shall afford a full record of the same, which book with such records or transcripts therefrom duly certified by the president and secretary of said board, with the common seal of the board attached, shall be prima facie evidence before all the courts of this State of the entries therein contained. The said board shall make and prescribe all reasonable rules for its government and for the conduct of its business.

SECTION 7. Amended 1905, April 10. (See Section 1, below.)

SECTION 8. Dispositions of moneys received by board.

SECTION 9. The provisions of this act shall not apply to any person who may have procured a license to practise dentistry from the State Board of Examiners of this State, in conformity to the laws now in force and prior to the taking effect of this act.

SECTION 10. That "An Act to Insure the Efficiency of Practitioners of Dental Surgery and to Regulate the Practice of Dentistry in the State of Colorado," approved March 15, 1889, and the act amending said act, approved April 1, 1891, and all acts in conflict with this act are hereby repealed.

1905, April 10, Laws of Col., p. 184.

SECTION 1. Any person who shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor, and shall be liable to prosecution before any court of competent jurisdiction, upon information or by indictment, and upon conviction shall be punished for the first offence, by a fine in a sum of not less than one hundred dollars or more than three hundred dollars, or by imprisonment in the county jail not more than three months, and for a second offence or second conviction, shall be imprisoned in the county jail not less than three months or more than one year. Each day that this act is violated shall be considered a separate offence.

CONNECTICUT

1907, August 1, Public Laws, p. 857.

SECTION 1. Terms of dental commissioners.

SECTIONS 2 and 3. (Amending sections 1 and 2 of Public Acts of 1905, June 15, p. 341.) Appointment of dental commissioners, qualifications, duties, etc.

SECTION 4. (Amending section 3 of Public Acts of 1905, June 15, p. 341.) No person shall engage in the practice of dentistry unless such person shall have first obtained from

said commissioners a license. This section, however, shall not apply to persons engaged in the practice of dentistry who registered as dentists in this State prior to December 1, 1902, in the manner provided by said commissioners.

SECTION 5. (Amending section 4 of the Public Acts of 1905, June 15, p. 341.) Every application for such license shall be in writing, signed by the applicant, and no license shall issue to any person unless he shall have received a diploma or other sufficient certificate of graduation from some reputable dental college, or medical college conferring a dental degree and having a department of dentistry, or unless he shall have spent five years under the instruction of a licensed or registered dentist, or unless he shall have had at least three years' continuous practice as a legally qualified dentist. All requisites under this clause shall be proven by documentary evidence, which shall accompany the application for examination.

SECTION 6. (Amending section 11 of Public Acts of 1905, June 15, p. 343.) All unlicensed assistants who, on January 1, 1907, were actually employed in performing dental operations on patients in the office of a duly registered or licensed dentist may register their names with the dental commissioners prior to October 1, 1907, upon the presentation of the affidavit of two registered or licensed dentists, stating the name and address of such applicant and the length of time he or she has been so employed, in such form as the dental commissioners shall prescribe. Any person so registered, as aforesaid, may perform dental operations on patients in the office of a licensed or registered dentist and under the immediate personal supervision of such registered or licensed dentist, but not otherwise. The provisions of this chapter shall not prevent a physician or surgeon, practising as such, from the performance of any operation in dentistry on a patient under his charge, nor a visiting clinician at a meeting of a regularly organized dental society from performing dental operations, nor an assistant of a registered or licensed dentist from performing the so-called operation of cleaning teeth.

SECTION 7. (Amending section 12 of Public Acts of 1905, June 15, p. 343.) No registered or licensed dentist shall employ an unlicensed assistant for independent dental operations except under the conditions provided in Section 11.

SECTION 8. This act shall take effect from its passage.

1905, June 15, Public Acts, p. 341.

SECTION 5. Every applicant for a license shall be examined by said commissioners as to his professional knowledge and skill before such license shall be granted, and they may refuse to grant a license where they are satisfied that the applicant is unfit or incompetent; they may, for good and legal cause revoke any license that has been granted, and may prohibit any dentist in lawful practice from further practice, on satisfactory proof that such dentist has become unfit or incompetent. Cruelty, incapacity, unskilfulness, gross negligence, indecent conduct toward patients, or such unprofessional behavior as shows unfitness on the part of the dentist, shall be sufficient cause for the revocation of a license, or prohibition to practise; whenever complaint shall be made to a commissioner against a dentist, said commissioner shall investigate the matter, and on finding probable cause shall notify the party complained of to appear before the dental commissioners and show cause why he should not be prohibited from practice or why his license should not be revoked.

SECTION 6. Every such notice shall be in writing and signed by the recorder, and shall contain a statement of the causes for which such prohibition or revocation is claimed, and shall specify the place and time for the hearing, which shall be at least twelve days after the service of such notice. Said notice may be served by leaving a copy thereof, attested by the recorder, at the place of business of the party complained of or at his last usual place of abode, or by sending the same by mail.

SECTION 7. Every dentist who shall at any hearing before the commissioners, either by himself or by his procurement, make a false statement or misrepresentation with intent to

deceive said commissioners, shall forfeit his license, or be prohibited from practice.

SECTION 8. Every dentist aggrieved by the action of said commissioners in the revocation of his license or prohibition from his practice, may apply to the superior court, or court of common pleas, in the county in which he resides, for a writ of mandamus requiring them to revoke their decision, if the same be found on hearing, to have been erroneous. Such application for mandamus may be served on said commissioners by leaving with the recorder or at his usual place of abode an attested copy thereof within twelve days after said commissioners shall have notified such dentist of their decision.

SECTION 9. Upon the payment of a fee of twenty-five dollars, the dental commissioners shall, at their meetings, examine applicants and grant licenses to such applicants as they shall find qualified. An applicant who fails to pass a satisfactory examination shall be entitled to a re-examination at the next meeting of the commissioners, without a fee, but for any examination at a subsequent meeting a fee of five dollars shall be paid.

SECTION 10. Custody of Records.

SECTION 12. Report of Commissioners.

SECTION 13. The dental commissioners may, in their discretion, without examination, issue a license to any reputable dentist of good moral character who shall have been in legal practice for five years or more in some other State or Territory, upon the certificate of the Board of Dental Examiners, or a like board of the State or Territory in which such dentist was a practitioner, certifying to his competency, and that he is a reputable dentist of good moral character, and upon the payment of a fee of twenty-five dollars to said commissioners.

SECTION 14. Any duly licensed or registered dentist who is desirous of changing his residence from this to another State shall, upon application to the dental commissioners, receive a certificate which shall attest that he is a duly licensed or registered dentist in this State; and said certificate shall be given without the payment of any fee therefor.

SECTION 15. Every person hereafter licensed or registered by said commissioners to practise dentistry shall notify, in writing, the recorder of the commissioners as to the county and town in which he locates for the practice of dentistry; and if any licensed or registered dentist shall desire to remove his practice or any part thereof to another town or county, or regularly engage in practice in another town or county he shall, in writing, notify the recorder as to the town and county in which he so locates. Failure, neglect, or refusal on the part of any such person to notify the recorder as aforesaid, shall be deemed to be a violation of the provisions of this chapter and punishable as hereinafter provided.

SECTION 16. Every person who shall knowingly and falsely claim or pretend to have or hold a certificate of registration or license, diploma or degree granted by a society or by the Board of Dental Commissioners, or who shall falsely and with intent to deceive the public claim or pretend to be a graduate from any dental college, not being such graduate, or who shall append the letters B. D. S., D. D. S., D. M. D., M. D. S., or L. D. S. to his name, without having had duly conferred upon him, by diploma from some college, school or board of examiners legally empowered to confer the same, the right to assume said titles, shall be punished as hereinafter provided.

SECTION 17. Every person who shall violate any of the provisions of this chapter shall be fined not more than one hundred dollars, or imprisoned not more than six months, or both; and the unlawful practice of dentistry for each week shall be a separate offence. The county health officer of the county within which any such violation occurs or is committed shall have jurisdiction to prosecute therefor.

SECTION 18. This act shall take effect from its passage.

DELAWARE

1899, March 23, Chapter 242, Vol. 21, Laws of Delaware.

SECTION 1. (Amending section 1 of Act of 1885, Chapter 496, Vol. 17.) It shall be unlawful for any person who is

not, at the time of the passage of this act, a recognized practitioner of dentistry in this State, and so recognized by the profession, to practise dentistry unless he or she shall have obtained a certificate as hereinafter provided.

SECTION 2. (Amending section 3 of the Act of 1885, post). Said board shall choose one of its members president and one secretary thereof. It shall fix the time and place of its meeting or meetings. It shall hold regular meetings for the examination of applicants for certificates to practise at least once every three months. It shall have the power to frame by-laws governing its procedure and making a reasonable charge not exceeding ten dollars, for the examination of each applicant. A majority of said board shall at all times constitute a quorum, and the proceedings thereof shall at all reasonable times be open to a public inspection. The board shall also make an annual report of its proceedings to the Governor.

SECTION 3. (Amending section 5 of the Act of 1885, post.) Any and all persons who shall desire to commence such practice after the passage of this act, shall appear before said board, at any of its regular meetings, and be examined with reference to their knowledge and skill in dental surgery, and if the examination of any such person or persons shall prove satisfactory to said board, the board of examiners shall issue to such persons as they shall find to possess the requisite qualifications a certificate to that effect, in accordance with the provisions of this act, upon the payment of one dollar for such certificate. All certificates issued by said board shall be signed by its officers, and such certificates and diplomas, granted as aforesaid, shall be prima facie evidence of the right of the holder to practise dentistry in the State of Delaware. It shall not be lawful for any person or persons to engage in the practice of dentistry without first having received a certificate from the said board, as herein provided, nor shall it be lawful for any person or persons, with or without such certificate, to allow to practise in his, her or their office, or in his, her or their name or names, any

person or persons who are not duly qualified according to the provisions of this act.

SECTION 4. (Repealing section 7 of Act of 1885.) It shall be the duty of the board to investigate any charges of a violation of any of the provisions of this act which may be brought to its attention, and to report the result of such investigations to the Attorney General of the State.

1885. March 31, Chapter 496, Vol. 17. Laws of Delaware.

SECTION 1. Amended by Act of 1899, supra.

SECTION 2. Creation of Board of Examiners.

SECTION 3. Amended by Act of 1899, supra.

SECTION 4. Within six months from the time this act takes effect it shall be the duty of every person who is at that time engaged in the practice of dentistry in this State, to cause his or her name and residence or place of business to be registered with said board of examiners, who shall keep a book for that purpose. The statement of every such person shall be verified under oath before a notary public or justice of the peace, in such a manner as may be prescribed by the said Board of Examiners. Every person who shall so register with said board as a practitioner of dentistry may continue to practise the same as such, and shall receive a certificate of such registration upon his or her paying the said board one dollar for such certificate.

SECTION 5. Amended by Act of 1899, supra.

SECTION 6. Any person who shall wilfully violate any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof, in any court having criminal jurisdiction, may be fined not less than fifty dollars nor more than three hundred, or be confined not more than six months in the county jail, in the discretion of the court. All fines received under this act shall be paid into the common school fund of the city or county in which such conviction takes place.

SECTION 7. Repealed by Act of 1899, supra.

SECTION 8. This act shall not apply to any person practising dentistry in another State who is now the owner of real estate in this State.

SECTION 9. Nothing in this act shall be so construed as to interfere with the rights and privileges of physicians and surgeons in the discharge of their professional duties.

SECTION 10. This act shall take effect from the date of its passage.

DISTRICT OF COLUMBIA

Act of June 6th, 1892. Vol. 27, U. S. Statutes at Large.

It shall be unlawful for any person to practise dentistry in the District of Columbia unless such person shall register with the health officer in compliance with the requirements hereinafter provided.

SECTION 2. That a board to carry out the purposes of this act is hereby created, to be known as the Board of Dental Examiners, to consist of five reputable dentists resident of and for three years last before appointment actively engaged in the practice of dentistry in the District of Columbia, to be appointed by the Commissioners of said District for terms of five years and until their successors are appointed: *Provided*, That the first five appointments shall be made for terms of one, two, three, four, and five years respectively. A majority of said board shall constitute a quorum. Vacancies occurring in said board shall be filled by appointment of eligible persons for unexpired terms.

SECTION 3. That it shall be the duty of the Board of Dental Examiners, first, to organize by electing one of their number president and one secretary, to provide necessary books and blank forms, and publicly announce the requirements of this act and the time, place, and means of complying with its provisions within thirty days from its passage; second, to promptly certify to the health officer for registration all who are engaged in the practice of dentistry in said district at the time of passage of this act who apply therefor; third, to test the fitness and pass upon the qualification of persons desiring to commence the practice of dentistry in said district after the passage of this act and certify to the health officer for registration such as prove, under examina-

tion in theory and practise of dentistry, qualified in the judgment of the board to practise dentistry in said district; fourth, to report immediately information of any violation of this act, and, annually, the transactions of the board to the Commissioners of the District of Columbia: *Provided*, That the board of dental examiners may issue a license to practise to any dentist who shall have been in legal practice for a period of five years or more, upon the certificate of the board of dental examiners of the State or Territory in which he practised, certifying his competency and moral character, and upon the payment of the certification fee without examination as to his qualifications. (As amended by the Act of 1904.)

SECTION 4. That it shall be the duty of every person practising dentistry in said district at the time of the passage of this act to make application to said board, in form prescribed by said board, for certification, and present the certificates thus obtained for registration to the health officer within sixty days from the passage of this act. Every such person so registering may continue to practise without incurring the penalties of this act.

SECTION 5. That persons desiring to commence the practice of dentistry in said district after the passage of this act shall first obtain a certificate of qualification from the Board of Dental Examiners, granted under authority conferred upon said board by section 3 of this act, and present the same to the health officer for registration.

SECTION 6. That it shall be the duty of the health officer to register all persons presenting certificates from said board in a book kept for this purpose, and endorse upon each certificate the fact and date of such registration.

SECTION 7. That certificates issued and endorsed under the provisions of this act shall be evidence of the right of the person to whom granted to practise under this act.

SECTION 8. That anyone who shall practise or attempt to practise dentistry in the said district without having complied with the provisions of this act shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall

be fined not less than fifty nor more than two hundred dollars, and in default of payment of such fine shall be imprisoned not less than thirty nor more than ninety days, said fines, when collected, to be paid into the Treasury of the United States, to the credit of the District of Columbia: *Provided*, That nothing in this act shall be construed to interfere with physicians in the discharge of their professional duties, nor with students pursuing a regular uninterrupted dental college course or in bona fide pupilage with a registered dentist.

SECTION 9. That to provide a fund and carry out and enforce the provisions of this act the Board of Dental Examiners may charge such fees, not exceeding one dollar for each certificate and ten dollars for each examination, as will from time to time, in the opinion of said board, approved by said Commissioners, be necessary. From such fund all expenses shall be paid by the board: *Provided*, That such expense shall in no case exceed the balance of receipts.

FLORIDA

1909, June 8, Chapter 5936, Laws of Florida, p. 120.

SECTIONS 1 and 2. Creation, appointment, term, duties, etc., of a Board of Examiners.

SECTION 3. One member of said board shall grant a temporary certificate to an applicant who has a diploma from a reputable dental college, and who passes a satisfactory examination, for which fees shall be charged as provided in section 13. This certificate shall entitle the holder to practise until the next regular meeting of said board, at which time the temporary certificate shall expire; and in no case shall such temporary certificate be renewed or extended, nor shall such temporary certificate be again granted to the same applicant upon a second application therefor, nor after such applicant has been rejected by the board.

SECTION 4. No person unless legally qualified prior to the passage of this act, shall practise dentistry or dental surgery,

or any branch thereof, in this State, until he has obtained a certificate from the Florida State Board of Dental Examiners as hereinafter provided.

SECTION 5. Each person who desires to practise dentistry or dental surgery, or any branch thereof, within this State, shall file with the secretary of said board a written application for a certificate, and furnish satisfactory proof that he is at least twenty-one years of age, of good moral character, and present evidence satisfactory to the board that he is a graduate of a reputable dental college, as defined by the National Association of Dental Examiners. Such application must be upon the form prescribed and furnished by the board, and verified by oath.

SECTION 6. When such application and the accompanying proof are found satisfactory, the board shall notify the applicant to appear before it for an examination at a time and place to be fixed by the board. Examination may be made orally or in writing or may be practical or theoretical, or both, at the discretion of the board, and shall be of such a character as to test the qualifications of the applicant to practise dentistry or dental surgery. Should the applicant pass a satisfactory examination, he shall be granted a certificate by the board, signed by all members present and bearing the seal of said board, which certificate shall be conclusive evidence of his or her right to practise dentistry or dental surgery in this State.

SECTION 7. Any person shall be regarded as practising dentistry or dental surgery, in the meaning of this act, who shall open or manage an office for such purpose, or shall announce to the public in any way that he is a practising dentist, or anyone who performs any operation upon the teeth or provides artificial teeth as substitutes for natural teeth. And the opening of a dental office, or the announcement to the public in any way that the one so announcing is a practising dentist, shall be prima facie evidence in any court of competent jurisdiction: *Provided*, That nothing in this act shall be so construed as to prevent regular licensed physicians and surgeons from extracting teeth: *Provided*,

further, That nothing in this act shall prevent anyone from extracting teeth without the use of a local or general anesthetic.

SECTION 8. Any person granted a certificate by the State Board of Dental Examiners as herein provided, shall personally cause his or her certificate to be registered with the clerk of the circuit court of each county in which he desires to practise before beginning the practice of dentistry in said county or counties, and to be, and at all times, displayed in a conspicuous place in his or her office wherein he or she shall practise such profession, and shall further, when requested, exhibit such certificate to any member of said board or its authorized agent.

SECTION 9. The board may revoke the certificate obtained by fraud or misrepresentation, or if the person named therein use intoxicants or drugs to such a degree as to render him unfit to practise dentistry or dental surgery, or has been convicted of a felony subsequent to the date of his certificate. If such conviction is vacated, reversed, or set aside, or the accused pardoned, his certificate shall be operative from the date of the vacation, reversal, or pardon.

SECTION 10. No action to revoke a certificate shall be taken until the accused has been furnished a statement of the charges against him and notice of the time and place thereof. The accused may be present at the hearing in person, by counsel, or both. The statement of charges and notice may be served personally upon such person, or mailed to him at his last known address, at least twenty days prior to the hearing. If upon such hearing the board finds the charges are true, it may revoke the certificate. Such revocation shall take from the person named in the certificate all rights and privileges acquired thereby.

SECTION 11. A stenographic report of each proceeding to revoke a certificate shall be made at the expense of the board, and a transcript thereof kept on its files. A person whose certificate has been revoked may file with the secretary, within thirty days of the decision of the board, a written notice of appeal therefrom. Upon filing such notice

the Secretary shall transmit to the Governor and the Attorney General the record of such proceedings. Such officers shall review the proceedings as disclosed by the records, and their decision affirming or overruling the action of the board shall be final.

SECTION 12. Any failure, neglect or refusal on the part of any person obtaining a certificate to practise dentistry or dental surgery, from said board, to register such certificate with the clerk of the circuit court of some county in this State, as above provided, within ninety days from date of issue of same, shall work a forfeiture of such certificate, but a new certificate may be issued upon the payment to the board the sum of fifteen dollars for such neglect, failure or refusal to register such certificate, and the surrender of the forfeited certificate.

SECTION 13. In order to provide the means for carrying out and enforcing the provisions of this act, the said board shall charge each person applying to it for a certificate to practise dentistry or dental surgery in this State an examination fee of twenty dollars, and in addition thereto a certificate fee of five dollars for every certificate or duplicate certificate issued by said board; and out of the funds coming into the possession of said board under the provisions of this act, the members of said board shall each receive as compensation the sum of five dollars for each day actually engaged in the duties of the office, and all legitimate and necessary expenses incurred in attending the meetings of said board. The Secretary of the board shall be entitled to such amounts as shall be necessary to defray the costs of stationery and necessary expenses actually incurred in the discharge of his duty. All expenses shall be paid from the fees received by the board under the provisions of this act, and that no part of said expense shall be paid out of the State treasury. All moneys received in excess of said per diem allowances and other expenses herein provided shall be held by the Secretary of the said board as a special fund for meeting expenses of said board; and said board shall make an annual report of its proceedings to the Governor on or before the fifteenth

day of December of each year, together with an account of all moneys received and disbursed by them pursuant to this act; but should the amount held by the secretary at any time exceed three hundred dollars, the excess above three hundred dollars shall be placed with the State treasurer to the credit of the common school fund of the State.

SECTION 14. Any person filing or attempting to file as his own a diploma or certificate of another, or a forged diploma, affidavit or identification or qualification, shall be deemed guilty of a felony and, upon conviction thereof, shall be subject to such fine and imprisonment as is made and provided by the statutes of this State for the crime of forgery.

SECTION 15. Any person who shall practise dentistry or dental surgery in this State without having first obtained a certificate from the Florida State Board of Dental Examiners, or who violates any of the provisions of this act, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than one thousand dollars, or imprisonment in the county jail not more than twelve months, or by both such fine and imprisonment, in the discretion of the court.

SECTION 16. That an Act entitled "An Act to provide for the appointment of a Board of Examiners, and to regulate the practice of dentistry in the State of Florida," approved June 7, 1887, and all acts and parts of acts amendatory thereto be, and the same are hereby repealed.

GEORGIA

Code of Georgia, Vol. 1, 1911, p. 452.

Chapter 14, section 1742.

SECTION 1742. *Board of Dental Examiners of Georgia Created.*—A board of examiners is hereby created to be known as the Board of Dental Examiners of Georgia. The members of the board shall be appointed by the Governor of Georgia upon the recommendation of the Georgia State Dental Society, as follows, to wit:

The State Dental Society shall nominate, at its first

annual meeting, ten reputable practising dentists who have been in the practice of dentistry in this State for five years or over at the time of their appointment, five of whom shall be members of the State Dental Society of this State, and five non-members. From such names the Governor shall appoint five persons, who shall compose the Board of Dental Examiners of Georgia, and hold their terms for one, two, three, four, and five years, according to their appointment and commission, and every year thereafter said dental society, at its annual meeting, shall select four dentists, who shall have the same qualifications as hereinbefore provided for the members previously elected, from which number the Governor shall appoint one person to be a member of said board, who shall hold his office for a term of five years. In case of vacancy in said board, such vacancy shall be filled by appointment of the Governor upon the recommendation of the president of the Georgia State Dental Society.

SECTION 1746. *Dentistry, Definition of.*—All persons shall be held to be practising dentistry within the meaning of this chapter, who shall charge a fee or salary or other reward to be paid either to him or to another person for operations or parts of operations of any kind in the treatment of disease or lesions of the human teeth or jaws, or extract teeth, or in the correction of the malposition thereof, or who shall fill or crown a human tooth or teeth, or by any method supply any substitute to take the place of a lost tooth or teeth or do any operation whatsoever on a human tooth or teeth, gums or jaw, or who shall make an examination of a human tooth or teeth, gums, or jaws, or take an impression thereof, for the purpose of treating or operating upon the same, or who shall by any means whatsoever make it known or imply that he will do such operations; and such act or acts as mentioned above shall constitute prima facie evidence of the practice of dentistry: Provided that nothing in this chapter shall apply to regular licensed physicians in extracting teeth and charging a fee therefor, or performing surgical operations.

SECTION 1748. *To Whom License May Be Granted.*—Said board shall examine all applicants furnishing satisfactory

evidence of having graduated from a school of dentistry, whose term and curriculum is equal to that of a majority of schools of dentistry of the United States; and if such applicant pass a satisfactory examination, a license to practise dentistry shall be granted to the applicant.

SECTION 1749. *Temporary License.*—In cases where a person is entitled to an examination for a license, one member of said board may examine him and furnish a temporary license to any applicant to practise dentistry until the next regular annual meeting of the board, when he shall report the fact, at which time the temporary license shall expire, but such temporary license shall not be granted by a member of the board after the board has rejected the applicant. For conducting the said examination, the member of said board conducting the said examination may, in advance, charge and receive a fee of five dollars, to be applied to his own use for his services in examining the applicant. No other fee shall be charged for granting the temporary license.

SECTION 1750. *License to be Registered.*—All persons licensed by said board to practise dentistry shall cause such license to be registered by the clerk of the superior court in the county or counties in which such persons may desire to engage in the practise of dentistry, and said clerk of the court shall issue a certificate to that effect, and receive a fee of fifty cents for same. Any failure, neglect or refusal on the part of any person holding such license to register the same with the clerk of court as above directed for a period of six months shall work a forfeiture of the license, and no license when once forfeited shall be restored except upon the payment to said board of examiners of the sum of ten dollars. The temporary license hereinafter provided for need not be recorded.

SECTION 1751. *Shall not Practise under Another's License.*—It shall be unlawful for any person to practise dentistry or do any dental operation under the protection of another's license.

SECTION 1753. *Unlawful to Practise without a License.*—It shall be unlawful for any person to engage in the practice of

dentistry in this State unless said person shall have obtained a license from a board of dental examiners, duly authorized and appointed under the provisions of this chapter to issue licenses: *Provided,* That this chapter shall not affect the right, under the laws of Georgia, of dentists to practise dentistry who have lawful right to practise dentistry on the fifteenth of December, 1897.

SECTION 1754. *Board May Employ Counsel to Prosecute.*—Said board of dental examiners is hereby empowered, when in its judgment it is necessary to carry out the provisions of this chapter and enforce the same by prosecution or otherwise, to employ and pay counsel out of the funds collected by said board for examination fees, and said board is hereby empowered to so employ and pay counsel to prosecute any and all violations of the provisions of the dental laws of this State.

Code of Georgia, Vol. II, 1911.

SECTION 471. *Dentist, Professional Misbehavior.*—Any dentist who shall be guilty of cruelty, incapacity, unskilfulness, gross negligence, indecent conduct toward patients, or any such professional misbehavior, or show unfitness upon the part of the dentist to practise, shall be guilty of a misdemeanor, and his license to practise dentistry shall be revoked by the Board of Dental Examiners.

SECTION 472. *Illegal Practice.*—Any person who, in violation of the provisions of the civil code, shall practise or attempt to practise dentistry shall be guilty of a misdemeanor, provided that this section shall not be so construed as to prevent any person from extracting teeth without fee or reward.

SECTION 473. *False Statement before Board of Dental Examiners.*—Any dentist or other person who shall at any hearing before the Board of Dental Examiners, either by himself or by his procurement, make any false statement or misrepresentation with intent to deceive or mislead said board, shall be guilty of a misdemeanor, and such dentist's license shall be revoked by the board.

IDAHO

1907, March 16, Laws of Idaho, p. 547.

SECTION 1. It shall be unlawful for any person to practise dentistry in this State without having a license so to do from the Board of Dental Examiners.

SECTIONS 2, 3, 4. Creation, duties, etc., of Board of Dental Examiners.

SECTION 5. Any person who, as principal, agent, employer, or employee, who in any manner whatsoever shall practice dentistry, or who shall run, operate, or cause to be operated or manage a dental office or headquarters in the State of Idaho without having first filed for record and had recorded in the office of the recorder of the county wherein he shall so practise or do such act, a license from said Board of Dental Examiners, as herein provided shall be deemed guilty of a misdemeanor and upon conviction shall be fined in any sum not less than fifty dollars, nor more than two hundred dollars, or be confined for any period not exceeding six months in the county jail for each and every offence. All fines received under this act shall be paid one-half to the school fund in the county in which conviction is secured, and one-half to the State Dental Board.

SECTION 6. All persons shall be said to be practising dentistry within the meaning of this act who shall contrary to this act, for a fee, salary, or other reward, paid either directly or indirectly to himself, or to another person for operations or parts of operations of any kind on, or treat diseases or lesions of the human teeth or jaws, or correct malpositions thereof. This act shall not be construed to prohibit an unlicensed person from performing mechanical work upon inert matter in a dental office or laboratory or to prohibit the student of a licensed dentist from assisting his preceptor in dental operations while in his presence and under his direct and immediate personal supervision, or to prohibit a duly licensed physician from treating the diseases of the mouth or performing operations in oral surgery.

SECTION 7. Every registered dentist shall in each and every year after 1907 pay to said Board of Examiners the sum of two dollars as a license fee for such year. Such payment shall be made prior to May the 1st in each and every year. And in case of default in such payments by any person his license may be revoked by the Board of Examiners upon twenty days' notice of the time and place of considering such revocation. But no license shall be revoked for such non-payment if the person so notified shall pay before or at such consideration his fee and such penalty as may be imposed by said board, providing that said board may impose a penalty not exceeding ten dollars as a condition of allowing his license to stand: *Provided, further,* That said Board of Examiners may collect any such bills by law.

SECTION 8. The Board of Dental Examiners created by this Act may sue and be sued and in all actions brought by or against it, it shall be made a party under the name of the Board of Dental Examiners of the State of Idaho, and no suit shall abate by reason of any change in the membership of said board.

SECTION 9. The certificate in this act provided for shall entitle the holder thereof to practise dentistry in any county in the State of Idaho: *Provided,* Such certificate shall first be filed for record in the office of the Recorder of the county in which such holder desires to practise, and nothing herein contained shall be construed to permit any holder of any certificate to practise in any county in this State unless such certificate shall have been first recorded in the office of the Recorder of such county as herein provided: *Provided, further,* That such holder of a certificate may practise in more than one or any number of counties in this State on having such certificate recorded in each of such counties in which such holder desires to so practise. Said Board of Dental Examiners shall upon satisfactory proof of the loss of any certificate issued under the provisions of this act, issue a new certificate in place thereof. The County Recorder shall charge for registering such certificate a fee of one dollar.

SECTION 10. Any person who shall desire to begin the practice of dentistry in the State of Idaho shall file his name together with an application for examination with the secretary of the State Board of Dental Examiners, and at the time of making application shall pay to the secretary a fee of twenty-five dollars and shall present himself at the first meeting of said board to undergo examination before that body. In order to be eligible for such examination, such person shall present to said board his diploma from some dental college in good standing or license from some other State dental board, or furnish proof of having been engaged in the study of dentistry under a licensed dentist for at least four years. The examination shall be elementary and practical in character, but sufficiently thorough to test the fitness of the applicant to practise dentistry. It shall include answering in the English language questions of and on the following subjects: Anatomy, physiology, chemistry, materia medica, therapeutics, oral surgery, metallurgy, histology, pathology, operative and mechanical dentistry, and also demonstrations of skill in operative and mechanical dentistry. All persons successfully passing such examinations shall be registered as a licensed dentist in the record book of the board and also receive a certificate of such registration. Such certificate shall be signed by the president and secretary of the board, and also bear the official seal of said board.

The examination fee shall in no case be refunded, but a candidate failing in his first examination may demand a second examination at a subsequent meeting of the board, and no fee shall be charged for said examination.

SECTION 11. Said board may, in its discretion, accept any register upon payment of a registration fee, and without examination of the applicant any certificate which shall have been issued to him by the dental examining board of any State or Territory of the United States: *Provided, however,* That the legal requirements of such dental examining board shall have been at the time of issuing such certificate in no degree or particular less than those of Idaho at the time

when such certificate shall have been presented for registration to the board created by this act: *Provided*, That such applicant shall have been lawfully engaged in the practice of dentistry in the State from which he shall present his certificate for a period of five years next preceding his application to the Dental Board of the State of Idaho: *Provided, further*, That the provisions of this section contained shall be held to apply only to such of said Dental Examining Board as accept and register these certificates granted by this board, without examination by them of the one holding such certificate. Each applicant on making application, shall pay to the secretary of the board a fee of twenty-five dollars.

ILLINOIS

1909, June 11, Laws of Illinois.

SECTIONS 1 and 2. Creation, etc., of Board of Examiners.

SECTION 3. No person unless previously registered or licensed to practise dentistry in this State at the time this act shall become operative, shall begin the practice of dentistry or dental surgery, or any branches thereof, without first applying for and obtaining a license for such purpose from the Illinois State Board of Dental Examiners. Application shall be made to said board in writing, and shall, in every instance, be accompanied by the examination fee of twenty dollars, together with satisfactory proof that the applicant is of good moral character and twenty-one years of age or over at the time of making the application. Application from a candidate who desires to secure a license from said board to practise dentistry or dental surgery in this State shall be accompanied with satisfactory proof that the applicant so applying for a license has been engaged in the actual, legal and lawful practice of dentistry or dental surgery in some other State or country for five consecutive years just prior to application; or is a graduate of and has a diploma from the faculty of a reputable dental college, school or dental department of a reputable university; or is a

graduate of and has a diploma from the faculty of a reputable medical college or medical department of a reputable university, and possesses the necessary qualifications prescribed by the board. When such application and the accompanying proof are found satisfactory, the board shall notify the applicant to appear before it for examination at a time and place to be fixed by the board. Examination may be made in whole or in part, orally or in writing at the discretion of the board, and shall be of a character as to test the qualification of the applicant to practise dentistry or dental surgery. All examinations provided for in this act shall be conducted by the board, which shall provide for a fair and wholly impartial method.

SECTION 4. Said Board of Dental Examiners shall make rules or regulations to establish a uniform and reasonable standard of educational requirements to be observed by dental schools, colleges or dental departments of universities, and said board may determine the reputability of those by reference to their compliance with said rules or regulations.

SECTION 5. Any person shall be regarded as practising dentistry or dental surgery within the meaning of this act, who shall treat, or profess to treat any of the diseases or lesions of human teeth or jaws, or extract teeth, or shall prepare and fill cavities in human teeth, or correct the malposition of teeth, or supply artificial teeth as substitutes for natural teeth: *Provided,* That nothing in this act shall be so construed as to prevent regularly licensed physicians or surgeons from extracting teeth: *Provided, further,* this act shall not prevent students from performing dental operations under the supervision of competent instructors within a dental school, college, or dental department of a university recognized as reputable by the Illinois State Board of Dental Examiners.

SECTION 6. Any person licensed to practise dentistry or dental surgery in this State by the Illinois State Board of Dental Examiners, as hereinbefore provided, shall personally and within ninety days from the date of issue, cause such

license to be registered with the county clerks of such county or counties in which such person desires to engage in the practice of dentistry or dental surgery, and the county clerks of the several counties of this State shall charge for registering such license a fee of twenty-five cents for each registration. *And it is hereby provided, further,* That every person who engages in the practice of dentistry or dental surgery in this State shall cause his or her license to be registered with the county clerk before beginning the practice of dentistry in said county, and to be, at all times, displayed in a conspicuous place, in his or her office wherein he or she shall practise such profession, and shall further, whenever requested, exhibit such license to any of the members of the said board or its authorized agent.

SECTION 7. The board may refuse to issue the license provided for in this act, or may revoke any license now in force or that shall be hereafter given, if issued to individuals who have, by false or fraudulent representations, obtained or sought to obtain practice or by false or fraudulent representations obtained or sought to obtain money or any other thing of value, or have practised under names other than their own, or for any other dishonorable conduct. The board, when written charges have been filed with its secretary, and seem sustained by proof, shall fix a time and place for the examination of a person so charged and shall give written notice to the said person of the time and place and furnish him with a copy of the charges, at least twenty days prior to the date fixed for the examination.

SECTION 8. Any failure, neglect or refusal on the part of any person obtaining a license to practise dentistry or dental surgery from the said board, to register such license with the county clerk of some county in this State, as above directed, within ninety days from the date of issue of same, shall work a forfeiture of such license, and no license when once forfeited, shall be restored, except upon payment to the said board of the sum of fifteen dollars for such neglect, failure or refusal to register such license and the surrender of forfeited license.

SECTION 9. In order to provide the means for carrying out and enforcing the provisions of this act, the said board shall charge each person applying to it for examination for a license to practise dentistry or dental surgery in this State, an examination fee of twenty dollars, and in addition thereto, a license fee of five dollars, for every license or duplicate license issued by said board, and out of the funds coming into the possession of the board under the provisions of this act, the members of the said board shall each receive as compensation the sum of ten dollars for each day actually engaged in the duties of the office and all legitimate and necessary expense incurred in attending the meeting of the said board: *Provided*, That the secretary of the board, for the purposes of enforcing the provisions of this act, shall receive a salary to be fixed by the board, instead of the per diem of ten dollars. All expenses shall be paid from the fees, fines and penalties received and recovered by the board under the provisions of this act: *Provided*, That no part of said expense shall be paid out of the State treasury. All moneys received in excess of said per diem allowance and other expenses herein provided shall be held by the secretary of the said board as a special fund for meeting expenses of said board, and said board shall make an annual report of its proceedings to the Governor by the 15th day of December of each year, together with an account of all moneys received and disbursed by them pursuant to this act.

SECTION 10. Any person filing or attempting to file as his own the diploma or license of another, or a forged affidavit of identification, or qualification, shall be deemed guilty of a felony, and upon conviction thereof, shall be subject to such fine and imprisonment as is made and provided by the statutes of this State for the crime of forgery.

SECTION 11. The State Board of Dental Examiners may, in its discretion, issue a license to practise dentistry or dental surgery without examination to a legal practitioner of dentistry or dental surgery, who removes to Illinois from another State or territory of the United States, or from a foreign country, in which he or she conducted a legal practice of

dentistry or dental surgery for at least five years immediately preceding his or her removal: *Provided*, such applicant present a certificate from the Board of Dental Examiners, or a like board, of the State, territory, or country from which he or she removes, certifying that he or she is a competent dentist or dental surgeon, and of good moral character: *Provided, further*, That such certificate is presented to the Illinois Board of Dental Examiners not more than six months after its date of issue, and that the board of such other State, Territory or country shall in like manner recognize certificates issued by the Board of Dental Examiners of the State of Illinois, presented to such other board by a legal practitioner of dentistry or dental surgery from this State, who may wish to remove to or practise in such other State, Territory or country.

SECTION 12. Anyone who is a legal and competent practitioner of dentistry or dental surgery in the State of Illinois, and of good moral character and known to the Board of Dental Examiners of this State as such, who desires to change his or her residence to another State, territory, or foreign country, shall, upon application to the Board of Dental Examiners, receive a certificate over the signature of the president and secretary of said board, and bearing its seal, which shall attest the facts above mentioned and giving the date upon which he or she was registered and licensed.

SECTION 13. The fee for issuing a license to a legal practitioner from another State, territory, or foreign country to practise dentistry or dental surgery in this State under section 11 of this act shall be twenty-five dollars, and the fee for issuing a certificate to a legal practitioner of this State, under section 12 of this act, shall be five dollars, and in each case the fee shall be paid in cash before the license or certificate respectively shall be issued.

SECTION 14. For the purpose of correcting and revising the register of legal practitioners of dentistry as kept by the State Board of Dental Examiners, it shall be the duty of each person registered, or licensed, by the board to practise dentistry in this State to procure from the secretary of the

board, on or before November 1, 1909, and on or before November 1 biennially thereafter, a certificate of registration. Such certificate shall be issued by the secretary upon payment of a fee to be fixed by the board, not exceeding the sum of one dollar. All certificates so issued shall be prima facie evidence of the right of the holder to practise dentistry in this State during the time for which they are issued, and the same shall be exposed to public view in the operating room of the holder. Any certificate or license heretofore granted, or that may be hereafter granted by the board, shall be cancelled if the holder thereof fails to secure the renewal certificate herein provided for within a period of six months after November 1, 1909, and biennially thereafter: *Provided*, that the license or certificate thus cancelled may be restored by the board upon the payment of a fee of twenty dollars without further examination of the holder as to his competency and ability to practise. It shall be the duty of the secretary of the board to mail to each person whose name appears upon the register of said board on or before October 1, 1909, and at the same time biennially thereafter, a printed blank form, to be filled out by the holder of such license or certificate, which shall be returned by such holder to the secretary of the board, properly filled out, together with the fee established by said board for this purpose. The board shall cause a notice to be inserted in not less than three newspapers in the city of Chicago, and two newspapers in the city of Springfield, informing the dentists of this State that such registration will be required. Such notice shall be printed in such newspapers in one of each three successive weeks between the first day of October and the first day of November, 1909, and during the same period biennially thereafter.

SECTION 15. That all dentists or dental surgeons now legal practitioners of dentistry or dental surgery in this State, or those who may hereafter become such, shall be exempt from service as jurors in any of the courts of this State.

SECTION 16. Any person who shall practise dentistry in this State without being registered or without a license for

that purpose, or violates any of the provisions of this act, shall be subject to prosecution before any court of competent jurisdiction upon complaint, information or indictment, and shall, upon conviction, be fined for each offence in any sum not less than fifty dollars nor more than two hundred dollars. All fines imposed and collected under this act shall be paid to the Illinois State Board of Dental Examiners for its use.

SECTION 17. All licenses issued by the said board shall be signed by all of the members thereof, and be attested by its president and secretary.

SECTION 18. Any association or company of persons, whether incorporated or not, who shall engage in the practice of dentistry under the name of company, association or any other title, shall cause to be displayed and kept in a conspicuous place at the entrance of its place of business, the name of each and every person employed in said company or association in the practice of dentistry, and anyone so employed by said company or association whose name shall not be so displayed as above provided, and the said association or company, if incorporated, or the persons comprising the same, if not incorporated, shall, for the failure to display the aforesaid names, be deemed guilty of a misdemeanor, and upon conviction thereof, each shall be punished as provided in this act.

Any manager, proprietor, partnership, association or incorporation owning, running, operating or controlling any room or rooms, office or dental parlors, where dental work is done, provided or contracted for, who shall employ, keep or retain any unlicensed person or dentist as an operator; or,

Who shall fail within ten days after demand made by the secretary of the Illinois State Board of Dental Examiners, in writing sent by registered mail, addressed to any such manager, proprietor, partnership, association or incorporation at said room, office or dental parlor, to furnish to said secretary the names and addresses of all persons practising or assisting in the practice of dentistry in his place of business or under his control, together with a sworn statement showing

by what license or authority said persons are practising dentistry, shall be guilty of a misdemeanor and subject to the penalties provided for in this act: *Provided*, however, that such sworn statement shall not be used as evidence in any subsequent court proceeding.

SECTION 19. "An act to insure the better education of practitioners of dental surgery, and to regulate the practice of dentistry in the State of Illinois," approved May 30, 1881, and in force July 1, 1881, and "An act to regulate the practice of dental surgery and dentistry in the State of Illinois and to repeal an act therein named," approved May 18, 1905, and in force July 1, 1905, and all other acts and parts of acts amendatory of either of said acts, are hereby repealed: *Provided, however*, That such repeal shall in nowise affect any suit, prosecution or court proceeding pending at the date of the passage of this act, or the right of the State Board of Dental Examiners created under either of said acts or the board created by this act, to claim or receive any moneys paid in by way of fines or license fee, and the board created by this act shall have the power and authority to use any funds received by it in discharging any obligation of the board or boards existing under the acts above repealed.

INDIANA

1899, March 6, Laws of Indiana, p. 479.

SECTION 1. That it shall hereafter be unlawful for any person to practise dentistry in Indiana, who has not first obtained a license so to do as hereinafter provided.

SECTIONS 2 and 3. Board of Examiners.

Act 1903, March 9, Laws of Indiana, page 355. (Amending section 4 of the act of 1899, March 6.)

SECTION 1. After this law goes into effect any person desiring to begin the practice of dentistry shall procure from the State Board of Dental Examiners a certificate that such person is entitled to practise dentistry in the State of Indiana, and in order to procure such certificate the applicant

shall submit to the State Board of Dental Examiners his diploma from a dental college recognized by the National Association of Dental Faculties, or said applicant's affidavit, accompanied by the affidavits of two freeholders, resident in the same county in which the applicant resides, or intends to locate, stating that the applicant has been an assistant in the dental office of a reputable licensed dentist or dentists of this State for a period of time not less than five years. Every such applicant shall pay to the board the sum of twenty dollars at the time of making such application, and shall pass an examination before the board at a time to be fixed by the board; and there shall be no discrimination in said examination against those applying thereunder who have no diploma: *Provided, however*, That the fee for re-examination, or any subsequent examination, shall be only ten dollars: *And provided further*, That if such applicant shall fail to pass the examination prescribed by said board, he shall have the right of an appeal to the Circuit or Superior Court of the county in which such applicant shall reside or intends to locate, requiring said board to show cause why such applicant should not be permitted to practise dentistry, upon the applicant giving a good and satisfactory bond in the sum of $200 to be approved by the court, to secure the costs of such appeal, should the appeal be determined against him.

1899, March 6, Laws of Indiana.

SECTION 5. All persons practising dentistry in the State of Indiana, when this law goes into effect and desiring to continue the same shall within ninety days thereafter obtain a license by tendering to the clerk of the circuit court of the county in which they reside the certificate of registration, or permit issued by the State Board of Dental Examiners held by them, or by exhibiting to such clerk the record of such certificate in the Recorder's office of the county of their residence, which certificate or record, when presented to the clerk, shall entitle the holder to a license to practise dentistry in the State of Indiana.

SECTION 6. Repealed by the act of 1903, March 9, p. 356, sec. 2.

SECTION 7. Upon the receipt of the certificate by the applicant from the State board, the applicant shall upon presentation thereof to the clerk of the Circuit Court of the county in which he resides receive from such clerk a license to practise dentistry in the State of Indiana. The person receiving such license shall pay to the clerk fifty cents as his fee for issuing and recording such license as hereinafter provided.

SECTION 8. In case of change of residence from one county to another within the State the holder of a dentist's license shall obtain a new license in the county where he proposes to reside by filing with the clerk of the Circuit Court the license obtained by him in the county in which he last resided in the same manner as provided for on the presentation of his certificate from the State Board of Dental Examiners, and the clerk shall issue him a new license.

SECTION 9. It shall be the duty of the clerk of the circuit court of the county in which an applicant resides or proposes to locate to issue to the person presenting such certificate as hereinbefore provided a license over his official seal in the following form:

State of Indiana, county of . . . . *ss.*

I, ... clerk of the . . . . . circuit court, in the State of Indiana, do hereby certify that . . . . . has complied with the laws of Indiana relating to the practice of dentistry in the county aforesaid. Witness my hand and the seal of said court, this . . . . day of . . .

, Clerk.

SECTION 10. The clerk shall enter of record, the name, age, place of birth, and address of the applicant, and the person so registering shall subscribe to and verify by oath before the clerk an affidavit concerning such facts, which if wilfully false shall subject the affiant to conviction for perjury.

SECTION 11. The clerk shall furnish annually, on the first day of January, to the State Board of Dental Examiners, upon blanks furnished by such board, a duplicate list of all

certificates received and licenses issued by him during the preceding year, and shall include therein the date of issue of such license, and the name, age, and residence of the person receiving the same.

SECTIONS 12 to 19. Organization, Duties, etc., of Board.

SECTION 20. The board may refuse to grant a certificate to any person guilty of felony, or gross immorality, or addicted to the liquor or drug habit to such a degree as to render him unfit to practise dentistry, or to any person who may be found by the board to be insane; and may, after notice and hearing, revoke a certificate and any license which may have been granted thereon for like cause. An appeal may be taken from the action of the board to the circuit or superior court of the county in which the certificate was refused or revoked by the board, upon the applicant giving a good and satisfactory bond in the sum of two hundred dollars, to be approved by the court, to secure the costs of such appeal should the appeal be determined against him.

SECTION 21. It shall be the duty of the Attorney General, and of the prosecuting attorney of the court, to which an appeal from any action of the board may be taken, to represent the board in any such appeal; and in case such board shall be sustained upon appeal, a fee of twenty dollars shall be taxed as a part of the cost of the appeal in favor of the prosecuting attorney.

SECTION 22. This act shall not apply to any commissioned officer of the United States Army, Navy, or Marine Hospital Service in the discharge of his official duties, nor to any dentist who is legally qualified to practise in the State or Territory in which he resides, when in actual consultation with a local practitioner of this State; nor to any dentist residing on the border of a neighboring State and duly authorized to practise dentistry under the laws thereof, whose practice extends into the borders of this State: *Provided*, That such practitioner shall not open an office or appoint a place to meet patients or solicit practice within the limits of this State.

SECTION 23. This act shall not apply to licensed physicians or surgeons, who are hereby authorized to extract teeth and to perform surgical operations at their usual office, residence, or in the vicinity of their ordinary practice, whenever in their judgment the same may be necessary.

SECTION 24. To open an office for such purpose, or to announce to the public in any way an intention to practise dentistry in any county in the State, shall be to engage in the practice of dentistry within the meaning of this act.

SECTION 25. Any three members of the board may grant a permit to practise dentistry to any person who shall possess a diploma or who shall have attended not less than two years at a reputable dental college recognized by the board, and who shall file with the secretary of the board his application therefor; but such permit shall by its terms be limited to some specified period of time, not to exceed a year, and no second permit shall be granted to the same person.

SECTION 26. The holder of a permit shall not be authorized to practise dentistry thereon until the same has been presented to the clerk of the Circuit Court of the county in which said applicant proposes to practise and a temporary license shall have been issued thereon, which license shall show upon its face the time of the expiration of the authority given by the board to practise dentistry, for which license the same fee shall be paid as for other dental licenses. Nor shall any permit authorize the issuance of a license which does not on its face show the time at which it expires.

SECTION 27. Any person who shall practise dentistry in this State without having a license duly issued as hereinbefore provided, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than twenty-five dollars nor more than two hundred dollars.

SECTION 28. The board shall make an annual report to the Governor and Indiana State Dental Association.

SECTION 29. All laws and parts of laws in conflict with this act are hereby repealed, and also an act entitled, "An Act to regulate the practice of dentistry in the State of Indiana," etc., approved March 7, 1887.

IOWA

1906, March 30, chap. 116. Laws of the Thirty-first General Assembly.

SECTION 1. *License for Practitioners from Other States; Fee.*—The Board of Dental Examiners may, without examination, issue license to practise to any dentist who shall have been in legal practice in some other State or Territory for a period of at least five years, upon the certificate of the Board of Dental Examiners or a like board of the State or Territory in which such dentist was a practitioner; certifying his competency and that he is of good moral character and upon payment of twenty-five dollars: *Provided, however*, that the State from which any practitioner may come shall have, and maintain equal standards of laws regulating the practice of dentistry and recognize exchange certificates issued by the Board of Examiners of the State of Iowa.

SECTION 2. *Change of Residence to Another State; Certificate; Fee.*—Any duly licensed dentist of the State of Iowa who is desirous of changing his residence to that of another State or territory shall upon application to the Board of Dental Examiners, and the payment of a fee of five dollars receive a certificate which shall attest that he is a duly licensed dentist of the State of Iowa.

1907, April 13, chap. 144, 32d General Assembly, amending section 3 of chap. 116, 31st General Assembly.

SECTION 1. *License to be Filed and Recorded; Forfeiture; License Filed in Wrong County Office.*—Every person to whom a license is issued shall file the same for record with the clerk of the district court in the county in which he desires to practise dentistry, and the clerk of the court shall be entitled to a fee of fifty cents for recording such license; and failure to so file such license for record within one year after it is issued by the board, shall work a forfeiture thereof and said license shall not be restored by the board except upon the payment to it the sum of twenty-five dollars as penalty therefor: *Provided, however*, That where a license to practise

dentistry had been issued at any time prior to January 1, 1907, under the provisions of chapter 19 of title 12 of the code, or under the provisions of chapter 19-A of title 12 of the supplement to the code and the same in good faith, but by mistake, has been filed for record in the office of any other county officer of the proper county except that of the clerk of the district court, then the holder of such license shall be allowed six months from and after the taking effect of this act within which to file the same for record with the clerk of the district court in the county in which he desires to practise dentistry; and from and after the date of said filing the holder of such license shall be authorized to practise dentistry the same as though said license had been originally filed with the proper officer.

SECTION 2. *In Effect.* This act being deemed of immediate importance shall take effect and be in force from and after its publication in the *Register and Leader* and the Des Moines *Capital*, newspapers published at Des Moines, Iowa.

1900, April 16, Chap. 91, 28th General Assembly.

SECTIONS 1 to 3. Constitution of Board of Examiners.

SECTION 4. *Examinations; License; Record Books; Fees.*— The board shall at any regular meeting, and may at any special meeting, examine applicants for a license to practise dentistry as to their knowledge and skill in dental surgery and shall issue to such applicants as are found to be qualified a license authorizing them to practise dentistry. The license shall be signed by each member of the board, attested by the president and the secretary, and have the seal of the board affixed thereto; and shall be presumptive evidence of the right of the holder to practise dentistry in the State. The name, age, nativity, location, number of years of practice of the person to whom a license is given, the number of the license, and the date of the registration thereof shall be entered in a book kept in the office of the secretary of the board, which shall be open to the inspection of the public, under proper restrictions as to its safe keeping, and the number of the book and the page containing such entries

shall be noted on the face of the license. Each applicant for a license shall be a graduate of a reputable dental school, which is recognized as such by the Board of Dental Examiners, and pay to the board a fee of twenty dollars before a license is issued.

SECTIONS 5 to 8. *Rules, Regulations, Compensation, Reports, etc., of Board.*

SECTION 9. *License Filed with Clerk of District Court; Fee.*—Every person to whom a license is issued under this act shall file the same with the clerk of the District Court in the county in which he desires to practise dentistry, and the clerk of the court shall be entitled to charge a fee of twenty-five cents for filing such license; and a failure to so file such license within one year after the same was issued by the board shall work the forfeiture thereof.

SECTION 10. *Penalty.*—It shall be unlawful for any person to practise dentistry in this State without having complied with the provisions of this act, and any person who shall violate the provisions thereof shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine not exceeding two hundred dollars or imprisonment in the county jail not more than forty days, or by both such fine and imprisonment.

SECTION 11. *Eligibility to Board.*

SECTION 12. *Provisions as to Physicians, Dental Students and Registered Practitioners.* Nothing herein shall be construed to prevent physicians and surgeons from extracting teeth in the practice of their profession, or to prevent bona fide students of dentistry, in the regular course of their instruction, from operating upon patients at clinics, or under the supervision and in the presence of their preceptors, but no fee or salary for such operations shall be received, either directly, or indirectly, by any such student of dentistry. And nothing herein shall be construed to prohibit the practice of dentistry in this State by any practitioner who has been duly registered in accordance with the laws of Iowa existing prior to the passage of this act; or any person who is a member of an incorporated society or community and practising

dentistry solely for and among the members of such community or incorporated society without charge or compensation.

KANSAS

1909, March 12, Chap. 127, Session Laws.

SECTION 1. It shall be unlawful for any person to practise dentistry or dental surgery in the State of Kansas without having first been regularly examined and licensed to practise by the State Board of Dental Examiners, as hereinafter prescribed; providing that any person residing in this State who is lawfully engaged in the practice of dentistry or dental surgery at the time when this act shall take effect may continue in the practice without taking such examination: *Provided, further,* That nothing in this act shall be so construed as to prevent regularly and legally licensed physicians and surgeons from extracting teeth. (This amends section 1 of the act of 1903, May 2, Chap. 227, and of March 14, 1907.)

SECTION 2. No person unless previously registered or licensed to practise dentistry or dental surgery in this State at the time this act shall become operative, shall begin the practice of dentistry or dental surgery, or any branches thereof, without first applying for and obtaining a license for such purpose from the Kansas State Board of Dental Examiners. Applications shall be made to said board in writing, and shall in every instance be accompanied by an examination fee of twenty-five dollars, together with satisfactory proof that the applicant is of good moral character and twenty-one years of age or over at the time of making the application. Application from the candidate who desires to secure a license from said board to practise dentistry or dental surgery in this State shall be accompanied by satisfactory proof that the applicant so applying for the license has been engaged in the actual, legal, and lawful practice of dentistry or dental surgery in some other State or country for five consecutive years just prior to application, or is a

graduate of and has a diploma from the faculty of a reputable dental college or school or dental department of a reputable university, and possesses the necessary qualifications prescribed by the board. When such application and the accompanying proof are found satisfactory, the board shall notify the applicant to appear before it for examination at a time and place to be fixed by the board. Examinations shall be theoretical and practical, and shall be of such a character as to test the qualifications of the applicant to practise dentistry or dental surgery. All examinations provided for in this act shall be conducted by the board, which shall provide for a fair and wholly impartial method. (This amends section 3 of chapter 227, Laws of 1903.)

SECTION 4. Any person shall be regarded as practising dentistry or dental surgery within the meaning of this act who shall for a fee, salary, or other reward, paid or to be paid, directly or indirectly, either to himself or to another person, perform a dental operation of any kind, treat diseases or lesions of the human teeth or jaws, or correct or attempt to correct malpositions thereof; and the use of any sign, card, circular, device or advertisement by which any person shall hold himself out to the public as a dentist or dental surgeon, or person skilled in the science of dentistry, shall be considered prima facie evidence that such person is engaged in the practice of dentistry and dental surgery; but nothing contained in this act shall apply to acts of bona fide students of dentistry performed without compensation in the pursuit of clinical advantages, while in attendance of a regular course of studies in a reputable dental institution of learning as aforesaid, or under the direct supervision of a preceptor who is a registered dentist in this State.

SECTIONS 5, 6, 7. Appointment, Duties, Compensation, etc., of Dental Board.

SECTION 8. Repealed 1909, March 12, Chap. 127.

SECTION 3. Any person who shall practise dentistry or dental surgery in this State without being registered or without a license for that purpose, or violates any of the provisions of this act, shall be subject to prosecution before

any court of competent jurisdiction, upon complaint, information or indictment, and shall upon conviction be fined for each offence in any sum not less than twenty-five dollars nor more than one hundred dollars. Any person who shall swear falsely to any affidavit or oral testimony made or given by virtue of the provisions of this act shall be deemed guilty of perjury. The board may refuse to issue the license provided for in this act, or may revoke such license if issued to the individuals who have by false or fraudulent representations obtained or sought to obtain money or any other thing of value or have practised under names other than their own, or for any other dishonorable conduct. The board, when written charges have been filed with its secretary, supported by affidavit as to the truthfulness thereof, shall fix a time and place for the examination of the person so charged, and shall give written notice to the said person of the time and place of such hearing and furnish him with a copy of the charges, at least twenty days prior to the date set for the examination. (This amends sec. 3, chap. 196, S. L., 1907, which amended sec. 9, of chap. 227, S. L., 1903.)

SECTION 4. Said Board of Dental Examiners may, without examination, issue license to practise to any dentist who shall have been in legal practice in some other State or territory for a period of at least five years, upon the certificate of the Board of Dental Examiners or a like board of the State or Territory in which such dentist was a practitioner, certifying his competency and that he is of good moral character, and upon payment of twenty-five dollars: *Provided, however*, That the State from which any practitioner may come shall have and maintain equal standards of laws regulating the practice of dentistry, and recognize exchange certificates issued by the Board of Dental Examiners of the State of Kansas.

KENTUCKY

1904, March 17, Kentucky Statutes. p. 86.

SECTION 2636. *Unlawful to Practise without Diploma or Certificate.*—It shall be unlawful for any person to hereafter commence the practice of dentistry or dental surgery for compensation unless such person has received a diploma from the faculty of a dental college duly authorized by the laws of this state, or some other of the United States or a foreign country, and a certificate of qualification issued by the Kentucky State Board of Dental Examiners.

SECTION 2637. *Kentucky State Dental Association; Powers of.*—The Kentucky State Dental Association is continued under its present organization, and shall have power to adopt such by-laws for its government as are not inconsistent with law, and may prescribe terms of qualification for the admission of members.

SECTION 2638. *Examiners to be Elected by Association; Qualification and Meetings.*—A board of examiners, to be known as the Kentucky State Board of Dental Examiners, is hereby created, the members constituting said board to be appointed by the Governor, the said board to consist of five members, each of whose term of office shall be five years. The members composing the present board shall continue in office the remainder of their respective terms, after which, any vacancy in the said board shall be filled by appointment of the Governor from a list of two names to be recommended by the Kentucky State Dental Association at its annual meeting. No one shall be a member of said board who shall not have practised dentistry in this State for at least five years preceding his appointment, and no person shall be a member of said board who is in any way connected with a dental college.

SECTION 2639. *Three Members of Board of Examiners, Quorum; Fee of $20 shall be Charged Applicants.*

SECTION 2640. *Compensation of Examiners; Record to be Kept by.*

SECTION 2641. *Dentistry; Certificate Necessary before Practising; Registration; Fee to Clerk.*—Any person hereafter desiring to commence the practice of dentistry or dental surgery in this Commonwealth shall, before he commences to practise, undergo a satisfactory examination before the Kentucky State Board of Dental Examiners. The said board shall register the names and addresses of all persons passing a satisfactory examination, in a book kept for that purpose, and shall issue to such persons a certificate of registration, signed by members of the board, or a majority thereof, and bearing the seal thereof, which certificate, when registered as hereinafter provided, shall entitle the person to whom it is granted the right and privilege to practise dentistry or dental surgery in this State. All persons hereafter receiving such certificate of qualification to practise dentistry or dental surgery in this State shall have same recorded in the office of the clerk of the county or counties in which he shall practise, and it shall be the duty of such clerk, upon presentation of said certificate and a fee of fifty cents, to register same in a book kept in the office for the registration of physicians. Nothing in this act shall be construed to prevent students operating in the clinic of a regular chartered dental college, under the direct supervision of the demonstrators thereof, or to require any person who now holds a certificate from the Kentucky State Dental Association, to pass an additional examination or obtain a new certificate. All matriculates now attending all dental colleges in Kentucky be, and they are exempt from any and all the provisions of this act, so far as it refers to the examination of persons by the State Board of Dental Examiners, who wish to begin the practice of Dental Surgery in the Commonwealth of Kentucky.

Act of 1908, March 19.

SECTION 2641*a*. *Unlawful to Practise under Name of a Company.*—It shall be unlawful for any person or persons to practise or offer to practise dentistry or dental surgery under the name of any company, association or corporation, excepting those who have been in actual business for fifteen years

or more, but any person or persons practising or offering to practise dentistry or dental surgery, shall practise under their own respective name or names. Each and every person in an office practising or offering to practise dentistry or dental surgery, shall have his or her State board certificate displayed in plain view in the operating room. (This and the following sections amend the act of March 17, 1904.)

SECTION 2641*b*. *Certificates; May Refuse to Issue or Cancel.* —The State Board of Dental Examiners may refuse to issue certificates to the matriculates without examination, provided for in section 2641, Kentucky Statutes, and may refuse to issue the certificates provided for in this act, or may suspend or revoke a certificate already issued, for any of the following causes:

1st. The presentation to the board of any diploma, license, or certificate illegally or fraudulently obtained, or one obtained from an institution which is not reputable, or an unrecognized or irregular institution or State board; or the practice of fraud or deception in passing an examination.

2d. The commission of a criminal operation or conviction of a felony involving moral turpitude, or chronic or persistent inebriety or addiction to drugs, or who shall advertise or offer to use or use any drug, nostrum, patent or proprietary drug or medicine of any unknown formula, or engage in any grossly unprofessional conduct likely to deceive or defraud the public, or which disqualifies the applicant to practise with safety to the people.

In all proceedings for a revocation or suspension of the certificate under this act, the holder shall be given thirty days' notice to prepare for a hearing, and he shall be heard in person or by counsel or by both. The president and the secretary of the State Board of Dental Examiners shall have the power to administer oaths, and in such hearing and all matters arising in the course of their duties, the State Board of Dental Examiners may take oral or written proof for or against the complainant, as it may deem will best present the facts. In all cases of refusal, suspension or revocation, the applicant or holder may appeal to any court of proper jurisdiction.

SECTION 2642. *Penalty for Violation of This Article.*—Any person failing to comply with, or who shall, in violation of any of the provisions of this law, practise dentistry or dental surgery in this State, for fee or reward, shall, for each offense, be guilty of a misdemeanor, and be fined not less than fifty dollars nor more than two hundred dollars for each offence.

SECTION 2643. *Physicians or Surgeons May Extract Teeth.*—Nothing in this law shall be construed to prevent physicians or surgeons from extracting teeth.

LOUISIANA

1900, Act 88, p. 136.

SECTIONS 1 to 6. Creation, duties, compensation, etc., of State Board of Dental Examiners.

SECTION 7. It shall be unlawful to practise or attempt or offer to practise dentistry in this State without having first obtained from the Louisiana State Board of Dentistry a certificate of qualification and having caused such certificate to be duly recorded; and any person who shall violate the provisions of this section shall, on conviction thereof, be sentenced by any court of competent jurisdiction in the State to pay a fine not exceeding $100, or imprisonment for a term not exceeding three months, or both fine and imprisonment, at the discretion of the court; and any person, or corporation, or association of any kind, aiding or abetting any person in the violation of this act, whether present or not when such unlawful act is committed, shall be subject, on conviction, to the same punishment as provided above. Each and every member of such offending corporation or association shall answer for such corporation or association as if the unlawful act had been the own act of such members.

SECTION 8. That the certificate referred to in preceding section shall be recorded in the parish where the holder thereof practises or attempts or offers to practise dentistry; in the parish of Orleans, in the office of the secretary of the

board of health, and in the other parishes of the State, in the office of the clerk of court, in books to be kept for that purpose; and it shall be the duty of the said secretary of the board of health and of the clerks of courts to make such recordation, for which they shall be allowed to charge a fee of one dollar, to be paid by the person applying for the registry of the certificate.

SECTION 9. That if any officer of the law or member of said board suspects that any person or corporation or association of any kind is violating or has violated the provisions of this act, such officer or member may make an affidavit setting forth the facts and circumstances giving rise to suspicion and may then call upon such suspected person or corporation, or association, to make to said officer or member of said board, a sworn statement touching the facts and circumstances set forth in said affidavit; and should the person, corporation or association thus called upon refuse or fail after a delay of two days to make such sworn statement, the facts set forth in said affidavit as merely suspected shall be taken to be prima facie true; and should said facts substantiate a violation of the present act, it shall be the duty of the district attorney, upon said affidavit being presented to him, together with another affidavit showing such refusal or failure to make sworn statement, to file at once an information based upon said affidavits.

In the case of corporations and associations, the demand for the sworn statement provided for in this section may be made upon any person in charge of the laboratory or office, or place of business of such corporation or association and information shall be filed against all persons named in the said affidavits as being members of (sic) or partners, or associates in said corporation or association. (As amended by act 132, 1902, p. 229.)

SECTION 10. That it shall be the duty of the Louisiana State Board of Dentistry to publish annually in the official journal of the State (and if there be no such journal, in one of the daily newspapers of the city of New Orleans) a list of the registered practitioners of dentistry in the State and their

residences; and such published list shall be received in the courts of the State as proof that the practitioners of dentistry therein named are duly registered as required by law.

SECTION 11. That this act shall not apply to practitioners of dentistry already qualified and registered under act 32 of 1880 and 32 of 1894, nor regularly enrolled students of dentistry while practising in the clinic or operating room of dental colleges of recognized standing in this State; nor to surgeons and physicians already qualified and registered under act 49 of 1894. (As amended by act 57, 1906, p. 90.)

SECTION 12. That said board shall prescribe in its regulations what conditions shall constitute a good standing for a dental college and shall issue certificates of good standing to colleges fulfilling said conditions and paying the fees required for a certificate; and such certificates shall be irrevocable except by judicial proceedings and for cause. The amount of fee to be paid for such certificate of good standing shall be fixed by said board in its regulations and shall not be thereafter increased.

SECTION 13. That any person shall be regarded as practising dentistry within the meaning of this act who shall use the words "Doctor of Dental Surgery," "Doctor of Dental Medicine," or the letters "D. D. S." or "D. M. D.," in connection with his name, or any other title intended to imply him to be a practitioner of dentistry in all its branches.

SECTION 14. That any member of said board or any officer of said board to whom the said board may delegate the authority, shall be empowered to administer oaths in connection with the business of the said board and in furtherance of the purposes of this act.

SECTION 15. All laws and parts of laws in conflict with this act are hereby repealed.

MAINE

1891, Chap. 43, Laws of Maine.

SECTION 1. No person shall practise or attempt to practise, or hold himself out to be a practitioner of dentistry or dental

surgery until he or she shall have first received a certificate as hereinafter provided; and whoever violates the provisions of this section, shall be fined not less than twenty-five, nor more than one hundred dollars for each offence.

SECTIONS 2 and 3. Creation, duties etc., of Board of Dental Examiners.

SECTION 5. Any person desiring to practise dentistry or dental surgery in this State, who is not entitled to register under the preceding section, upon first passing a satisfactory examination before said board, in anatomy, physiology, pathology, therapeutics, chemistry and the theory and practice of dentistry, and on payment of the fee as provided in section seven of this act shall be entitled to registration and shall receive a certificate as provided in section four of this act.

SECTION 6. Repealed by act of 1903, Chapter 95, p. 72.

SECTION 7. The board shall receive from the applicant for examination under the provisions of the preceding section twenty dollars, which shall in no case be returned, but shall entitle the applicant to another examination without payment of additional fees, and shall be in full for all services and expenses.

SECTION 8. Nothing in the five preceding sections shall be so construed as to restrict or interfere with the physicians and surgeons in the discharge of their professional duties, or with any citizen in the extraction of teeth in cases of emergency.

MARYLAND

1896, April 4, Chap. 378, p. 676.

SECTION 1. Be it enacted by the General Assembly of Maryland, That Article 32 of the Code of Public General Laws, entitled "Dentistry" be and the same is hereby repealed and re-enacted, so as to read as follows:

SECTION 2. It shall be unlawful for any person to practise dentistry in this State unless such person shall have obtained a certificate, as hereinafter provided.

SECTIONS 3 and 4. Dental examiners; president and secretary of board.

SECTION 5. Any person twenty-one years of age, who has graduated at, and holds a diploma from, a university or college authorized to grant diplomas in dental surgery by the laws of any one of the United States, and who is desirous of practising dentistry in this State, may be examined by said board with reference to qualifications, and, upon passing an examination satisfactory to said board, his or her name, residence or place of business, shall be registered in a book kept for the purpose, and a certificate shall be issued to such person. Any graduate of a regular college of dentistry may, at the discretion of the examining board, be registered without being subjected to an examination.

SECTION 6. All certificates issued by said board shall be signed by its officers and bear its seal.

SECTION 7. A temporary certificate for a specified time may be issued by the officers of said board to any applicant holding a regular dental diploma duly registered by a Board of Dental Examiners created by the laws of any one of the United States, but no such certificate shall be issued for any longer time than until the next regular meeting of the board. The fee for this temporary certificate shall be five dollars.

SECTION 8. Transcripts from the aforesaid book of registration, certified by the officer who has the same in keeping, with the seal of the said Board of Examiners, shall be evidence in any court of this State.

SECTION 9. A fee of ten dollars shall be paid to the secretary of the board by any applicant for examination and registration, which money shall be used toward paying the expenses of the board.

SECTION 10. Every person shall be said to be practising dentistry, within the meaning of this act, who shall, for a fee, salary, or other compensation, paid either to himself or to someone else for services rendered, perform operations or parts of operations of any kind pertaining to the mouth, treat diseases or lesions of the human teeth or jaws, or correct malpositions thereof.

SECTION 11. Any person who shall violate any of the provisions of this article shall be deemed guilty of a misdemeanor and, upon conviction thereof, in any court having criminal jurisdiction, shall be fined not less than fifty dollars nor more than three hundred dollars, or be confined not more than six months in the county jail, or if the conviction takes place in Baltimore city, in the Baltimore city jail, in the discretion of the court. All fines received under this act shall be paid into the common school fund of the city or county in which such conviction takes place.

SECTION 12. Nothing in this article shall be so construed as to interfere with the rights and privileges of resident physicians and surgeons, or with persons holding certificates duly issued to them prior to the passage of this act; and dental students operating under the immediate supervision of their instructors in dental infirmaries or dental schools chartered by the General Assembly of Maryland.

SECTION 13. And be it enacted, That nothing in this act shall prevent, or be so construed, as in any way to hinder the prosecution, conviction or punishment of any person who may have offended against any of the provisions of said Article thirty-two of the Code of Public General Laws, or against any of the provisions of any of the Acts of Assembly of which the same was a codification.

SECTION 14. That this act shall take effect from the date of its passage.

MASSACHUSETTS

Revised Laws of Massachusetts, Sections 24 to 29 of Chapter 76.

SECTIONS 24 and 25. Board of Registration, Chairman, Secretary, etc.

SECTION 26. (As amended 1908, Chapter 294, Sec. 1. Supplement to Revised Stats. p. 612.) SECTION 1. Any person of twenty-one years of age or over, upon payment of a fee of twenty dollars, which shall not be returned to him, may be examined by said board at a regular meeting with reference to his knowledge and skill in dentistry and dental

surgery; and if his examination is satisfactory to said board and he is found to possess the requisite qualifications, and to be of good moral character, the board shall issue a certificate, signed by the chairman and secretary, which shall be prima facie evidence of the right of the holder to practise dentistry in this commonwealth. Such certificate, or duplicate thereof, shall be posted by every practising dentist in a conspicuous place so that it shall be in plain view of his patients, and every person who owns or carries on a dental business shall exhibit his full name in plain readable letters in each office or room in which such business is transacted. An applicant who fails to pass a satisfactory examination shall be entitled to one re-examination at any future meeting of the board, free of charge, but for each subsequent examination, he shall pay five dollars. Said board shall annually, on or before the first of January, make a report of its proceedings to the governor. All fees received by the board shall be paid monthly by its secretary into the treasury of the commonwealth.

SECTION 27. Repealed by 1902, 505, Sec. 6, at end of Chapter.

SECTION 28. (As amended 1909, April 14, Chap. 301, p. 244.) Whoever falsely claims or pretends to have or hold a certificate granted by said board, or falsely and with the intent to deceive, claims or pretends to be a graduate of any incorporated dental college, or who practises dentistry without obtaining a certificate as provided in section twenty-six of this act, or who having such certificate fails to exhibit the same as required by section twenty-six, shall be punished by a fine not less than fifty, nor more than one hundred dollars or by imprisonment for three months. Any person who owns or carries on a dental practice or business, or who by himself, by his servants or agents, or by contract with others shall perform any operation on or make examination of, with the intent of performing or causing to be performed, any operation on, the human teeth or jaws, or who shall describe himself by the word or letters "Dentist," "D. D. S." or other words, letters or title in connection with his name, or who

shall advertise by sign, card, circular, pamphlet or newspaper, or otherwise indicate that he by contract with others, or by himself, his servants or agents, will perform any operation on or make examination of, with the intention of performing or causing to be performed, any operation on, the human teeth or jaws, shall be deemed to be practising dentistry within the meaning of this act, and unless duly authorized thereto by obtaining a certificate as provided in section twenty-six, shall be liable to punishment as above provided, and whoever in practising dentistry as above defined owns and carries on a dental practice or business, and fails to exhibit his name as required by section twenty-six, shall for such offence be liable to punishment as above provided. The word "person," in this act shall include a corporation; and any corporation violating any provision of this act shall be liable to a fine as herein provided, and the officers of the corporation concerned in the said violation shall be liable to fine and imprisonment as above provided.

SECTION 29. (As amended 1905, April 13, 289, Sec. 2.) The provisions of sections 24 to 28 inclusive, shall not apply to a physician registered under the provisions of this chapter and in actual practice as a physician, in cases where he deems immediate treatment necessary for the relief of his patients, nor prevent a licensed dentist of another State from operating at a public clinic under the auspices of a duly organized and reputable dental association nor a student of a reputable chartered dental college incorporated under the laws of this commonwealth, and duly authorized to grant degrees in dentistry, from performing operations in the college infirmary as a part of the regular college course and in the presence, and under the actual instruction, of a registered dentist appointed as instructor.

MICHIGAN

1907, June 28th, Public Acts, p. 491.

SECTION 1. It shall be unlawful for any person not a registered dentist within the meaning of this act, to practise

dentistry or dental surgery in any of its departments, as principal or agent, in the State of Michigan, except as hereinafter provided.

SECTION 2. State Board of Dental Examiners, number, appointment, etc.

SECTION 3. All persons who desire to begin the practice of dentistry in this State after the passage of this act, and who shall have a license from the dental board of another State, or who shall have received a diploma from the faculty of some reputable dental college duly organized under the laws of this or any other State of the United States, shall have the right to apply to the dental board of this State for examination as to their proficiency; and all successful applicants shall be licensed and registered by said dental board: *Provided*, Nothing in this act shall deprive a candidate who has already appeared before the board and failed on examination from the privilege of re-examination. Said dental board shall be authorized to ascertain and determine what shall constitute a dental college or institution in good standing and repute; but no such dental college or dental institution shall be considered reputable unless the same shall possess the following qualifications:

1st. It shall be chartered under the laws of the State in which it is located and operated, and shall be authorized by its charter to confer the degrees of Doctor of Dental Surgery or Doctor of Dental Medicine.

2d. It shall deliver annually, a full course of lectures and instructions by competent faculty and corps of instructors in the following subjects: Anatomy, chemistry, physiology, histology, materia medica, therapeutics, dental metallurgy, pathology, bacteriology, operative dentistry, prosthetic dentistry, crown and bridge work and oral surgery and hygiene, said course of instruction to consist of not less than three terms in separate academic years and of not less than thirty-two weeks of six days for each session, and shall require its matriculates to have a general education equivalent to that required for graduation from a high school of recognized standing.

3d. The apparatus and equipment of each said dental college or institution shall be ample and sufficient for the ready and full teaching of the above named subjects, and every such college shall allow said State Board of Dental Examiners of this State the privilege of inspecting its work and equipment at any time.

SECTION 4. Said dental board shall have power, after due notice in writing for twenty days and upon a full hearing at a time and place fixed in said notice, to revoke and annul any original license or registration for fraud, deceit or misrepresentation in the practice of dentistry, or for gross violations of professional duties. Nor shall said dental board relicense anyone whose license has once been revoked for any of the above causes within one year after such revocation, and then only upon sufficient assurance and guarantees to said board of correct conduct for the future. The notice hereinbefore provided to be given may be served by registered letter mailed to the address of the dentist under investigation, and when the whereabouts of any such person is unknown, then said notice may be sent to the last known address of such person.

SECTION 5. All persons entitled to examination as provided in this act shall file application and license in writing, supported by affidavit, stating the facts which entitle him or her to such examination, and each applicant shall accompany his or her application with such license or diploma for verification as to its genuineness. All applicants for examination shall, at the time of making such application, pay to the secretary-treasurer of the dental board, a fee of twenty dollars, and each applicant shall present himself before the said dental board for examination at the first or second regular meeting after his application shall have been made, and in default thereof, said fee shall be forfeited to said dental board. The fee for any subsequent application for examination or reëxamination shall be ten dollars. The examination may be written or oral, or both, at the option of said board, and shall include the following subjects: anatomy, chemistry, physiology, histology, bacteriology,

operative dentistry, prosthetic dentistry, crown and bridge work, and oral surgery and hygiene. All persons of good moral character, who shall successfully pass such examination, shall be licensed and registered by said dental board and shall receive a certificate of such license and registration duly authenticated by the signature of the members of the board and with the seal of said board attached; and in no case shall said examination fee be refunded, but said dental board may, for sufficient cause, remit said fee for subsequent rëexamination.

SECTION 6. No person having received a certificate from the State Board of Dental Examiners in the manner hereinbefore provided shall engage in the business of a dentist in any county of the State in which he shall locate, or into which he shall afterward remove, until he shall have had such certificate recorded in the office of the county clerk of such county, and it is hereby made the duty of the county clerk to record such certificates in a book provided and kept for that purpose, and the clerk is authorized to charge a fee of fifty cents for recording such certificate, to be paid by the person offering such certificate, for record. The record of each certificate required by this act, or certified copy thereof, shall be evidence in all courts that the person holding it is a registered dentist within the meaning of this act. It is hereby made the duty of each county clerk in the State to furnish the State Board of Dental Examiners on the first day of July a list of all dentists registered in his county during the preceding year, this report to be made on tabulated blanks to be sent to said county clerk for the purpose. The register of the county clerk shall be open to public inspection during business hours. Any failure or neglect or refusal on the part of any person holding such certificate to register the same with the county clerk as above directed, for a period of six months, shall work a forfeiture of the certificate. In order that a complete register of all the dentists practising in this State at the present time may be made, within sixty days after this act takes effect, it shall be the duty of every dentist at present practising in the State, whether legally licensed

at present or otherwise, to forward to the Board of Dental Examiners an affidavit setting forth the facts of his registration or the credentials upon which he may claim re-registration. This application shall be accompanied with a fee of three dollars, which shall be deposited in a special fund to be used only by the Board of Examiners for the enforcement of this act against unlicensed or unregistered practitioners. No license or certificate of registration when once forfeited, for any cause, shall be registered, except upon the payment to the said Board of Dental Examiners of the sum of twenty-five dollars as a penalty for such neglect, failure, refusal or misconduct.

SECTION 7. All persons shall be said to be practising dentistry within the meaning of this act, who shall use the word or letters "Dentist," "D. D. S.," or any other letters or title in connection with his name, which in any way represents him as engaged in the practice of dentistry, or who shall advertise or permit it to be done by sign, card, circular, handbill, newspaper or otherwise, that he can or will attempt to perform dental operations of any kind, treat diseases or lesions of the human teeth or jaws, or replace lost teeth by artificial ones, or attempt to correct malpositions 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 teeth or jaws, or replace lost teeth by artificial ones, or attempt to correct malpositions thereof. But nothing contained in this act shall be taken as applying to the acts of legally qualified physicians in the extraction of teeth, in the performance of their duties as such, or to acts of bona fide students of dentistry done in the college building, in the pursuit of clinical advantages while in attendance upon a regular course of study in a reputable dental college. Any licensed dentist, proprietor, partnership, association or corporation, owning, running, operating or controlling any room or rooms, office or dental parlors, where dental work is done, provided or contracted, who shall employ, keep or retain any unlicensed dentist or student as an operator shall be guilty of a misdemeanor and punished as provided in section ten.

SECTION 8. Compensation of examiners; Excess moneys, how held, etc.

SECTION 9. Any person who shall practise or attempt to practise dentistry either as proprietor, employee or assistant, without having a license, or without having his license renewed as provided by section 7 of this act, or without keeping his license in open view in his operating room, shall be punished by a fine of not less than fifty dollars nor more than two hundred dollars, or by confinement in the county jail not less than twenty days, or by both such fine and imprisonment. It is hereby made the duty of the prosecuting attorney of each county in the State to prosecute every such case to final judgment, whenever his attention shall be called to a violation of this act.

SECTION 10. An applicant shall be registered and given a certificate of registration if he or she present a certified copy of certificate of registration or license which has been issued to said applicant in any other State or foreign country where the requirements for registration shall be deemed by said board to be equivalent to those of this act: *Provided*, That such country or State shall accord a like privilege to holders of certificates from this board. The fee for registration of applicants of this class shall be ten dollars, to be paid at the time of application.

SECTION 11. Any person filing, or attempting to file, as his own, the diploma or license of another, or a forged affidavit of identification or qualification, shall be deemed guilty of a felony, and upon conviction thereof, shall be subject to such fine and imprisonment as is made and provided by the Statutes of this State for the crime of forgery.

SECTION 12. Act number one hundred and forty of the public acts of eighteen hundred eighty-three, and all acts or parts of acts in any way contravening the provisions of this act, are hereby repealed.

1909, June 2, Public Acts, p. 422.

SECTION 1. All actions for trespass upon lands, or for assault and battery, or for false imprisonment, and all actions for slanderous words, and all actions against physi-

cians, surgeons and dentists for malpractice shall be commenced within two years next after the cause of action shall accrue and not afterward. And all actions for libel shall be commenced within one year next after cause of action shall accrue and not afterward.

MINNESOTA

1911, April 18, Chap. 221, General Laws, p. 296.

SECTIONS 1 and 2. Board of Dental Examiners. Officers. Meetings, Compensation.

SECTION 3. *Dentistry Defined; Inhibition; Exception.*—All persons, firms, corporations or associations shall be said 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 in connection with his or their names which in any manner represents him or them as engaged in the practice of dentistry, or who shall advertise or permit it to be done by sign, circular, handbill, newspaper or otherwise, that he or they will attempt to perform dental operations of any kind, treat diseases or lesions of the human jaws or replace teeth by artificial ones or attempt to correct malpositions thereof, or who shall for a fee, salary or other reward, paid or to be paid either to himself or another person, perform dental operations of any kind, treat diseases or lesions of the human jaws or teeth, or replace lost teeth by artificial ones, or attempt to correct malpositions thereof.

Provided, however, That the foregoing provisions of this section shall not apply to students enrolled in and regularly attending any dental college and to their acts done under the direct supervision of a licensed dentist.

SECTION 4. *Examinations; License; Revocation; Assumed Name.*—A person not already a registered dentist of the State desiring to practise dentistry therein, shall apply to the secretary of the board for examination and pay a fee of twenty dollars for the first examination and twenty dollars for each subsequent examination which in no case shall be refunded. At the next regular meeting he shall present

himself for examination and produce his diploma from some dental college of good standing, of which standing the board shall be the judges, also satisfactory evidence showing that the applicant is of good moral character. The board shall give the applicant such an elementary, 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; and the applicant shall be required to demonstrate his skill in operative and mechanical dentistry. If the applicant successfully passes the examination, he shall be registered by the board as a licensed dentist, and supplied with the certificate of registration signed by all members of the board of dental examiners.

Provided, That any dentist who has been in legal practice in another State having and maintaining an equal standard of laws regulating the practice of dentistry with this State, for five years or more and is a reputable dentist of good moral character, and is desirous of removing to this State and deposits in person with the board of dental examiners a certificate from the examining board of the State in which he is registered, certifying to the fact of his registration and that he is of good moral character and professional attainments, and upon payment of a fee of fifty dollars may, at the discretion of the board, be granted a license to practise in this State without further 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 practise dentistry under an assumed name or where it shall be shown that the holder of such license is not of good moral and upright character. It shall be no defence for a person prosecuted for practising dentistry under one name, without a license, that he shall have been licensed under a different name, unless it shall be shown that such practice was without intent to defraud or deceive.

SECTION 5. *Record of Certificate; Fees.*—Within six months after its issuance, the certificate of registration shall

be filed for record with the clerk of the district court in the county where the holder resides. If he changes his residence to another county, he shall file his certificate, or a certified copy of the record thereof in such county before practising therein. Such clerk's fee for recording a certificate or copy shall be fifty cents and for a certified copy one dollar. The fee of the board for a duplicate certificate shall be one dollar.

SECTION 6. *Annual Fee.*—Before the first of May in each year every registered dentist shall pay to the board a license fee of one dollar, and in default of such payment the board may, upon hearing and upon twenty days' notice, revoke the license of the dentist in default; but the payment of such fee on or before the time of hearing with such additional sum not exceeding five dollars, as may be fixed by the board, shall excuse the default. The board may collect such fee by suit.

SECTION 7. *Prohibition; Penalties; Disposition of Fines.*—No person shall practise dentistry in the State without having complied with the provisions of this subdivision. Any person who shall practise, or who shall attempt to practise dentistry, either as a proprietor, employee or assistant, shall keep his annual renewal license in open view in his operating room, failing to do so he shall be deemed guilty of a misdemeanor. Any licensed dentist, proprietor, partnership, association, or corporation owning, running, operating or controlling any room or rooms, office or dental parlors where dental work of any kind is done, or provided for, or contracted for, who shall employ, keep, or retain, contrary to the provisions of this law any unlicensed dentist shall be guilty of a misdemeanor. Any person who shall falsely pretend that he holds a certificate of registration from the board, or shall violate any of the provisions of this section shall be guilty of a misdemeanor. The board may when it deems it best for the enforcement of the law, employ such attorney as the attorney general shall appoint. All fines collected under the provisions hereof shall be paid into the school fund of the county in which the conviction occurred.

SECTION 8. This act shall take effect and be in force from and after its passage.

MISSISSIPPI

Code of 1906, Chapter 31, p. 524.

1608. *Duty to Obtain License.*—Every person who desires to practise dentistry must obtain a license to do so, as hereinafter provided; but this section shall not apply to dentists now holding a permanent license to practise dentistry, the same having been recorded as required by law.

1609 to 1611 (Laws of 1904, Chap. 145.) Board of Dental Examiners Created; Oath; Organization.

1612. *License upon Examination.*—Every person who desires to practise dentistry must apply in writing to the Board of Dental Examiners for a license to do so. Such application must be signed by two reputable citizens of the State, attesting that the applicant is of good moral character, and that he possesses an education equal to a high school graduation. The applicant must appear before the board and be examined by it touching his learning and skill in dentistry, and if he be found to possess sufficient learning and skill therein, and to be of good moral character, the board shall immediately issue to him a license to practise dentistry, which shall be signed by each member of the board who attended the examination and approved the issuance of the license.

1613. *Examination: When, Where, and How Conducted.*—The Board of Dental Examiners shall meet at the capitol of the State on the third Tuesday in May of each year for the purpose of examining applicants for license to practise dentistry; and to continue in session until all applicants for license have been examined, and their examination has been approved or disapproved. All examinations except as to character shall be upon written questions and answers on the following subjects: operative dentistry, prosthetic dentistry, oral surgery, physiology, metallurgy, anesthetics, orthodontia, and in chemistry, anatomy, materia medica, pathology, therapeutics, histology, and bacteriology, as they pertain to dentistry, together with a practical examination

in operative and mechanical dentistry, three members of the board constituting a quorum for business.

1614. *Fee for Examination.*—Applicants for license who are required to be examined touching their learning and skill in dentistry, must each pay a fee of ten dollars to the Board of Dental Examiners as a condition precedent to the examination, which fee shall be distributed among the members of the board as their compensation in such proportion as the board may allow.

1615. *Temporary License.*—Any member of the Board of Dental Examiners may examine applicants, orally or in writing, and issue a temporary license to them to practise dentistry, which shall authorize such practice and be valid until the next succeeding meeting of the board. But one temporary license shall ever be issued to the same applicant.

1616. *License Must be Recorded.*—Every person who receives a license to practise dentistry must file it for record in the office of the clerk of the Circuit Court of the county in which he shall reside within thirty days after its issuance; and, if he fail to do so, he shall thereafter be liable for practising dentistry without a license so long as the same shall remain unrecorded. When such license shall be filed, the clerk shall record the same in the book in which the licenses of physicians are recorded, upon the payment to him of the lawful fee; and, when recorded, the original shall be delivered, on demand, to the licensee.

1617. *Licenses in Lieu of One Lost.*—If a license to practise dentistry be issued and become lost or destroyed, the Board of Dental Examiners may issue another in lieu of it, upon satisfactory proof of the loss or destruction.

1618. *Board of Dental Examiners Must Keep a Record of its Proceedings.*—It is the duty of the Board of Dental Examiners to cause its secretary to keep a complete record of its acts and proceedings, and to preserve all papers, documents, and correspondence received by the board and relating to its duties and office.

1619. *Stationery, Blanks, etc.*—Such stationery, blank-books and forms as may be needed by the Board of Dental

Examiners in the discharge of its duties shall be furnished to it by the board of public contracts.

1620. Members of the board may be removed; vacancies filled.

1621. *Physicians May Extract Teeth.*—Physicians may extract teeth by virtue of their licenses to practise medicine.

MISSOURI

1905, April 12, Laws of Missouri, p. 213.

This article, consisting of sections 8525 to 8536 of the Revised Statutes of 1899, was repealed, and a new article was enacted in lieu thereof, to be known as Article III of Chapter 128, and entitled "An act to regulate the practice of dentistry and dental surgery," with sections bearing the same numbers as those of the article repealed.

SECTION 8525. *Dentists Required to Register.*—It shall be unlawful for any person not a registered dentist within the meaning of this article to practise dentistry or dental surgery in any of its departments, as principal or agent, in the State of Missouri, except as hereinafter provided.

SECTION 8526. *Dental Board; Powers; Quorum; to Keep Keep.*

SECTION 8527. *Board to Grant Certificates to Whom, What Reputable School.*—Any and all persons who desire to begin the practice of dentistry in this State after the passage of this act and who shall have a license from the dental board of another State, or who shall have received a diploma from the faculty of some reputable dental college duly organized under the laws of this or any other State of the United States, shall have the right to apply to the dental board of this State for the examination as to their proficiency; and all successful applicants shall be licensed and registered by said dental board. Every dentist licensed under this or any previous board of this State shall on or before the 30th day of November in each year forward to said dental board his signature and address, together with a fee of one dollar, whereupon

said dental board shall issue to said licensed dentist a renewal license for one year from said date, and note the renewal of said license in the register of licensed dentists kept for that purpose. Said dental board shall be authorized to ascertain and determine what shall constitute a dental college or institution in good standing and repute; but no such dental college or dental institution shall be considered to be reputable by said dental board unless the same shall possess the following qualifications: (1) It shall be chartered under the laws of the State in which it is located and operated, and shall be authorized by its charter to confer the degree of doctor of dental surgery or doctor of medical dentistry. (2) It shall deliver annually a full course of lectures and instructions by competent faculty and corps of instructors in the following subjects: anatomy, chemistry, physiology, histology, materia medica, therapeutics, dental metallurgy, pathology, bacteriology, operative dentistry, prosthetic dentistry, crown and bridge work and oral surgery and hygiene. Said course of instruction to consist of not less than three terms in separate academic years and of not less than thirty weeks of six days each for each term. (3) The apparatus and equipment in each said dental college or institution shall be ample and sufficient for the ready and full teaching of the above-named subjects.

SECTION 8528. *Board May Revoke Licenses, When.*—Any licensed dentist failing for a period of one year after the 30th day of November in each year hereafter to procure a renewal license as in this article provided, shall forfeit his original license and registration, and said dental board may, by order of record, cancel and annul any such original license and registration for such failure. Said dental board shall have power, after due notice in writing for twenty days and upon a full hearing at a time and place fixed in said notice to revoke and annul any original license or registration procured through fraud, deceit, or misrepresentation, and in like manner to revoke and annul any original or renewal license or registration for fraud, deceit, or misrepresentation in the practice of dentistry, or for gross violations of pro-

fessional duties. Nor shall said dental board relicense any one whose license has once been revoked for any of the above causes within one year after such revocation, and only then upon sufficient assurances and guarantees to said board of correct conduct for the future. A second revocation of any license shall be perpetual. The notice hereinbefore provided to be given may be served by registered letter mailed to the address of any dentist (under investigation) in this State, or when the whereabouts of any such person is unknown, then said notice may be sent to the last known address of such person

SECTION 8529. *Board to Hold Examinations.*—All persons entitled to examination as provided in this article shall file application for examination and license in writing, supported by affidavit, stating the facts which entitle him to such examination, and each applicant shall accompany his application with such license or diploma for verification as to its genuineness; all applicants for examination shall at the time of making such application, pay to the secretary of the dental board a fee of ten dollars, and each applicant shall present himself before said dental board for examination at the first or second regular meeting after his application shall have been made, and in default thereof said fee shall be forfeited to said dental board; the fee for any subsequent application for examination or reëxamination shall be five dollars. The examination may be written or oral, or both, at the option of the said board, and shall include the following subjects: anatomy, chemistry, physiology, histology, materia medica, therapeutics, dental metallurgy, pathology, bacteriology, operative dentistry, prosthetic dentistry, crown and bridge work, and oral surgery and hygiene. All persons of good moral character, who shall successfully pass such examination, shall be licensed and registered by said dental board and shall receive a certificate of such license and registration duly authenticated by the signature of the members of the board, and with the seal of said board attached; and in no case shall said examination fee be refunded, but said dental board may, for sufficient cause, remit said fee for subsequent or reëxamination.

SECTION 8530. *Temporary Certificate.*—Any two members of said dental board may issue a temporary certificate to any applicant upon the presentation by such applicant of the evidence of necessary qualifications to practise dentistry, and such temporary certificate shall remain in force until the next regular meeting of the said board occurring after the date of the issue of such temporary certificate, and no longer. Two such temporary certificates cannot be issued to the same person.

SECTION 8531. *Certificates to be Recorded, etc.*—No person having received a certificate from the State Board of Dental Examiners in the manner hereinbefore provided shall engage in the business of a dentist in any county of the State in which he shall locate or into which he shall afterward remove until he shall have had such certificate recorded in the office of the clerk of the county court in such county, and it is hereby made the duty of such county clerk to record such certificate in a book to be provided and kept for that purpose, and the clerk is authorized to charge a fee of fifty cents for recording each certificate, to be paid by the person offering such certificate for record. The record of each certificate required by this article or a certified copy thereof, shall be evidence in all courts that the person holding it is a registered dentist within the meaning of this article. The register of the county clerk shall be open to public inspection during the business hours. Any failure or neglect or refusal on the part of any person holding such certificate to register the same with the county clerk as above directed for a period of six months, shall work a forfeiture of the certificate. No license or certificate of registration when once forfeited for any cause, shall be (restored) (registered) except upon the payment to the said Board of Dental Examiners of the sum of twenty-five dollars as a penalty for such neglect, failure, or misconduct.

SECTION 8532. *Dentist Defined.*—All persons shall be said to be practising dentistry within the meaning of this article who shall use the word or letters "Dentist," "D.D.S." or any other letters or title in connection with his name

which in any way represents him as engaged in the practice of dentistry, or who shall advertise or permit it to be done by sign, card, circular, handbill, newspaper or otherwise, that he can or will attempt to perform dental operations of any kind, treat disease or lesions of the human teeth or jaw or replace lost teeth by artificial ones or attempt to correct malpositions 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 teeth or jaw or replace lost teeth by artificial ones, or attempt to correct malpositions thereof. But nothing contained in this article shall be taken as applying to the acts of a legally qualified physician in the extraction of teeth, or to acts of bona fide students of dentistry done in the college building, in the pursuit of clinical advantages while in attendance upon a regular course of study in a reputable dental college. Any licensed dentist, proprietor, partnership, association or corporation, owning, running, operating or controlling any room or rooms, office or dental parlors, where dental work of any kind is done or provided for, or contracted for, who shall employ, keep or retain any unlicensed dentist or student shall be guilty of a misdemeanor and punished as provided in section 8534.

SECTION 8533. Compensation of board; bond of secretary.

SECTION 8534. *Practising Dentistry without License; Penalty.*—Any person who shall practise or attempt to practise dentistry, either as a proprietor, employee or assistant, without having a license or without having his license renewed as provided by section 8528 of this article, or without keeping his annual renewal of his license for the current year within open view in his operating room, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not less than fifty dollars nor more than two hundred dollars, or by confinement in the county jail not less than twenty days or more than sixty days, or by both such fine and imprisonment. All fines thus received shall be paid one-half into the common school fund of the county in which conviction shall be had, and the

remainder to such board. It is hereby made the duty of the prosecuting attorney of each county in the State to prosecute every case to final judgment whenever his attention shall be called to a violation of the provisions of this article.

SECTION 8535. *Duty of City Register of St. Louis, etc.*—Whenever in this article it is provided that any duty or service shall be performed by any county clerk, such duty and service in the city of St. Louis shall be performed by the city register of the city of St. Louis as if said officer was especially named to perform these duties and services, and said register shall receive the same compensation therefor as this article provides shall be paid to the county clerks: *Provided, further*, that whenever in this article the word "county" is used it shall include the city of St. Louis the same as if said city were especially named.

SECTION 8536. *Persons Ineligible to Membership on the Board.*—That no professor, owner or stockholder of any dental college or school shall be appointed as a member of said board.

MONTANA

1907, Revised Codes of Montana, Article IV, p. 438.

SECTION 1573. *Dentist Must Obtain a Certificate.*—It shall be unlawful for any person, who is not at the time of the passage of this act engaged in the practice of dentistry in this State, to commence such practice unless he or she shall have obtained a certificate, hereinafter provided. (Act approved March 12, 1895.)

SECTIONS 1574, 1575.—Board of Dental Examiners; Qualifications; Appointment and Term.

SECTION 1576. Any dentist who has been in legal practice for five years or more, in any State in the United States, which has an exchange certificate law with that of Montana, and is a reputable dentist of good moral character and who is desirous of making a change of residence into another State, may apply to the examining board of the State in which he resides for a new certificate, which shall attest his moral

character and professional attainments, and said certificate if granted, may be deposited with the Examining Board of the State of Montana, and said board in exchange therefore (may) grant him a license to practise dentistry in the said State of Montana. A fee of fifty dollars will be charged for each exchange certificate and proceeds therefrom to be paid into the treasury of the State Dental Board of Montana. (Approved March 9, 1909, Laws of Montana, p. 190.)

SECTION 1577. Any person who desires to begin the practice of dentistry in the State of Montana after the passage of this act shall appear before the said board of examiners at any of its regular or special meetings for examination. To be eligible for such examinations the applicant shall give satisfactory evidence of having practised dentistry for five years, or shall present a diploma from a reputable dental college. The examination shall be conducted in English and shall be thorough, practical, and sufficient to test the ability of the applicant to practise dentistry. It shall include: operative and prosthetic dentistry, osteology, dental and general anatomy, histology, bacteriology, physiology, pathology, chemistry, metallurgy, materia medica, therapeutics, orthodontia, and anesthetics. Demonstrations in operative and prosthetic dentistry, prognosis and diagnosis will be required. All applicants must furnish their own material for demonstration. If the examinations prove satisfactory to said board of dental examiners, they shall issue a certificate of registration to the person examined. All certificates issued by the board, shall be signed by its president, secretary, and a majority of the board present, and shall have its official seal attached thereto. (Approved March 9, 1909, Laws of Montana, p. 190.)

SECTION 1578. Every person who shall receive a certificate of registration from said board shall within sixty days after the issuance thereof cause his or her certificate to be filed with the clerk of the county of his or her residence, or with the clerk of any other county or counties in which he or she may desire to engage in the practice of dentistry. The clerk of the county shall charge for registering such certificate the

regular fee for such services, and after registering the certificate, shall return it to the person to whom the same was originally issued. Any person who shall fail to register his or her certificate shall be liable for practising dentistry without a license. (Act Approved March 12, 1895.)

SECTION 1579. It shall be the duty of the county clerk to keep a book to be entitled "Dental Register," which book shall contain a complete alphabetical list of all certificates of registration filed in his office, and which books shall be provided with columns, giving the name and residence of the dentist, together with the date of the certificate, and the date of its filing with the clerk, and the date of its revocation. (Act approved March 12, 1895.)

SECTION 1581. All persons shall be held to be practising dentistry, within the meaning of this act, who shall receive a fee or salary, or other rewards, paid either to him or to another person for operations or parts of operations, of any kind, in the treatment of diseases or lesions of the human teeth or jaws, or in the correction of malpositions thereof. But nothing in this article shall be construed to permit the performance of independent dental operations by unlicensed persons under the cover of the name of a registered practitioner or in his office. (Act approved March 9, 1909, Laws, p. 192.)

SECTION 1582. In order to provide means for carrying out and maintaining the provisions of this act, the Board of Dental Examiners shall charge each person applying to or appearing before said board for examination, a fee of twenty-five dollars. In case the applicant fails to secure a certificate from said board, he may appear again before said board for another examination, and when the applicant has passed and certificate issued, an additional fee of twenty-five dollars will be charged. Every registered dentist shall in each and every year pay to the Board of Dental Examiners a fee of four dollars as his annual dues, such payment to be made on or before the first day of May of each year. In case of default of such payment by any person, his or her certificate may be revoked by the Board

of Dental Examiners upon thirty days' notice from the secretary, to the person holding such certificate, unless within said thirty days said annual dues shall be paid, together with such penalties as the board may impose, and the board is expressly authorized to impose a penalty of one dollar as a consideration for each year, for allowing the certificate to remain unrevoked. In case any registered dentist absenting himself from the State for a period of one or more years may be reinstated by a fee of one dollar for each year absent.

(Act approved March 9, 1909, Laws, p. 190.)

SECTION 1583. Compensation and report of board.

SECTION 1584. Any person who shall violate any of the provisions of this act, or shall knowingly or falsely claim to have or hold a certificate of registration, license, diploma or degree granted by a society or board of dental examiners, or shall falsely, and with intent to deceive the public, claim or pretend to be the graduate of any incorporated reputable dental college, or shall have registered under one name and practised dentistry under another name with intent to deceive the public, shall be deemed guilty of a misdemeanor, and upon conviction may be fined one thousand dollars and not less than five hundred dollars or imprisonment for not less than six months or more than one year, or may be punished by both such fine and imprisonment. All fines thus received shall be paid into the common school fund of the county in which such conviction takes place. (Act approved March 9, 1909, Laws, p. 193.)

NEBRASKA

1905, February 28th, Laws of Nebraska, Chap. 96, p. 451.

SECTION 1. It shall be unlawful for any person to engage in the practice of dentistry in the State of Nebraska unless such person shall have obtained a license from the State board of health, countersigned by its dental secretaries, duly appointed under the provisions of this act: *Provided*, That this act shall not affect (sic) the right of dentists to practise

dentistry who have the right to do so under the laws of this State at the time of the passage of this act.

SECTIONS 2 to 6. Secretaries; organization, meetings, compensation, records, removal, etc.

SECTION 7. Said dental secretaries shall examine at their regular sessions only all applicants for permanent license who shall furnish satisfactory evidence of having complied with the provisions of this act relating to the qualifications for examination, and shall recommend the granting of a license to all persons satisfactorily passing such examination, and upon such recommendation the State Board of Health shall grant a license to practise dentistry in the State of Nebraska under the signatures of said board and countersigned by said dental secretaries. The examination of applicants shall be elementary and practical in character, but sufficiently thorough to test the fitness of the candidate to practise dentistry. It shall be written in English, and shall include questions on the following subjects: anatomy, physiology, chemistry, materia medica, therapeutics, metallurgy, histology, pathology, oral surgery, operative and prosthetic dentistry, hygiene and dental jurisprudence. Demonstrations of the applicant's skill in operative and prosthetic dentistry shall also be required. In no case shall any applicant be examined or be given a certificate who is not at least twenty-one years of age.

SECTION 8. It shall be the duty of said dental secretaries to cause at least two of their number to be present at all final examinations for the degree of D. D. S., or D. M. D., in dental colleges, schools or departments, legally conducted in the State of Nebraska. Said colleges shall conduct such final examinations orally, in the English language in the presence of said representatives of said dental secretaries, and also deliver to them the questions and original papers containing the written answers to the same upon all subjects wherein final examinations upon such subject has been taken by said applicant during the first or freshman year, and second or junior year. In the absence of any such papers the applicant shall appear before the dental secretaries as pro-

vided in Section 7 of this act, for examination in the subject or subjects wherein such examination papers are not produced. When such final examinations have been attended, as hereinbefore provided, and practical tests in operative and prosthetic dentistry have been taken to the satisfaction of the said secretaries, the dental secretaries may, at their discretion, upon the receipt of the regular fee, consider the conditions provided for in Section 7 of this act, as fully complied with, and recommend an applicant so examined for a license to be issued as provided in said Section 7.

SECTION 9. Any member of the board may inquire of any applicant for examination concerning his character, qualifications, or experience, and may take testimony with respect thereto, from anyone under oath, which he is hereby empowered to administer.

SECTION 10. Every person now licensed to practise dentistry in this State, who has failed to register his license with the clerk of the county wherein his place of business is located, as provided by law, must register the same within sixty days after this act takes effect, and every person who shall hereafter be licensed to practise dentistry in this State shall, within six months thereafter, register in the office of the clerk of the county where his place of business is located, in a book kept by the clerk for such purpose, and called a register of dentists, his name, age, office address, the date and number of license to practise dentistry, and the date of such registration, which registration he shall be entitled to make only upon showing to the county clerk his license and making an affidavit stating his name, age, birthplace, the number of his license and the date of issue; that he is the identical person named in the license; that before receiving the same he complied with all the preliminary requirements of this statute and the rules of the State Board of Health, as to the terms and amount of study and examination; that no money other than the fees prescribed by this statute and said rules was paid directly or indirectly for the license, and that no fraud, misrepresentation or mistake in a material regard was employed or occurred in order that such license should be

conferred. The county clerk shall preserve such affidavit in a bound volume and shall issue to every licentiate duly registering and making such affidavit, a certificate of registration in his county, which shall include a transcript of the registration. Such transcript and license may be offered as primary evidence in all courts of the facts therein stated. A copy of such certificate or registration shall be sent by the county clerk to the secretary of the dental secretaries within five days after it is made. The county clerk's fee for taking such registration and affidavit and issuing such certificate of registration shall be one dollar. A practising dentist having received lawful authority to practise dentistry in one county of the State, and removing such practice, or part thereof, to another county, shall show, or send by registered mail, to the clerk of such other county his certificate of registration. If such certificate clearly shows that the original registration was of authority issued by the State Board of Health, or if the certificate of registration itself is endorsed by the secretary of the board of health as entitled to registration, the clerk shall thereupon register the applicant in the register of dentists of the latter county on receipt of a fee of one dollar, and shall stamp or endorse on such certificate of registration the date and his name, preceded by the words "registered also in—— ——county," and return the certificate of registration to the applicant. Any lawfully registered person who shall thereafter change his, or her, name according to law shall register the new name with a marginal note of the former name with the clerk of the county or counties where he is practising, and the clerk shall note upon the margin of his or her former registration in ink the fact of such change, and a cross-reference to the new registration. The clerk shall forthwith notify the board of such change. Any county clerk who shall make or knowingly allow to be made upon the register of dentists kept in his office any other entry other than provided for in this act, shall be liable to a penalty of fifty dollars. Any failure, neglect or refusal on the part of any person holding such license to register the same with the clerk of said county as above directed for a period of six months

after the issuance thereof shall ipso facto work a forfeiture of his license; and it shall not be restored except upon payment to the said dental secretaries of the sum of twenty-five dollars. Any suspension, revocation or reinstatement shall be with the date thereof forthwith noted by the county clerk on the margin of the registration thereof upon the receipt of notice from the secretary of the dental secretaries.

SECTION 11. When the dental secretaries are not in a regular semi-annual session, any one of said dental secretaries may examine any applicant, and on his recommendation the board may furnish him a temporary permit to practise dentistry until the next regular meeting of said dental secretaries, when he shall report the fact, at which time the temporary permit shall expire. Such temporary permit shall not be recommended by a member of the dental secretaries after the dental secretaries have rejected the applicant, or if he has received a previously issued temporary permit, or if he has been refused permanent license by the State Board of Health. The member of the dental secretaries conducting such examination may, in advance, charge and receive for his services a fee of five dollars to be applied to his own use as a compensation. No other fee shall be charged for granting such temporary permit.

SECTION 12. No person shall be eligible for examination for permanent license by said dental secretaries who shall not furnish satisfactory evidence of having graduated from a reputable dental college, the term "reputable" to be understood as defined by section 13 of this act, which college shall have been endorsed and adjudged reputable by the State Board of Health, or who shall not have graduated from a high school or similar institution of learning in this or some other State of the United States requiring a four year course of study, and furnished to the dental secretaries an affidavit containing his or her name, the name of his or her preceptor, and the names of at least two reputable witnesses, sworn to before a notary public in the State of Nebraska, showing that he or she has completed an apprenticeship of five years of twelve months each, with a licensed practitioner of dentistry

in the State of Nebraska, or who shall not furnish to said dental secretaries a certificate from the State Board of Dental Examiners, or similar body, of some other State of the United States, showing that he or she has been a licensed practitioner of dentistry in that State for at least five years just previous.

SECTION 13. The term "reputable dental college" shall be defined as follows: A dental college or dental department of any university or college, shall be adjudged reputable by the Nebraska State Board of Health when its dental secretaries, in session, after due examination, report that the institution in question fully meets the requirements of the National Association of Dental Examiners, and that its standards as to entrance, course of instruction and requirements for graduation are such that they would recommend it for recognition by the other dental colleges in the United States.

SECTION 14. From and after the taking effect of this act any and all persons desiring to enter upon the practice of dentistry in the State of Nebraska without graduating from a reputable college in the United States or producing satisfactory evidence of having been a licensed practitioner in some other State for at least five years, must file with the dental secretaries an affidavit sworn to before a notary public of the State of Nebraska of his intention to begin an apprenticeship with a licensed practitioner of this State, and the said affidavit must show that the affiant has regularly graduated from a high school or similar place of learning in the United States, as provided in section 12 of this act, and contain, in full, the names of both affiant and proposed preceptor and the names of two reputable witnesses, together with the date of the beginning of his proposed apprenticeship, and the dental secretaries shall issue to affiant a receipt for the same.

SECTION 15. Every person applying to the State Board of Health for a permanent license to practise dentistry shall pay to the treasurer of said dental secretaries a fee of twenty-five dollars, provided that to graduates of Nebraska dental colleges the fee shall be ten dollars, which shall in no case

be refunded. Necessary expenses, compensation of the said dental secretaries in attendance on meetings not had for the prosecution of violations of this act, shall be paid out of the fees and funds provided for in this act. All moneys received under section 15 shall constitute a fund, as hereinbefore provided, and may be expended only on the joint order of the president and secretary of said dental secretaries: *Provided, however,* That on the first day of July of each year all sums of money in excess of one thousand dollars after the payment of the expense of prosecution of all cases pending for violations of the provisions of this act, which shall have been collected under the provisions of this section, and shall be in the hands of said dental secretaries, shall be paid to the State Treasurer and become a part of the general school fund.

SECTION 16. Any and all persons shall be understood to be practising dentistry within the meaning of this act, who shall for a fee, salary, or reward, paid directly or indirectly, either to himself or to some other person, perform operations of any kind upon, or treat diseases or lesions of the human teeth or jaws, or correct malimposed positions thereof, or display a sign or in any other way advertise himself as a dentist; but nothing in this act shall prohibit bona fide students of dentistry from operation in the clinical departments of the laboratory of a reputable dental college, or an unlicensed person from performing merely mechanical work on inert matter in a dental office or laboratory; or the student of a licentiate from assisting his preceptor in dental operations while in the presence and under the personal supervision of his instructor; or a duly licensed physician from treating diseases of the mouth, or performing operations in oral surgery. But nothing in the provisions of this act shall be construed to permit the performance of dental operations by any unlicensed person under cover of the name of a regular practitioner of dentistry.

SECTION 17. Any person, or company, or association shall be guilty of a misdemeanor, and upon conviction thereof shall be punishable with a fine of not less than fifty dollars,

or more than five hundred dollars, or by imprisonment for not less than five days nor more than ninety days in the county jail, or both by fine and imprisonment, who (1) shall barter or sell, or offer to barter or sell, any diploma or document, conferring or purporting to confer any dental degree, or any certificate or transcript, made or purporting to be made, pursuant to the laws regulating the license and registration of dentists; or (2) shall purchase or procure by barter, any such diploma, certificate, or transcript, with intent that the same shall be used as evidence of the holder's qualification to practise dentistry, or in fraud of the laws regulating such practice; or (3) shall with fraudulent intent, alter in a material way any such diploma, certificate, or transcript; or (4) shall use or attempt to use any such diploma, certificate or transcript, which has been purchased, fraudulently issued, counterfeited, or materially altered, either as a license or color of license to practise dentistry, or in order to procure registration as a dentist; or (5) shall practise dentistry under a false or assumed name; or (6) shall assume the degree of "Doctor of dental surgery" or "doctor of dental medicine," or shall append the letters "D. D. S." or "D. M. D." to his or her name, the same not having been duly conferred upon him or her, by diploma from a recognized dental college or school legally empowered to confer the same, or shall assume any title, or append any letters to his or her name with intent to represent falsely that he or she has received a dental degree or license; or (7) shall in an affidavit required of an applicant for examination, license, or registration, under this act, wilfully make a false statement in a material regard; or (8) shall engage in the practice of dentistry under any title without causing to be displayed in a conspicuous manner and in a conspicuous place in his or her office the name of each and every person employed in the practice of dentistry therein, together with the word mechanic or apprentice after the name of each unlicensed person employed; or (9) shall within ten days after demand, made by the secretary of the dental secretaries, fail to furnish to said dental secretaries the name and address of all persons practising or assisting in

the practice of dentistry in the office of said person, company, or association, at any time within sixty days prior to said notice, together with a sworn statement showing under and by what license or authority said person, company or association and said employee are and have been practising dentistry, but said affidavit shall not be used as evidence against such person, company or association in any proceeding under this section; or (10) is practising dentistry in the State without a license, or after his or her license has been revoked or suspended.

SECTION 18. Nothing in the foregoing section shall affect the conferring of degrees and granting of diplomas by reputable dental colleges of this State, nor shall their rights and privileges under the laws of this State be hereby abridged in any manner.

SECTION 19. The State Board of Health may revoke or suspend the license of any dentist for any of the following causes:

1. Conviction of felony or misdemeanor involving moral turpitude, in which case the record of conviction, or certified copy thereof certified by the clerk of the court, or the judge in whose court the conviction is had, shall be sufficient evidence.

2. For unprofessional conduct, gross ignorance or incompetency in his profession. Unprofessional conduct shall mean the employment of what are known as cappers, or steerers, to obtain business; the obtaining of any fee by fraud or misrepresentation; wilfully betraying professional secrets; employing directly or indirectly any student or suspended or unlicensed dentist to perform operations of any kind, or to treat lesions of the human teeth or jaws, or correct malimposed formations thereof, except as provided in section 16; the advertisement of dental business or treatment or devices in which untruthful, improbable, or impossible statements are made; or habitual intemperance or gross immorality.

SECTION 20. The proceedings to revoke or suspend any license under the first subdivision of section 19 must be had by the board on the receipt of a certified copy of the record

of conviction. All accusations must be in writing, verified by some party familiar with the facts therein charged, and three copies thereof must be filed with the secretary of the said dental secretaries. Upon or receiving accusations and upon recommendation of the Board of Dental Secretaries, the State Board of Health, if it deem the charges sufficient, may make an order setting the same for hearing, and requiring the accused to appear and answer at a specified time and place, and the secretary of the said dental secretaries shall cause a copy of the order and of the accusation to be served upon the accused at least ten days before the day appointed in the order, to answer the charges and make his defence thereto, unless for sufficient cause the State Board of Health assign another day for that purpose. If he do not appear the board may proceed and determine the accusation in his absence. If the accused plead guilty or refuse to answer the charges, or upon a hearing thereof the board shall find them or any of them to be true it may proceed to a judgment revoking or suspending the license of the accused. The board and the accused may have the benefit of counsel, and the board shall have power to administer oaths, and take the depositions of witnesses in a manner provided by law in civil cases. Upon the revocation of any license the fact shall be noted upon the records of the board of health and dental secretaries thereof, and the license shall be marked as cancelled, upon the date of its revocation.

SECTION 21. The said dental secretaries shall make an annual report of their proceedings to the State Board of Health by the first of December of each year, together with an account of all moneys received and paid out or into the State treasury by them, pursuant to this act.

SECTION 22. Three of said dental secretaries shall constitute a quorum for the transaction of business at any meeting thereof.

SECTION 23. Article 2, Chapter 55 of the Compiled Statutes of the State of Nebraska, 1903, as heretofore existing, and all acts and parts of acts inconsistent herewith, are hereby repealed.

1909, April 5, Laws of Nebraska, Chap. 87, p. 356.

SECTION 1. The State Board of Dental Secretaries may, without examination, issue license to practise to any dentist who shall have been in legal practice in some other State or Territory for a period of at least five years, upon the certificate of the Board of Dental Secretaries or a like board of the State or territory in which such dentist was a practitioner; certifying his competency and that he is of good moral character and upon the payment of twenty-five dollars: *Provided, however,* That the State from which any practitioner may come, shall have, and maintain equal standards of laws regulating the practice of dentistry and recognize exchange certificates issued by the Board of Dental Secretaries of the State of Nebraska.

SECTION 2. Any duly licensed dentist of the State of Nebraska who is desirous of changing his residence to that of another State or Territory shall upon application to the Board of Dental Secretaries, and the payment of a fee of five dollars receive a certificate which shall attest that he is a duly licensed dentist of the State of Nebraska.

SECTION 3. Every person to whom a license is issued shall file the same for record with the county clerk in the county in which he desires to practise dentistry, and the county clerk shall be entitled to a fee of fifty cents for recording such license; and failure to so file such license for record within one year after it is issued by the board, shall work a forfeiture thereof and said license shall not be restored by the board except upon the payment to it of the sum of twenty-five dollars as penalty thereof.

NEVADA

1905, March 16, Laws of Nevada, p. 242.

SECTION 1. It shall be unlawful for any person to engage in the practice of dentistry in the State of Nevada unless said person shall have obtained a license from a Board of Dental Examiners, duly authorized and appointed under the

provisions of this act to issue licenses: *Provided*, That this act shall not affect the right under the laws of the State of Nevada, of dentists to practise dentistry who have lawful right to practise dentistry at the time of the passage of this act.

SECTIONS 2 to 6. Board of Dental Examiners; Term of Office; Organization; Meeting; Compensation; Removal, etc.

SECTION 7. Said board shall examine all applicants for examination who shall furnish satisfactory evidence of having complied with the provisions of this act, relating to qualification for examination, and all persons satisfactorily passing such examinations shall be granted by said board a license to practise dentistry in the State of Nevada. The examination of applicants shall be elementary and practical in character, but sufficiently thorough to test the fitness of the candidate to practise dentistry. It shall include, written in the English language, questions on the following subjects: anatomy, physiology, chemistry, materia medica, therapeutics, metallurgy, histology, pathology, operative and prosthetic dentistry, hygiene and dental jurisprudence. The answers to which shall be written or oral in the English language. Demonstrations of the applicant's skill in operative and prosthetic dentistry must also be given. All persons successfully passing such examinations shall be registered as licensed dentists on the board register, as provided in section 3, and shall also receive a certificate of such registration, said certificate to be signed by the president and secretary of said board. In no case shall any applicant be examined or given a certificate who is not twenty-one years of age.

SECTION 8. Any person who shall receive a certificate of qualification from said board shall cause his or her certificate to be registered with the county clerk of any county or counties in which such person may desire to engage in the practice of dentistry and the county clerks in the several counties in this State shall charge for registering such certificate a fee of twenty-five cents for such registration. Any failure, neglect, or refusal on the part of any person holding such certificate to register the same with the county clerk

as above directed for a period of six months shall work a forfeiture of the certificate, and no certificate, when once forfeited, shall be restored, except upon the payment to the said board of examiners of the sum of twenty-five dollars as a penalty for such neglect or refusal.

SECTION 9. No person shall be eligible for examination by the State Board of Dental Examiners who shall not furnish satisfactory evidence of having graduated from a reputable dental college, which must have been endorsed by the Board of Dental Examiners of Nevada; or who shall not have graduated from a high school or similar institution of learning in this or some other State of the United States, requiring a three years' course of study, and who cannot furnish to the Board of Dental Examiners an affidavit, containing his or her name, the name of his or her preceptor, and the names of at least two reputable witnesses, certified to in the State of Nevada before a notary public, showing that he or she has completed an apprenticeship of four years of twelve months each, with a licensed practitioner of dentistry, in the State of Nevada, or cannot furnish to said Board of Examiners a certificate from the State Board of Dental Examiners, or similar body, of some other State in the United States, showing that he or she has been a licensed practitioner of dentistry in that State for at least five years.

SECTION 10. From and after the passage of this act any and all persons desiring to enter upon the practice of dentistry in the State of Nevada, without graduating from a reputable college in the United States or producing satisfactory evidence of having been a licensed practitioner of dentistry in some other State for at least five years must file with the Board of Dental Examiners an affidavit, certified to before a notary public of the State of Nevada of his intention to begin an apprenticeship with a licensed practitioner of dentistry in this State, and the said affidavit must certify that the affiant has regularly graduated from a high school or similar institution of learning in the United States, as provided in section 12 of this act, and contain in full the names of both affiant and his proposed preceptor and the

names of two reputable witnesses, together with the date of beginning of his proposed term of apprenticeship; and the Board of Dental Examiners shall issue to affiant a receipt for the same.

SECTION 11. Every person applying to the Board of Dental Examiners for a license to practise dentistry shall pay to the board a fee of twenty-five dollars, which shall in no case be refunded. Every licensed dentist shall, on or before the first day of May of each year, except the one in which he is licensed, pay to the secretary of the board of dental examiners a fee of two dollars, which shall be used exclusively for the prosecution of violators of this act and for expenses of collecting said fee. The year for which a fee shall be paid shall begin July 1 following the May when it becomes due and end the succeeding June 30. The board may reduce or remit altogether the said fee for any year, but such reduction or remission must be made alike to all, liable to pay the same. In case any person defaults in paying said fee, his license may be revoked by the Board of Dental Examiners on thirty days' notice in writing from the secretary, unless within said time said fee is paid, together with such penalty not exceeding ten dollars, as the board may impose. Upon payment of said fee and penalty the board shall reinstate the delinquent's license. On or before the first day of July of each year the secretary of the board shall send to the county clerk of each county in the State a certified list of all practising dentists therein who have paid said fee, and the clerk shall enter or paste the same in the register of dentists. Necessary expenses, per diem compensation and mileage of the members of the board incurred while in attendance on meetings not for prosecuting violators of this act shall be paid out of the other fees and fines provided for in this act. All moneys received under this act shall be deposited in some reliable bank in the name of the board, and shall be withdrawn only on the joint check of the president and secretary of the board.

SECTION 12. Any and all persons shall be understood to be practising dentistry within the meaning of this act, who shall for a fee, salary, or reward, paid directly or indirectly, to

himself or to some other person, perform operations of any kind upon, or treat diseases or lesions of the human teeth or jaws, or correct malimposed positions thereof, or display a sign, or in any way advertise himself as a dentist; but nothing in this act contained shall prohibit bona fide students of dentistry from operating in the clinical departments or the laboratory of a reputable dental college, or an unlicensed person from performing merely mechanical work upon inert matter in a dental office or laboratory; or the student of a licentiate from assisting his preceptor in dental operations while in the presence of and under the personal supervision of his instructor; or a duly licensed physician from treating diseases of the mouth, or performing operations in oral surgery. But nothing in the provisions of this act shall be construed to permit the performance of dental operations by any unlicensed persons under cover of the name of a regular practitioner of dentistry.

SECTION 13. Any person, company or association shall be guilty of a misdemeanor and upon conviction thereof shall be punishable with a fine of not less than fifty dollars or more than five hundred dollars, or by imprisonment for not less than five days nor more than six months in the county jail, or by both fine and imprisonment, who

1. Shall sell or barter, or offer to sell or barter, any diploma or document, conferring or purporting to confer any dental degree, or any certificate or transcript, made or purporting to be made, pursuant to the laws regulating the license and registration of dentists; or

2. Shall purchase or procure by barter, any such diploma, certificate or transcript, with intent that the same shall be used as evidence of the holder's qualification to practise dentistry, or in fraud of the laws regulating such practice; or

3. Shall, with fraudulent intent, alter in a material regard any such diploma, certificate, or transcript; or

4. Shall use or attempt to use any such diploma, certificate or transcript, which has been purchased, fraudulently issued, counterfeited or materially altered, either as a license or color of license to practise dentistry, or in order to procure registration as a dentist; or

5. Shall practise dentistry under a false or assumed name; or

6. Shall assume the degree of "Doctor of Dental Surgery" or "Doctor of Dental Medicine," or shall append the letters "D. D. S." or "D. M. D." to his or her name, not having duly conferred upon him or her, by diploma from a recognized dental college or school legally empowered to confer the same, the right to assume said title; or shall assume any title, or append any letters to his or her name, with intent to represent falsely that he or she has received a dental degree or license; or

7. Shall in an affidavit required of an applicant for examination, license, or registration, under this act, wilfully make a false statement in a material regard; or

8. Shall engage in the practice of dentistry under any title or name without causing to be displayed in a conspicuous manner and in a conspicuous place in his or her office the name of each and every person employed in the practice of dentistry therein, together with the word mechanic or apprentice after the name of each unlicensed person employed; or

9. Shall within ten days after demand, made by the secretary of the board, fail to furnish to said board the name and address of all persons practising or assisting in the practice of dentistry in the office of said person, company or association, at any time within sixty days prior to said notice, together with a sworn statement showing under and by what license or authority said person, company, or association, and said employee are and have been practising dentistry, but said affidavit shall not be used as evidence against such person, company, or association in any proceeding under this section; or

10. Is practising dentistry in the State without a license, or whose license has been revoked or suspended.

SECTION 14. It is hereby further provided that the conferring of degrees and the bestowing of diplomas, by reputable dental colleges of this State, who have been endorsed by the Board of Dental Examiners of Nevada, and are members of the National Association of Dental Faculties, are not

included in the foregoing penalties, nor shall their rights and prerogative ever be abridged in any manner whatsoever.

SECTION 15. All fines, penalties, or forfeitures, not including the examination fee, imposed or collected for the violation of any of the foregoing provisions of this act, unless otherwise specified, shall be paid as follows: One-half into the common school fund in the county in which the prosecution is had, and one-half to the treasurer of this board, to be turned into the regular funds of this board, and it shall be the duty of the county treasurer of each county, upon the receipt by him of any such fines, penalties or forfeitures, to forthwith pay over the same one-half to the treasurer of this board. Said board, or any member or officer thereof, may prefer a complaint for violation of the law regulating the practice of dentistry, before any court of competent jurisdiction, and may by its officers, counsel, and agents, and in presenting the law of facts before said court, in any proceeding taken thereon; and it shall be the duty of the district attorney of each county of this State to prosecute all violations of the aforesaid provisions of this act in their respective counties in which such violation occurs.

SECTION 16. The members of the Board of Dental Examiners shall make an annual report of its proceedings to the Governor of Nevada by the 1st of December of each year, together with an account of all moneys received and disbursed by them, pursuant to this act.

SECTION 17. Three members of said Board of Dental Examiners shall constitute a quorum for the transaction of business at any meeting of the board.

SECTION 18. Nothing in this act shall be so construed as to interfere with the rights and privileges of physicians and surgeons in the discharge of their duties.

NEW HAMPSHIRE

Chapter 134, Public Statutes of 1901.

SECTION 1. There shall be a State board of registration in dentistry, composed of three skilled dentists of good repute,

residing and doing business in the State, who shall be appointed by the governor with the advice of the council, and shall hold office for three years, unless sooner removed by the same authority for cause. Vacancies shall be filled by appointment in like manner for the unexpired term. No person shall be eligible for appointment unless he graduated from some reputable medical or dental college authorized to grant degrees in dentistry, or has practised dentistry for ten years prior to his appointment.

SECTION 2. The board shall choose from its number a president and secretary, and it shall meet at least once in each year. Two members shall constitute a quorum.

SECTION 3. Any person may appear before the board at a regular meeting, and be examined with reference to his knowledge and skill in dentistry and dental surgery; and the board shall issue to such persons as it finds qualified to practise dentistry, a certificate to that effect.

SECTION 4. The board shall charge each person for a certificate of qualification a fee of ten dollars. Any person failing to pass a satisfactory examination shall be entitled to be reëxamined at any future meeting of the board. The board shall make a report of its proceedings to the governor by the thirty-first day of December in each year. All fees received by the board shall be paid into the treasury of the State.

SECTION 5. (As amended in Laws of 1903, April 2, Chap. 113, p. 113.) The members of the board shall be paid the expenses necessarily incurred and five dollars a day each for time actually spent in the discharge of their duties. Their bills for services and expenses shall be audited and allowed by the governor and council, and shall be paid from the State treasury.

SECTION 6. Any person who shall falsely pretend to have or hold a certificate of qualification granted by the board, or who shall falsely, and with intent to deceive, pretend to be a graduate from any incorporated dental college, or who shall practise dentistry without having a certificate as provided by law, or who shall violate any of the provisions of this

chapter, shall be fined not more than one hundred dollars for each offence.

SECTION 7. (As inserted by the act of 1903, April 2, Chap. 113.) Any association of persons whether incorporated or not, engaged in the practice of dentistry under the name of company or association, or any other title, shall cause to be displayed and kept in a conspicuous place in its office a certificate from the said board of the qualification of each person engaged in the practice of dentistry in said office. Any violation of this section shall subject the manager of said office to punishment by a fine not exceeding one hundred dollars.

SECTION 8. (As amended 1903, April 2, Chap. 113.) Nothing in this chapter shall apply to a practising physician who is a graduate from the medical department of an incorporated college, or to a bona fide student of dentistry pursuing his studies under the direction of a qualified dentist.

NEW JERSEY

1898, March 17, Laws, Chap. 74, p. 119.

SECTION 1. The following persons only shall be deemed licensed to practise dentistry in this State:

(*a*) Those who are now duly licensed and registered as dentists pursuant to law, and

(*b*) Those who may hereafter be duly licensed and registered as dentists pursuant to the provisions of this act.

SECTION 2. Dental Board; Appointment, etc.

SECTION 3. The board shall from time to time adopt rules for its own government and for the examination of candidates for license to practise dentistry; any rule altering the nature or increasing the severity of the examination or the subjects to be included therein shall not be enforced within six months after its adoption and public promulgation; the examination of applicants shall be confined to written or oral, or both written and oral, examinations upon subjects properly relating to the science of dentistry, the knowledge of which is necessary to the proper and skilful practice of said science;

the board may also require from applicants, as part of the examination, demonstrations of their skill in operative and mechanical dentistry; no person shall be examined by the said board unless he be twenty-one years of age, of good moral character, and have received a preliminary education equal to that furnished by the common schools of this State and be graduated in course with a dental degree from a dental school, college or department of a university recognized by said board, or shall present the written recommendation of at least five licensed dentists of this State of five years' standing, certifying that he is qualified for such examination, or shall hold a diploma or license conferring full right to practise dentistry in some foreign country and granted by some authority recognized by the board; any member of the board may inquire of any applicant for examination concerning his qualifications, and may take testimony of anyone in regard thereto, under oath, which he is hereby empowered to administer.

SECTION 4. Every applicant for license to practise dentistry shall file his application with and pay to the secretary of said board a fee of twenty-five dollars and present himself for examination at the first regular meeting of the board after such application, due notice of which shall be given; such fee shall not be refunded, unless from sickness or other good cause appearing to the satisfaction of the board such applicant was prevented from attending and completing such examination; further or subsequent examinations under such application may be given to applicants, in the discretion of the board, without payment of additional fee.

SECTION 5. Expenses of board.

SECTION 6. Said board shall register as licensed dentists, and under its seal and the hand of its president and secretary, issue to all persons who shall successfully pass said examination, its license to practise dentistry in this State; the board may also, without the examination hereinabove provided for, issue its license to any applicant therefor who shall furnish proof satisfactory to it that he has been duly licensed after examination to practise dentistry in any State after full

compliance with the requirement of its dental laws; provided, however, that his professional education shall not be less than that required in this State; every license so given shall state upon its face the grounds upon which it is granted, and the applicant may be required to furnish his proof upon affidavit; the fee for such license shall be twenty-five dollars. (As amended by act of 1901, March 22, Chap. 193, p. 395.)

SECTION 7. Upon presentation to the board of a certified copy of a court record, showing that a practitioner of dentistry has been convicted of felony or misdemeanor, that fact may be noted upon the record of licenses, and the license and registration shall be marked cancelled; any person whose license shall be so cancelled shall be deemed an unlicensed person, and, as such, subject to the penalties prescribed for other unlicensed persons who practise dentistry.

SECTION 8. This act shall not be construed to prohibit an unlicensed person from performing mechanical work upon inert matter in a dental office or laboratory; or to prohibit the registered student of a licensed dentist from assisting his preceptor in dental operations while in his presence and under his direct and immediate personal supervision; or to prohibit a duly licensed physician from treating the diseases of the mouth or performing operations in oral surgery; nothing in the provisions of this act shall be construed to permit the performance of dental operations by any unlicensed person under cover of the name of a registered practitioner; any person now registered as a student may present himself for examination to the board upon complying with the provisions of this act relative to examination, and presenting to the board a certificate, under oath from the dentist or dentists with whom he has studied, that such applicant has studied as a student with the dentist or dentists so certifying for not less than five years continuously; provided, however, such applicant shall have filed, on or before the first day of June, eighteen hundred and ninety-eight, a notice with the board that it is his purpose to avail himself of the exemption thereby made; the board may, however, at any time, upon proof of the violation of any of the provisions of this act by

such student, revoke his right to present himself for and pass such examination; any person shall be regarded as practising dentistry within the meaning of this act who shall use the words "doctor of dental surgery," "doctor of dental medicine," or the letters "D. D. S." or "D. M. D." in connection with his or her name, or any other title intended to imply or designate him or her as a practitioner in dentistry in all of its branches, and who, in connection with such title or titles, or without the use of such titles shall practise dentistry in any of its branches; and it is further provided, that the use of any one of the aforesaid mentioned titles or the exposition of a sign, circular, advertisement or any other device or information indicating thereby the occupation of the person or persons, shall be taken and considered in the trial of any indictment which may be found for the violation of any of the provisions of this act, or in the trial of any civil action for penalties under the provisions of this act, as prima facie evidence. (As amended by the act of 1901, March 22, Chap. 193, p. 395.)

SECTION 9. That hereafter if any association or company of persons, whether incorporated or not, shall engage in the practice of dentistry under the name of "company," "association," or any other title, the said company or association shall cause to be displayed and kept in a conspicuous place at the entrance to its place of business the names of each and every person employed by said company or association in the practice of dentistry; and any person employed by such company or association whose names shall not be displayed as above provided, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished as hereinafter provided; and the said association or company, if incorporated, or the persons comprising the same, if not incorporated, shall for such failure to display the aforesaid names be guilty of a misdemeanor, and upon conviction thereof shall be punished as hereinafter provided.

SECTION 10. That hereafter there shall be an annual registration of every person, persons, company, or association practising dentistry within the State, together with an annual

registration of each and every assistant in the employ of every such person, persons, company, or association; it shall be the duty of the secretary of this board, not later than the first day of December in each year, to prepare and mail to every person, company, or association known to be practising dentistry within this State a document to be known as the "annual registration blank," upon which shall be proper space for the endorsement of the name, residence, and location of office of the person, company, or association to whom the same is sent, together with the name and residence of every assistant employed in any such office; and it shall be the duty of every person, company, or association, upon the receipt of said blank, to fill in the name, residence, and location of office of said person, company, or association, and also the name and residence of each and every assistant employed by said person, company, or association in any such office; said return shall be fully completed and returned to the secretary of this board within thirty days after its receipt; for failure to comply herewith the person, company, or association shall be liable to a fine of ten dollars, besides costs, to be sued for in the name of the board, in any court of competent jurisdiction; said fine to be paid into the treasury of the board; and any person, company, or association making any false statement concerning or touching any matter or thing covered by this section shall for such offence be liable to a fine of fifty dollars, besides costs, for each and every offence, to be sued for in the name of said board in any court of competent jurisdiction; said fine to be paid into the treasury of said board.

SECTION 11. That hereafter it shall be the duty of every person, company, or association practising dentistry within this State, upon demand in writing made by the secretary of this board, to furnish, within thirty days after said demand to the State board through its secretary, the name and address of each and every person practising dentistry or assisting in the practice thereof, in the office of said person, company, or association, together with a statement showing under and by what license or authority the said person, com-

pany, or association is practising; for failure so to do the said person, company, or association shall be liable to a fine of ten dollars besides costs, to be sued for in the name of the board in any court of competent jurisdiction, said fine to be paid into the treasury thereof; and any person, company, or association making any false statement concerning or touching any matter or thing covered by this section shall for such offence be liable to a fine of fifty dollars, besides costs, for each and every offence, to be sued for in the name of said board in any court of competent jurisdiction, said fine to be paid into the treasury of the said board.

SECTION 12. Any person, company, or association, practising or holding himself or itself out to the public as practising dentistry, not being at the time of said practice or holding out legally licensed to practise as such in this State, shall be guilty of a misdemeanor and punishable upon conviction of a first offence by a fine of not less than fifty dollars, and, upon conviction of a subsequent offence, by a fine of not less than one hundred dollars or by imprisonment of not less than two months, or by both fine and imprisonment.

SECTION 13. Any person, company, or association, for failure to comply with each and every provision and condition contained in the ninth, tenth, and eleventh sections of this act, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished with a fine of not less than five hundred dollars, or by imprisonment of not less than six months, or by both fine and imprisonment.

SECTION 14. Any person, company, or association shall be guilty of a misdemeanor, and upon every conviction thereof shall be punished with a fine of not less than five hundred dollars, or by imprisonment for not less than six months, or by both fine and imprisonment, who

(1) Shall sell or barter, or offer to sell or barter, any diploma or document conferring or purporting to confer any dental degree, or any certificate or transcript, made or purporting to be made, pursuant to the laws regulating the license and registration of dentists; or

(2) Shall purchase or procure by barter any such diploma, certificate or transcript with intent that the same shall be used as evidence of the holder's qualification to practise dentistry, or in fraud of the laws regulating such practice; or

(3) Shall with fraudulent intent, alter in a material regard any such diploma, certificate, or transcript; or

(4) Shall use or attempt to use any such diploma, certificate, or transcript which has been purchased, fraudulently issued, counterfeited or materially altered, either as a license or color of license to practise dentistry, or in order to procure registration as a dentist; or

(5) Shall practise dentistry under a false or assumed name; or

(6) Not being now duly licensed and registered as a dentist, shall assume the degree of "doctor of dental surgery," or "doctor of dental medicine," or shall append the letters "D. D. S." or "D. M. D." to his or her name, not having had duly conferred upon him or her by diploma from some college or school legally empowered to confer the same the right to assume said titles; or shall assume any title or append any letters to his or her name with the intent to represent falsely that he has received a dental degree or license; or

(7) Any person who, in any affidavit or examination required of an applicant for examination, license, or registration under the laws regulating the practice of dentistry, shall make wilfully a false statement in a material regard, shall be guilty of a high misdemeanor, punishable upon conviction thereof by a fine not exceeding five hundred dollars, or by imprisonment at hard labor not exceeding five years, or both, at the discretion of the court.

SECTION 15. All fines, penalties, or forfeitures imposed or collected for the violation of any of the foregoing provisions of this act, shall be paid as follows: One-half thereof to the county collector of the county in which the prosecution is had, and one-half thereof to the secretary of this board, to be held, disposed and accounted for by him as hereinabove

directed; and it shall be the duty of the county collector of each county, upon receipt by him of any such fine, penalty, or forfeiture, to forthwith pay over to the secretary of this board one-half of the same; said board or any member or officer thereof may prefer a complaint for violation of the law regulating the practice of dentistry before any court, tribunal, or magistrate having jurisdiction, and may by its officers, counsel, and agents aid in presenting the law or facts before said court, tribunal, or magistrate in any proceeding taken thereon; and it shall be the duty of the prosecutor of the pleas of the counties of this State to prosecute all violations of the aforesaid provisions of this act.

SECTION 16. In addition to all of the fines, forfeitures, and penalties hereinabove provided for, it shall be lawful for the said board to institute civil proceedings in any court of competent jurisdiction against any person, company, or association for the violation of any of the provisions of this act; such proceedings shall be brought in an action in debt, and, upon conviction thereunder, the person, company, or association so convicted shall be liable to a fine, which shall be the same amount fixed in the section of this act for the violation of which the suit shall have been brought; and all fines and penalties collected by any court under the provisions of this section of this act shall be paid over to the secretary of this board, to be received and disbursed by him in accordance with the provisions of this act.

The following laws are hereby repealed, to wit: Chapter 260 of the laws of 1873; chapter 20 of the laws of 1884; chapter 143 of the laws of 1980; and chapter 44 of the laws of 1894.

NEW MEXICO

1893, February 23, Session Laws, Chap. 60, p. 86.

SECTION 1. That it shall be unlawful for any person who is not at the time of the passage of this act engaged in the practice of dentistry in the territory of New Mexico to commence such practice unless such persons have received

a certificate from the duly authorized Board of Dental Examiners hereinafter provided for.

SECTIONS 2 and 3. Board of Dental Examiners, duties, etc.

SECTION 4. It shall be the duty of every person who at the time of the passage of this act is engaged in the practice of dentistry in the territory of New Mexico within six months from the date of the passage of this act to cause his or her written application to be filed with the secretary of the said board for a certificate to continue in the practice of dentistry within said territory; and all persons whom the board may find to have been engaged in the practice of dentistry within the territory of New Mexico for the period of one year next preceding the passage of this act shall be entitled to receive a certificate from said board of examiners without further examination.

SECTION 5. (As amended March 21, 1907, Chap. 74, p. 146.) No person whose name is not registered on the books of said board as a regular practitioner of dentistry, within the time prescribed in the next preceding section, shall be permitted to practise dentistry within the territory of New Mexico until such person shall have been duly examined by said board and regularly licensed in accordance with the provisions of this act, and such person shall present at the time of this examination his diploma from a reputable dental college.

SECTION 6. (As amended March 9, 1905, Chap. 45, p. 87.) In order to provide the means for carrying out and enforcing the provisions of this act said Board of Examiners shall charge each person applying for a certificate to continue in the practice of dentistry the sum of five dollars for said certificate, and all persons applying for an examination to procure a certificate to commence the practice of dentistry within the territory of New Mexico shall pay to the secretary of said board, before submitting to said examination, the sum of twenty-five dollars. All licensed dentists within the territory shall, on or before the first day of June of each year, register with the secretary of the board, and shall pay therefor an annual fee of three dollars. Said board shall have

power to revoke the license of all dentists failing to register within thirty days after written notice so to do.

SECTION 7. Any person holding a license from said board who shall be charged with immoral or unprofessional conduct may, if found guilty as charged, upon proper investigation had by said board, have his or her license revoked by said board.

SECTION 8. All moneys received by the board shall be held by the secretary thereof as a special fund for paying the necessary expenses and for enforcing the provisions of this act.

The secretary shall give to the board a good and sufficient bond, to be approved by said board and in an amount to be fixed by the board.

SECTION 9. No part of the salary or other expenses of said board shall be paid out of the territorial treasury.

SECTION 10. It shall be the duty of the secretary of the board to make an annual report to the governor of the territory, at such times as may be directed by the board, and such report shall be signed and approved by the president of the board.

SECTION 11. Any person who shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof may be fined not less than twenty dollars nor more than one hundred dollars, or to be imprisoned in the county jail not less than one month nor more than three months or by both such fine and imprisonment, in the discretion of the court trying said cause.

SECTION 12. Any justice of the peace of the county in which such violation was committed shall have jurisdiction in all cases of violations of this act, and it shall be the duty of the respective county attorneys to prosecute all violations of this act.

SECTION 13. Nothing in this act shall be construed to interfere with physicians and surgeons in their practice as such.

SECTION 14. This act shall be in force from and after its passage.

NEW YORK

1909, Consolidated Laws, p. 3270.

Act of 1901, Chap. 215, amending former acts on practice of dentistry of 1893, 1895, 1896, and 1898.

SECTION 190. *Definitions.*—As used in this article, the terms "university," "regents," and "physicians" have respectively the meanings defined in article eight of this chapter. "Board," where not otherwise limited, means the Board of Dental Examiners of the State of New York. "Registered medical or dental school" means a medical or dental school, college or department of a university, registered by the regents as maintaining a proper educational standard and legally incorporated. "Examiner," where not otherwise qualified, means a member of the board. "State dental society," means the Dental Society of the State of New York.

SECTION 191. State dental society.

SECTION 192. District dental societies.

SECTION 193. Powers of district dental societies.

SECTION 194. *Licentiates.*—Only the following persons shall be deemed licensed to practise dentistry:

1. Those duly licensed and registered as dentists in this State prior to the first of August, 1895, pursuant to the laws in force at the time of their license and registration.

2. Those duly licensed and registered after the first day of August, 1895, pursuant to the provisions of this Chapter.

SECTION 195. Constitution of the State Board of Dental Examiners. (Amended 1910, April 21, Chap. 137, p. 247.)

SECTION 196. (As amended by Act of 1911.) *Examinations.*—The regents shall admit to examination any candidate who shall pay the fee herein prescribed and submit satisfactory evidence, verified by oath if required, that he:

1. Is more than twenty-one years of age;

2. Is of good moral character;

3. Has a preliminary education equivalent to graduation from a four-year high school course registered by the

regents, or an education accepted by the regents as fully equivalent.

4. Subsequently to receiving such preliminary education either has been graduated in course with a dental degree from a registered dental school, or else, having been graduated in course from a registered medical school with a degree of Doctor of Medicine, has pursued thereafter a course of special study of dentistry for at least two years in a registered dental school and received therefrom its degree of Doctor of Dental Surgery, or else holds a diploma or license conferring full right to practise dentistry in some foreign country and granted by some registered authority, or else has lawfully practised dentistry for more than twenty-five years without this State and within the United States: *Provided*, That any person who then being a bona fide student of dentistry in this State under private preceptorship was entitled to file on or before the 31st day of July, 1895, with the secretary of the State Dental Society a certificate of study under private preceptorship and who did at any time prior to the 1st day of January, 1904, upon sworn proof of such fact file such a certificate with the regents, may be admitted to examination before the board. Any member of the board may inquire of any applicant for examination concerning his qualifications and may take testimony of anyone in regard thereto, under oath, which he is hereby empowered to administer.

SECTION 197. *Degrees.*—No degree in dentistry shall be conferred in this State except the degree of Doctor of Dental Surgery. Said degree shall not be conferred upon anyone unless he shall have satisfactorily completed a course of at least three years in a registered dental school, or having been graduated in course from a registered medical school, with the degree of Doctor of Medicine shall have pursued satisfactorily thereafter a course of special study of dentistry for at least two years in a registered dental school; nor shall said degree be conferred upon anyone, unless prior to matriculation in the institution conferring his professional degree, or before beginning the second course of lectures counted toward such degree, he shall have filed with said institution

a regents' certificate that he has received the required preliminary education evidenced as aforesaid: *Provided, further, however,* That the regents may confer upon all persons who shall have received the degree of Master of Dental Surgery under the laws of this State, prior to March 28, 1901, the degree of Doctor of Dental Surgery in lieu of said master's degree.

SECTION 198. *Licenses.*—On certification by the Board of Dental Examiners that a candidate has successfully passed its examinations and is competent to practise dentistry, the regents shall issue to him their license so to practise pursuant to the rules established by them. On the recommendation of the board, the regents may also, without the examination hereinbefore provided for, issue their license to any applicant therefor who shall furnish proof satisfactory to them that he has been duly graduated from a registered dental school and has been thereafter lawfully and reputably engaged in such practice for six years next preceding his application; or who holds a license to practise dentistry in any other State of the United States granted by a State Board of Dental Examiners endorsed by the Dental Society of the State of New York: *Provided,* That in either case his preliminary and professional education shall have been not less than that required in this State. Every license so issued shall state on its face the grounds on which it is granted and the applicant may be required to furnish his proofs on affidavit.

SECTION 199. *Registration.* — Every person practising dentistry in this State and not lawfully registered before April 17, 1896, shall register in the office of the clerk of the county where his place of business is located, in a book kept by the clerk for such purpose, his name, age, office and post-office address, date and number of his license to practise dentistry and the date of such registration, which registration he shall be entitled to make only upon showing to the county clerk his license or duly authenticated copy thereof, and making an affidavit stating name, age, birthplace, the number of his license and the date of its issue; that he is the identical person named in the license; and that before receiv-

ing the same he complied with all the preliminary requirements of this article and the rules of the regents and board as to the terms and the amount of study and examination; that no money other than the fees prescribed by this article and said rules, was paid directly or indirectly for such license, and that no fraud misrepresentation or mistake in a material regard was employed or occurred in order that such license should be conferred. The county clerk shall preserve such affidavit in a bound volume and shall issue to every licentiate duly registering and making such affidavit, a certificate of registration in his county, which shall include a transcript of the registration. Such transcript and the license may be offered as presumptive evidence in all courts of the facts stated therein. The county clerk's fee for taking such registration and affidavit and issuing such certificate, shall be one dollar. A practising dentist having registered a lawful authority to practise dentistry in one county of the State and removing such practice or part thereof to another county, or regularly engaging in practice or opening an office in another county, shall show or send by registered mail to the clerk of such other county his certificate of registration. If such certificate clearly show that the original registration was of an authority issued under seal by the regents, or if the certificate itself is endorsed by the regents as entitled to registration, the clerk shall thereupon register the applicant in the latter county, on receipt of a fee of twenty-five cents, and shall stamp or endorse on such certificate the date and his name, preceded by the words, "registered also in . . . county," and return the certificate to the applicant. Any person who having lawfully registered as aforesaid shall thereafter change his name in any lawful manner shall register the new name with a marginal note of the former name; and shall note upon the margin of the former registration the fact of such change and a cross-reference to the new registration. A county clerk who knowingly shall make or suffer to be made upon the book of registry of dentists kept in his office any other entry than is provided for in this section shall be liable to a penalty of fifty dollars to be

recovered by the State Dental Society in a suit in any court having jurisdiction.

SECTION 200. *Examination Fees.*—Every applicant for a license to practise dentistry shall pay a fee of not more than twenty-five dollars. From the fees provided by this article the regents may pay all proper expenses incurred by them under its provisions, and any surplus at the end of any academic year shall be paid to the society nominating the examiners to defray its expenses incurred under the law.

SECTION 201. *Revocation of Licenses.*—If any practitioner of dentistry be charged under oath before the board with unprofessional or immoral conduct, or with gross ignorance, or inefficiency in his profession, the board shall notify him to appear before it at an appointed time and place, with counsel, if he so desires, to answer said charges, furnishing to him a copy thereof. Upon the report of the board that the accused has been guilty of unprofessional or immoral conduct, or that he is grossly ignorant or inefficient in his profession, the regents may suspend the person so charged from the practice of dentistry for a limited season, or may revoke his license. Upon the revocation of any license, the fact shall be noted upon the records of the regents and the license shall be marked as cancelled, of the date of its revocation. Upon presentation of a certificate of such cancellation to the clerk of any county wherein the licentiate may be registered, said clerk shall note the date of cancellation on the register of dentists and cancel the registration. A conviction of felony shall forfeit a license to practise dentistry, and upon presentation to the regents or county clerk by any public officer or officers of a dental society of a certified copy of a court record showing that a practitioner of dentistry has been convicted of felony, that fact shall be noted upon the record of license and clerk's register, and the license and registration shall be marked "cancelled." Any person who after conviction of a felony shall practise dentistry in this State, shall be subject to all the penalties prescribed for unlicensed practise of dentistry, providing that if such conviction be subsequently reversed upon appeal and the accused acquitted or dis-

charged, his license shall become again operative from the date of such acquittal or discharge.

SECTION 202. *Construction of this Article.*—This article shall not be construed to prohibit an unlicensed person from performing merely mechanical work upon inert matter in a dental office or laboratory, or the student of a licentiate from assisting the latter in his performance of dental operations while in the presence and under the personal supervision of his instructor; or a student in an incorporated dental school or college from performing operations for purposes of clinical study under the supervision and instruction of preceptors; or a duly licensed physician from treating diseases of the mouth or performing operations in oral surgery. But nothing in this article shall be construed to permit the performance of independent dental operations by an unlicensed person under cover of the name of a registered practitioner or in his office. Nor shall anything in this article be construed to require of students matriculated in registered dental or medical schools before the first day of January, 1905, any other or higher qualification for the dental license or degree than was demanded by existing laws as interpreted by the regulations of the regents at the date of their matriculation.

SECTION 203. *Penalties.*—*A.* A person who, in any county of this State, practises or holds himself out to the public as practising dentistry, not being at the times of said practice or holding out, a dentist licensed to practise as such in this State and registered in the office of the clerk of such county, pursuant to the general laws regulating the practice of dentistry, is guilty of a misdemeanor and punishable upon conviction of a first offence by a fine of not less than fifty dollars, and upon conviction of a subsequent offence by a fine of not less than one hundred dollars, or by imprisonment for not less than two months or by both such fine and imprisonment. Any violation of this section by a person theretofore convicted under the then existing laws of this State of practising dentistry without license or registration, shall be included in the term "a subsequent offence." Every conviction of unlawful practice or holding out subsequent to

a first conviction thereof shall be a conviction of a second offence. Every practitioner of dentistry must display in a conspicuous place upon the house or in the office wherein he practises his full name. If there are more dental chairs than one in any office or dental parlor the name of the practitioner must be displayed on or by said chair in plain sight of the patient. Any person who shall practise dentistry without displaying his name as herein prescribed, and any proprietor, owner, or manager of a dental office, establishment, or parlor who shall fail so to display or cause to be displayed the name of each person employed as a practising dentist or practising as a dentist in said office, establishment, or parlor, shall be guilty of a misdemeanor and punishable upon a first conviction by a fine of fifty dollars, and upon every subsequent conviction by a fine of not less than one hundred dollars or by imprisonment for not less than sixty days, or both fine and imprisonment.

B. A person shall be deemed guilty of a misdemeanor, and upon every conviction thereof shall be punished by a fine of not less than two hundred and fifty dollars, or by imprisonment, for not less than six months, or by both fine and imprisonment, who

1. Shall sell or barter or offer to sell or barter any diploma or document conferring or purporting to confer any dental degree or any certificate or transcript made or purporting to be made pursuant to the laws regulating the license and registration of dentists; or,

2. Shall purchase or procure by barter any such diploma, certificate, or transcript with intent that the same shall be used as evidence of the qualifications to practise dentistry of any person other than the one upon whom it was lawfully conferred or in fraud of the laws regulating such practice; or,

3. Shall with fraudulent intent, alter in a material regard any such diploma, certificate, or transcript; or,

4. Shall use or attempt to use any such diploma, certificate, or transcript which has been purchased, fraudulently issued, counterfeited or materially altered either as a license or color of license to practise dentistry or in order to procure registration as a dentist; or,

5. Shall practise dentistry under a false or assumed name; or,

6. Shall assume the degree of Bachelor of Dental Surgery, Doctor of Dental Surgery, or Master of Dental Surgery, or shall append the letters B. D. S., D. D. S., M. D. S., to his name, not having had duly conferred upon him by diploma from some college, school, or Board of Examiners legally empowered to confer the same, the right to assume said titles; or shall assume any title or append or prefix any letters to his name with the intent to represent falsely that he has received a medical or dental degree or license; or,

7. Shall falsely personate another at any examination, held by the regents or by the board, of the preliminary or professional education of candidates for dental students' certificates, dental degrees or licenses, or who shall induce another to make or aid and abet in the making of such false personation, or who shall knowingly avail himself of the benefit of such false personation, or who shall knowingly or negligently make falsely any certificate required by the regents or board in connection with their examinations.

C. Any person who in any affidavit or examination required of an applicant for examination, license, or registration under the laws regulating the practice of dentistry, or under the laws, ordinances, or regulations governing the regents' examinations of the preliminary education required for a dental student's certificate shall make wilfully a false statement in a material regard shall be guilty of perjury, and punishable upon conviction thereof by imprisonment not exceeding ten years.

D. All courts of special sessions and police justices sitting as courts of special sessions shall have jurisdiction in the first instance to hear and determine all charges of misdemeanors mentioned in this article committed within their local jurisdiction, and to impose all the penalties provided for misdemeanors in this article: *Provided, however,* That the power of said courts and justices to hear and determine such charges shall be divested, if before the commencement of a trial before such court of justice, a grand jury shall present an indictment

against the accused person for the same offence, or if a justice of the supreme court or a county judge of the county shall grant a certificate in the manner provided by law in cases of misdemeanor, that it is reasonable that such charge be prosecuted by indictment.

E. All fines, penalties, and forfeitures of bail imposed or collected on account of violations of the laws regulating the practice of dentistry must be paid to the State Dental Society. Said society may prefer complaints for violations of the law regulating the practice of dentistry before any court, tribunal, or magistrate having jurisdiction thereof and may by its officers, counsel, and agents aid in presenting the law and the facts before such court, tribunal, or magistrate in any proceeding instituted by it.

NORTH CAROLINA

Revisal of 1905, Chap. 95, sections 4463–4470.

SECTIONS 4463–4465. Board of Examiners; Meetings; Quorum, etc.

SECTION 4466. *Board to Keep Record of Those Licensed.*—Such board shall keep a book in which shall be entered the names and proficiency of all persons to whom certificates may be granted under this chapter, and the date of granting such certificate, and the book so provided shall be deemed a book of record, and a transcript of any such entry therein, certified to under the hand of the secretary and seal of the North Carolina Dental Society, shall be admitted as evidence in any court when the same shall be otherwise competent.

SECTION 4467. (As amended 1911, March 7, p. 302.) *Board Grants Certificate to Practise, When.*—Such board shall grant a certificate of proficiency in the knowledge and practise of dentistry to all applicants who shall undergo a satisfactory examination, and who shall receive a majority of votes of said board upon such proficiency, which certificate shall be signed by the members of the board conducting said examination, and shall bear the seal of the said North Carolina Dental Society: *Provided,* Any person wishing to

engage in the practice of dentistry at any time prior to the regular meeting of said board may be examined by any one member of said board, and if competent may receive a temporary certificate, which shall be in force only until the next regular meeting, and no member of said board shall grant a temporary certificate a second time to the same person. The Board of Examiners created by section 4463 of the Revisal of 1905 for the examination of those desiring to obtain a certificate to engage in the practice of dentistry may refuse to grant a license to any person guilty of felony or gross immorality, or who is addicted to the use of alcoholic liquors or narcotic drugs to such an extent as to render him unfit to practise dentistry; and the Board of Dental Examiners may, after due notice and hearing, revoke a license for like cause or any license which has been procured by fraud, or any license issued to a person who shall upon notice and hearing be proved to the satisfaction of two-thirds of the members of the Board of Examiners to be incompetent to practise dentistry; and any license or permits obtained through fraud or by any fraudulent or false representation shall be void and of no effect.

SECTION 4468. *Must Obtain License to Practise.*—No person shall engage in the practise of dentistry who has not graduated at a reputable dental school and who has not obtained a certificate from a Board of Examiners duly authorized and appointed in accordance with this chapter. The certificate shall be registered in the office of the clerk of the superior court of the county in which such person proposes to practise. The failure on the part of any person holding such certificate to register the same as above directed for a period of six months shall work a forfeiture of the certificate; no certificate when once forfeited shall be restored, except upon the payment to said Board of Examiners of the sum of twenty-five dollars as a penalty for such failure; such penalty to go to the school fund of the county. The clerk's fee for recording such certificate shall be fifty cents.

SECTION 4469. *Fees Charged for License.*—In order to provide means for carrying out and maintaining the provi-

sions of this chapter such board of examiners may charge a fee of ten dollars for each person applying for a certificate, temporary or permanent, which in no case shall be returned, and the funds so derived shall be placed in the hands of the secretary to be used in defraying the necessary expenses in conducting the meetings of said board, and under no circumstances shall any part of such expense come out of the treasury of the State.

SECTION 4470. (As amended 1907, February 27, p. 621.) *Certain Persons Exempted.*—This chapter shall not apply to any person who was engaged in the practice of dentistry in this State before the 7th day of March, 1879, if on or before the 25th day of February, 1890, such person filed a verified statement with the secretary of the Board of Examiners appointed by the State Dental Association showing his name, residence, date of diploma or license, and date of commencing the practice of dentistry. This subchapter shall not prevent anyone from extracting teeth.

A duly licensed dentist under said chapter 95 of Vol. II of the Revisal of 1905 is a surgeon limiting his practice to diseases of the teeth and such other diseases of the adjacent parts as may be dependent upon or associated with said diseases of the teeth, and who shall have the same right to prescribe drugs or medicines or perform such surgical operations as may be necessary to the proper treatment of the special class of diseases mentioned in this section as is now enjoyed by registered physicians.

Revisal of 1905, Vol. I.

SECTION 3642. (As amended 1907, February 27, p. 622.) *Dentistry; Practising without a License.*—If any person shall practise dentistry, except extracting teeth, without having first passed the examination and obtained the certificate provided by law, he shall be guilty of a misdemeanor and fined twenty-five dollars: *Provided*, That if any person shall, after having been once convicted of practising dentistry contrary to the provisions of said section 3642, practise dentistry in violation of the provisions of said section 3642,

upon conviction thereof, for the second offence and each succeeding offence, he shall be guilty of a misdemeanor and shall be fined and imprisoned, in the discretion of the court. *Provided,* Any person so convicted shall not be entitled to sue for or recover any fee or charge for dental service in any court, and any sum of money paid to a person so convicted for dental services rendered may be recovered by the person so paying the same, or his legal representative: *Provided, further,* No one applying for a license to practise dentistry shall be denied such license on account of race, color, or previous condition of servitude.

NORTH DAKOTA

Revised Code of 1905.

SECTION 313. *Who May Practise; License.*—It shall not be lawful for any person to practise dentistry in this State without having a license to so do from the Board of Dental Examiners.

SECTION 314 and 315. *Creation of Board.*—Power to Make Rules; Officers; Records, etc.

SECTION 316. *Certificate of Registration; Fee.*—It shall be the duty of each person licensed by the board to practise dentistry in this State to procure from the secretary of the board, on or before July 1, annually, a certificate of registration. Such certificate shall be issued by the secretary upon payment of a fee to be fixed by the board, not exceeding the sum of two dollars. All certificates so issued shall be prima facie evidence of the right of the holder to practise dentistry in this State during the time for which they were issued. Any certificate or license granted by the board may be revoked by it upon conviction of the party holding it of a violation of any of the provisions of this article. Every person receiving such certificate shall conspicuously expose the same in his place of business.

SECTION 317. *Examination and Qualification of Practitioners.*—Any person desiring to begin the practice of den-

tistry in this State must in order to be eligible for examination furnish to the board satisfactory evidence that he has been engaged in the practice of dentistry for at least three years immediately preceding such examination, or that he has pursued the study of dentistry in the office or under the supervision of a regularly practising dentist for such period. He shall be examined by the board with reference to his knowledge and skill in dentistry, and if upon such examination such person is found in the judgment of said board to possess suitable qualifications to practise dentistry, and, if the board is satisfied that the applicant has a good moral character, it shall issue to such applicant a license to practise dentistry in accordance with the provisions of this article; provided, that any person desiring to commence the practice of dentistry in this State and having a diploma issued by any reputable dental college or dental department of any university shall, in person, present the same to the State Board of Examiners, and the board being satisfied as to the genuineness of the diploma, may without examination issue a license to such person to practise dentistry in this State on payment of the license fee hereinafter provided for. All licenses issued by the board shall be signed by the several members thereof and be attested by its president and secretary under the seal of the board.

SECTION 318. *Who Regarded as Practising Dentistry.*—A person shall be deemed to be practising dentistry within the meaning of this article, who shall perform operations or parts of operations of any kind or treat diseases or lesions of the human tooth or jaw or correct malpositions thereof. But nothing in this article contained shall be so construed as to apply to acts of bona fide students of dentistry done in the pursuit of clinical advantages under the direct supervision of a preceptor or a licensed dentist in this State during the period of their enrolment in a dental college and attendance upon a regular course in such college, or to prevent any legally qualified resident physician and surgeon from extracting teeth, or to prevent any person from using any domestic remedy or other means for the relief of pain.

SECTION 319. *Fee for Examination; Annual Report, etc.*—The Board of Dental Examiners may require each person applying to it for examination to pay a fee not exceeding ten dollars, which shall in no case be returned. If the applicant shall receive a license to practise, he shall thereupon pay the further sum of five dollars, which shall also entitle him to receive a certificate of registration for the current or registration year in which such license is issued. Thereafter he shall annually obtain a certificate as hereinbefore provided. Out of the funds received by the board each member may be paid the sum of five dollars for each day actually engaged in the duties of his office, and four cents per mile for the distance necessarily travelled in going to or returning from meetings of the board. Such expenses shall be paid from the fees received by the board under the provisions of this article, and no part of the salary or other expenses of the board, except the printing of the annual report, shall be paid out of the State treasury. All moneys remaining after the payment of such per diem allowance and mileage as above provided for shall be held by the secretary as a special fund for defraying the expenses of the board in carrying out the provisions of this article. The secretary shall give a bond in such sum and with such conditions as the board may from time to time direct. The board shall make an annual report of its proceedings to the governor on or before the fifteenth day of November of each year, which report shall contain an account of all moneys received and disbursed by the board during the preceding year.

SECTION 320. *Penalty for Violation of this Article.*—Any person violating any of the provisions of this article is guilty of a misdemeanor and upon conviction thereof is punishable by a fine, not exceeding three hundred dollars, or by imprisonment in the county jail, not exceeding sixty days, or by both.

SECTION 321. *Penalty for False Pretence.*—Any person who shall knowingly or falsely claim or pretend to have or hold a certificate of registration, diploma, or degree granted by a society or by the Board of Dental Examiners, or who

shall falsely and with intent to deceive the public claim or pretend to be a graduate from any dental college, not being such graduate, is guilty of a misdemeanor, and upon conviction is punishable as provided in section 320.

SECTION 322. *Penalty for Practising under a False Name, etc.*—Any person who shall be licensed under the provisions of this article and who shall practise dentistry under a false name with intent to deceive shall be liable to have his license revoked upon twenty days' notice of such proposed revocation and of the time and place of considering such revocation by the State Board of Dental Examiners. Any person who after the revocation of his license continues to practise dentistry in this State is guilty of a misdemeanor and upon conviction thereof is punishable as provided in section 320.

OHIO

1908, April 7, p. 66.

SECTIONS 1 to 7. State Dental Board; Term; Meetings; Rules and Regulations; Compensation; Official Seal; Public Record, etc.

SECTION 8. Unless legally qualified prior to the passage of this act, no person shall practise dentistry in this State until he has obtained a license from the State Dental Board as hereinafter provided.

SECTION 9. Each person who desires to practise dentistry within this State shall file with the secretary of the State Dental Board a written application for a license and furnish satisfactory proof that he is at least twenty-one years of age, of good moral character, and present evidence satisfactory to the board that he is a graduate of a reputable dental college, as defined by the board. Such application must be upon the form prescribed by the board and verified by oath.

SECTION 10. An applicant for a license to practise dentistry shall appear before the State Dental Board at its first meeting after the filing of his application, and pass a satisfactory examination, consisting of practical demonstrations

and written or oral tests, or both, in the following subjects: Anatomy, physiology, chemistry, materia medica, therapeutics, metallurgy, histology, pathology, bacteriology, prosthetics, operative dentistry, oral surgery, anesthetics, orthodontia, and oral hygiene.

SECTION 11. If such applicant passes the examination, he shall receive a license from the State Dental Board attested by its seal and signed by the president and secretary, which shall be conclusive evidence of his right to practise dentistry in this State. If the loss of a license is satisfactorily shown, a duplicate thereof shall be issued by the board.

SECTION 12. The State Dental Board may issue a license without examination to an applicant who furnishes satisfactory proof that he is a graduate from a reputable dental college of a State, Territory, or district of the United States, and holds a license from a similar dental board, under requirements equal to those of this State, or who, for five consecutive years next prior to filing his application, has been in the legal and reputable practice of dentistry in a State, Territory, or district of the United States and holds a license from a similar dental board thereof, if in either case the laws of such State, Territory, or district accord equal rights to a dentist of Ohio holding a license from the State Dental Board, who removes to, resides and desires to practise his profession in, such State, Territory or district. No license shall be issued under this section unless authorized by an affirmative vote of all the members of the board present at such meeting.

SECTION 13. The State Dental Board may revoke a license obtained by fraud or misrepresentation, or if the person named therein uses intoxicants or drugs to such a degree as to render him unfit to practise dentistry, is guilty of immoral conduct, or has been convicted of a felony subsequent to the date of his license. If such conviction is vacated, reversed, or set aside, or the accused pardoned, his license shall be operative from the date of the vacation, reversal, or pardon.

SECTION 14. No action to revoke a license shall be taken until the accused has been furnished a statement of the

charges against him and notice of the time and place of a hearing thereof. The accused may be present at the hearing in person, by counsel, or both. The statement of charges and notice may be served personally upon such person or mailed to him at his last known address at least twenty days prior to the hearing. If upon such hearing the board finds the charges are true, it may revoke the license. Such revocation shall take from the person named in a license all rights and privileges acquired thereby.

SECTION 15. A stenographic report of each proceeding to revoke a license shall be made at the expense of the State Dental Board, and a transcript thereof kept on its files. A person whose license has been revoked may file with the secretary within thirty days of the decision of the board a written notice of appeal therefrom. Upon filing such notice the secretary shall transmit to the governor and attorney-general the record of such proceedings. Such officers shall review the proceedings as disclosed by the record and their decision affirming or overruling the action of the board shall be final.

SECTION 16. An applicant for a license to practise dentistry in this State shall pay to the secretary of the State Dental Board the following fee:

An applicant for a license granted upon examination, twenty-five dollars. Such fee shall not be refunded unless the applicant is unavoidably prevented from attending the examination, but he may be examined at the next regular or special meeting of the board without additional fee.

An applicant failing at first examination may be reëxamined at the next regular or special meeting of the board without an additional fee.

An applicant for a license without examination, with license from a board other than of this State, twenty-five dollars.

An applicant for a duplicate license granted upon proof of loss of the original, five dollars.

SECTION 17. Whoever engages in the practice of dentistry in this State shall keep his license displayed in a conspicuous

place in the operating room, or rooms in which he practises, in such manner as to be easily seen and read.

SECTION 18. A person shall be regarded as practising dentistry who is manager, proprietor, operator, or conductor of a place for performing dental operations, or who, for a fee, salary, or other reward paid or to be paid either to himself or to another person performs dental operations of any kind, treats diseases or lesions of human teeth or jaws, or attempts to correct malpositions thereof, or who uses the words "dentist," "dental surgeon," the letters "D. D. S." or other letters or title in connection with his name, which in any way represents him as being engaged in the practice of dentistry.

SECTION 19. Nothing in this act applies to a bona fide student of dentistry in the clinic room of a reputable dental college or under the direct supervision of a preceptor who is a licensed dentist in this State, during the regular vacation intervals of a college course, if he has matriculated and is pursuing consecutive courses of study in a reputable dental college.

SECTION 20. Nothing in this act applies to a legally qualified physician or surgeon unless he practises dentistry as a specialty, or to a dental surgeon of the United States army or navy; or to a legal practitioner of dentistry of another State, making a clinical demonstration before a dental society, convention, association of dentists or dental college.

SECTION 21. Whoever sells or offers to sell a diploma conferring a dental degree, or license granted pursuant to the laws of this State; or who procures such diploma or license with intent that it shall be used as evidence of the right to practise dentistry by a person other than the one upon whom such diploma was conferred, or to whom such license was granted; or who with fraudulent intent alters such diploma or license, or uses or attempts to use the same when altered, shall be fined not less than one hundred dollars, nor more than two hundred dollars, or be imprisoned not less than thirty days nor more than sixty days, or both. A subsequent conviction shall be punished by the maximum penalties prescribed in this section.

SECTION 22. Whoever being a manager, proprietor, operator, or conductor of a place for performing dental operations employs a person who is not a licensed dentist to do dental operations as defined in section 18 of this act, or permits such person to so practise dentistry in his office; or whoever practises dentistry under a false name, or assumes a title, or appends or prefixes to his name, letters which falsely represent him as having a degree from a legal dental college; or who impersonates another at an examination held by the State Dental Board; or who knowingly makes a false application or a false representation in connection with such examination, shall be fined not less than one hundred dollars, nor more than two hundred dollars, or be imprisoned not less than thirty days nor more than sixty days, or both. A subsequent conviction shall be punished by the maximum penalties prescribed in this section.

SECTION 23. Whoever violates a provision of this act, for the violation of which no penalty has been prescribed, shall be fined not less than fifty dollars nor more than one hundred dollars or be imprisoned not less than ten days nor more than thirty days, or both. A subsequent conviction shall be punished by the maximum penalties prescribed in this act.

SECTION 24. All fines or forfeitures of bond in an action for violation of a provision of law relating to the practice of dentistry, shall be paid by the court receiving it, to the secretary of the State Dental Board.

SECTION 25. The secretary of the State Dental Board shall enforce the provisions of the laws relating to the practice of dentistry. The prosecuting attorney of a county, or the solicitor of a municipality, wherein a provision of this act is violated shall, when so requested by the secretary of the board, take charge of and conduct the prosecution.

SECTION 26. The State Dental Board shall make an annual report to the Governor, containing a statement of moneys received and disbursed, and a summary of its official acts during the preceding year.

SECTION 27. Sections 4404 and 6991 of the Revised Statutes are hereby repealed.

OKLAHOMA

1905, June 1, Session Laws, p. 210.

SECTIONS 1 and 2. Creation of Board, Meetings, etc.

SECTION 3. Any person twenty-one years old who may desire to begin the practice of dentistry in the Territory of Oklahoma shall file his name, together with an application, with the secretary of the board. At the time of making such application, he shall pay, to the secretary of the board, an application and examination fee of twenty-five dollars. He shall present himself at the next regular meeting thereafter of the board, to undergo an examination before that body. All persons shall be eligible to such examination. The examination shall be elementary and practical in character but sufficiently thorough to test the fitness of the candidate to practise dentistry. All persons successfully passing such examination shall be registered as licensed dentists in the board register, also in the office of the county clerk, as provided hereinbelow. He shall receive a certificate of registration, which certificate must be signed by a majority of the board. The provisions of this section shall not apply to residents of this territory who now hold valid and legal license to practise dentistry in this territory, and such persons shall not be required to submit to any further test or examination. The examination fee shall in no case be refunded; but in case the applicant fails in the first examination taken by him, he may take subsequent examinations for license to practise dentistry, the fee for such subsequent examinations shall be five dollars.

SECTION 4. Each recipient of said certificate of registration shall present the same for record to the county clerk in the county in which he resides and practises dentistry. The county clerk shall record the certificate in a book to be provided by him for that purpose. Any person so licensed, changing his residence from one county to another in this Territory, before engaging in the practice of dentistry in such other county, shall obtain from the county clerk of the county

in which his certificate of registration was originally recorded, a certified copy of such record, and shall before commencing to practise in such other county, file the same to be recorded with the county clerk of the county to which he removes. In case of failure, neglect, or refusal on the part of any person holding such certificate or copy of record to file the same for record, as above provided, within six months after the issuance thereof, such certificate or copy of record shall be deemed to be forfeited. For recording such certificate of registration or copies of records, the county clerk shall be entitled to a fee of fifty cents. For making and certifying a copy of any certificate, the county clerk shall be entitled to the fee of one dollar. The provisions of this section shall apply so far as applicable to all those who may have been admitted to practise dentistry under existing laws: *Provided*, Such persons shall have a period of six months after the taking effect of this law within which to comply with its provisions.

SECTION 5. Any person who shall practise or attempt to practise dentistry, or who shall hold himself out as a practitioner of dentistry within the territory of Oklahoma, without having complied in every respect with all the provisions of this law, or any person who shall violate any of the provisions of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof may be fined not less than fifty dollars nor more than two hundred dollars, or be imprisoned in the county jail not less than one month, nor more than three months, or may be punished by both such fine and imprisonment; and all fines collected under the provisions of this act, shall be paid into the county treasury of the county where the offence was committed and shall be credited to the common school fund of such county: *Provided, however*, That nothing in this act shall be taken to probihit legally authorized physicians and surgeons within the Territory of Oklahoma from extracting teeth.

SECTION 6. Whenever it is found that for any reason a certificate of registration has been granted by the board to a person who under the terms and provisions of this act was not entitled to the same, the board shall have the power to

summon said person as before it and hear evidence and make inquiry as to whether said certificate was rightfully issued or not, and if upon due inquiry it shall find that such certificate was not rightfully issued as contemplated by this act, then the board shall revoke and cancel the license to practise dentistry and the certificate of registration. After such revocation and cancellation, if such person practises, or attempts to practise or holds himself out to practise dentistry within the territory of Oklahoma, he shall be subject to the penalties prescribed by Section 5 of this act.

SECTION 7. Out of the funds coming into the possession of the board, each member of the board shall receive as compensation the sum of five dollars per day for each day actually engaged in conducting examinations referred to in this act and matters connected therewith, and in addition shall be entitled to a mileage at the rate of three cents per mile for all distances necessarily travelled in going to and coming from meetings of said board and shall be entitled as well to the legitimate expenses incurred by him while going to and from and attending meetings of the board. No part of said compensation, mileage, or expenses shall be paid out of the territorial treasury. All moneys received in excess of the compensation, mileage, and expenses above provided for shall be held by the secretary of the board as a special fund for meeting the expenses of the board and carrying out the provisions of this act. The secretary and treasurer shall give such bonds as the board shall from time to time direct. The board shall make an annual report of its proceedings to the Governor of the territory not later than the fifteenth day of December of each year, which report shall contain an account of all moneys received and disbursed by them pursuant to this act.

SECTION 8. Every person lawfully engaged in the practice of dentistry in the Territory of Oklahoma at the time that this law shall take effect, shall, within sixty days from that time, re-register with the secretary of the board and pay an annual license fee of one dollar, and the secretary shall issue an annual license certificate to each person so registered.

Any person failing to comply with the provisions of this section within the period therein stated shall be subject to the penalties provided by Section 5 of this act.

SECTION 9. Each registered dentist shall each and every year pay to the Territorial Board of Dental Examiners the sum of one dollar as an annual license fee, this payment to be made prior to May 1 of each year. Upon default in the payment of this license fee by any person, his certificate may be revoked by the Board of Dental Examiners upon twenty days' notice to be given to such person of the time and place of the considering of such revocation; but no license shall be revoked for the non-payment of any license fee, if the person so notified shall pay the fee before or at the time of such consideration and further pay such penalty as may be imposed by the board, which penalty shall not exceed the sum of five dollars. The Territorial Board of Dental Examiners may collect all such annual license fees by suit.

SECTION 10. The county clerk of each county shall furnish annually before the first day of December of each year to the Territorial Board of Dental Examiners upon blanks to be provided by such board, a duplicate list of all certificates received and issued by him during the preceding year, and shall include therein the date and issue of said certificate and name, age, and residence of person receiving the same.

SECTION 11. Board may sue and be sued.

SECTION 12. Property of board.

SECTION 13. Repeal of Chapter 29 of the Revised Statutes of 1903.

OREGON

Lord's Oregon Laws, Vol. II, p. 1819.

L. 1899, p. 204, as amended by L. 1905, C. 111, p. 210, and L. 1909, C. 46 and 47.

SECTION 4774. Board of Dental Examiners.

SECTION 4775. Oath of members of board.

SECTION 4776. Officers of board, notice of meetings, quorum.

SECTION 4777. *Application for and Examination; Form of License.*—Any person desiring to practise dentistry in the State of Oregon after this act takes effect, shall file his or her name, together with an application for examination, with the secretary of the Board of Dental Examiners, and at the time of making such application, shall pay to the secretary of the board a fee of $25, and shall present himself or herself at the first regular meeting thereafter of said board, for examination as to his or her fitness therefor; and no person shall be eligible to practise the same unless he or she shall be shown to be of good moral character, and shall present to said board his or her diploma from some dental college in good standing, and shall give satisfactory evidence of his or her rightful possession of the same; provided that said board may admit to examination such other persons of good moral character as shall give satisfactory evidence of having been engaged in pupilage and in the practice of dentistry in the State of Oregon prior to the passage of this original act. No person shall be permitted to apply for examination who is not twenty-one years of age. All dental colleges which are members of the national association of dental faculties shall be deemed reputable and in good standing. Said examination shall be elementary and practical in character, but sufficiently thorough to test the fitness of the candidate to practise dentistry. It shall include written in the English language, questions on the following subjects: anatomy, physiology, chemistry, materia medica, therapeutics, metallurgy, pathology, operative and surgical dentistry, and also demonstrations of their skill in operative and mechanical dentistry. Said examination shall be conducted under oath or affirmation before said board, and either member of said board is empowered to administer the necessary oath or affirmation. All persons successfully passing such examinations shall be registered as licensed dentists in the board register, as hereinbefore provided, and also receive a certificate signed by the president and secretary of said board, in substantially the following form, to wit:

This is to certify that . . . . . is hereby licensed to

practise dentistry in the State of Oregon. This certificate must be filed for record in the office of the county recorder of any county in which the party holding such certificate desires to practise, and it is unlawful for him or her to practise dentistry in any county in which said certificate is not filed for record.

Dated at . . . . . this . . . . . day of . . . . . , 19 .

In addition to the license fee required of applicants, every licensed dentist shall pay, in each and every year, to the secretary of the board, the sum of $1.50 as a license fee for such year. Such payment shall be made prior to April 1 in each and every year and receipt or certificate given therefor by the secretary. It shall be the duty of every dentist to display said certificate or receipt in some conspicuous place in his office. In case of default in such payment by any dentist, his license shall be revoked by the board upon twenty days' notice being given to the delinquent of the time and place of considering such revocation, a registered letter addressed to the last known address of the party failing to comply with this requirement being sufficient notice. But no license shall be revoked for such non-payment if the dentist so notified shall pay, before or at the time of such consideration, the fee required and such penalty as may be imposed by said board, provided said penalty shall not exceed ten dollars: *Provided, further,* that said board may collect any such dues by law. All moneys received by the secretary from fees or penalties shall be disbursed by him in carrying out and maintaining the provisions of this act.

SECTION 4778. *Effect of Certificate; Filing; Loss of Certificate; Second Examination.*—The certificate in this act provided for shall entitle the holder thereof to practise dentistry in any county in the State of Oregon: *Provided,* Such certificate shall first be filed for record in the office of the county recorder in which such holder desires to practise, and nothing herein contained shall be construed to permit any holder of any certificate to practise in any county in this State unless such certificate shall have been first recorded in the office of the recorder of such county as herein provided: *Provided,*

further, That any such holder of a certificate may practise in more than one or any number of counties in this State on having such certificate recorded in each of such counties in which such holder desires to practise. Said Board of Dental Examiners shall upon satisfactory proof of the loss of any such certificate issued under the provisions of this act, issue a new certificate in place thereof. Any person failing to pass the first examination successfully may demand a second examination at a subsequent meeting of said board, and no fee shall be charged for said examination.

SECTION 4779. *Special Record Book, and Fee for Recording.*—The county recorder of each county is required to record in a special book, to be kept by him for that purpose, all certificates issued under the provisions of this act which may be presented to him for that purpose. After the record of any such certificate, such county recorder shall return the same with a certificate of its record to the party entitled to the same. Said county recorder shall receive for such filing and record a fee of $1.

SECTION 4780. *Penalty for Practising without Recording Certificate; Disposition of Fines.*—Any person who, as principal, agent, employer, employee, assistant, or in any manner whatever, shall practise dentistry, or who for reward or hire shall do any act of dentistry, without having filed for record and having recorded in the office of the county recorder of the county wherein he shall so practise or do such act a certificate from said Board of Dental Examiners entitling him to so practise, shall be guilty of a misdemeanor, and upon conviction shall be fined in any sum not less than $50 nor more than $200, or be confined for any period not exceeding six months in the county jail, for each and every offence. All fines recovered under this act shall be paid into the common school fund of the county in which conviction is had.

SECTION 4781. *Certificate of County Recorder; When Prima Facie Evidence against Accused.*—In any prosecution for misdemeanor under the provisions of this act the certificate of the county recorder of the county within which such

misdemeanor is alleged to have been committed, to the effect that there is no certificate of the Board of Dental Examiners of this State on file in such county recorder's office issued under the provisions of this act to the person accused of such misdemeanor, shall be sufficient proof, prima facie, that such person is not entitled to practise dentistry in such county.

SECTION 4782. *Certificate Fee; Board May Employ Counsel; Special Fund.*—In order to provide the means for carrying out and maintaining the provisions of this act, the said Board of Examiners shall charge such person applying to or appearing before them for examination for a certificate of qualification the fee hereinbefore provided for, which fee shall in no case be returned; and out of the funds coming into the possession of the board from the fees so charged, the sum of $5 for each day actually engaged in the duties of their office, and all legitimate and necessary expenses incurred in attending to the duties of said board, shall be paid to each member of said board. Said board may also pay out of said fund all expenses which may be reasonably incurred by them in carrying out and maintaining the provisions of this act. Said board may, if deemed best by them, with the consent of the prosecuting attorney of any county, employ and compensate out of said fund special counsel to assist in the prosecution in the courts of such county, and the supreme court, of any offence alleged to have been committed under the provisions of this act in such county. Said expenses shall be paid from the fees received by the board under the provisions of this act; and no part of the salary or expenses of said board shall ever be paid out of the State treasury. All moneys received from any source in excess of expenses and salaries as above provided for shall be held by the secretary of said board as a special fund for meeting the expenses of said board and carrying out the provisions of this act, and such uses for educational purposes as may be deemed wise by said board, he giving such bond as the board may from time to time direct; and said board shall make an annual report of its proceedings to the Governor, on or before the fifteenth day of November of each year, together with an

account of moneys received and disbursed by them pursuant to this act.

SECTION 4783. *Practising Dentistry; What Constitutes.*—Any person shall be considered to be practising dentistry within the meaning of this act who shall, for salary, reward, or commission, paid by an employer to him, or for fee, money, or commission paid either to himself, an employer, or any other person, directly or indirectly, for any operation or treatment, or any part of any operation or treatment, of any kind, of the human teeth, or tooth, jaws, or jaw, or of any disease or lesion of the human teeth, or tooth, jaws, or jaw or the malposition thereof, or drilling or filling, removing tartar from, cleaning or extracting human teeth, or tooth of any person. But nothing in this act contained shall be taken to apply to bona fide students of dentistry in pursuit of clinical advantages during the period of their dental enrolment in a dental college, and attendance upon a regular, uninterrupted course in such college, performed in such college building, nor to physicians in the regular discharge of their duties. Nor shall it apply to those who have been engaged in the actual practice of dentistry in the State of Oregon for the five years immediately preceding January 1, 1905, and upon proper proof by affidavits and other evidence being furnished that the applicant has been engaged in the actual practice of dentistry in the State of Oregon during all the term of five years immediately preceding January 1, 1905. It shall be the duty of the State Board of Dental Examiners to issue a license to the applicant upon the payment of the regular examination fee.

SECTION 4784. Prosecuting Attorney and Attorney General to Prosecute.

SECTION 4785. *Evidence of Practice of Dentistry.*—Whenever any person shall append the letters "D. D. S." or word "dentist" to his or her name, in any way, for advertising, or upon any door or sign, or cause either of the same to be done, the same shall be prima facie evidence that such person is engaged in the practice of dentistry and subject to the regulations and convictions and penalties of this act.

SECTION 4786. *Practitioners at the Time Not within the Act.*—The provisions of this act shall not apply to any person who shall be legally practising dentistry in this State at the time of the passage of this act.

PENNSYLVANIA

1907, May 7; P. L. 161.

SECTION 1. Dental Council of Pennsylvania. How Constituted. Rules, By-laws, etc.

SECTION 2. The dental council shall have power to grant licenses to practise dentistry in this commonwealth to any person who may be duly qualified under the provisions of this act.

Any person may present to the dental council a written application for a license to practise dentistry, together with a fee of twenty-five dollars, and with proof that he or she is not less than twenty-one years of age, is of good moral character, and has obtained a competent education, together with a diploma conferring upon him or her the degree of Doctor of Dental Surgery, or other established dental degree, from a reputable educational institution maintaining a three years' course in dentistry; thereupon the dental council may authorize the examination of such person by the State Board of Dental Examiners. Upon receiving from the Board of Dental Examiners a report of the examination for license of any applicant who shall have been returned as having successfully passed said examination, the dental council shall issue to the applicant a license to practise dentistry in the State of Pennsylvania. Every license to practise dentistry, issued pursuant to this act, shall be subscribed by the officers of the dental council and by each dental examiner who reported the applicant as having successfully passed an examination such as is provided by this act, and said license shall be sealed with the seal of the dental council of the commonwealth of Pennsylvania, and shall be recorded in a book to be kept in the office of the dental council, and the

number of book and page therein containing said record shall be noted upon said license. Upon the recommendation of the Board of Dental Examiners, the dental council may also issue a license, upon the payment of a fee of twenty-five dollars, to any person who is of good moral character, and who shall furnish proof that he or she has a license to practise dentistry granted by the dental council, or other lawfully constituted authority, of any other State or country, where the preliminary and professional education required by law is equal to that provided by the laws of this commonwealth.

The dental council may also license any applicant who has been in the actual, lawful practice of dentistry for not less than ten years, upon the report of the Board of Dental Examiners that, after due investigation or examination it finds his or her education and professional attainments and experience to be, together, fully equal to the requirements for license in this commonwealth. Every license issued, otherwise than as a result of a written examination, shall state the grounds upon which it is granted.

All fees provided by this act shall be payable to the dental council, and the same shall be disbursed by the dental council in payment of the expenses of the Board of Dental Examiners: *Provided,* that any surplus, unexpended at the end of any fiscal year, shall be apportioned among the dental examiners, in the proportion of the number of applicants for license respectively examined by each during said fiscal year.

SECTION 3. The Board of Dental Examiners of the commonwealth of Pennsylvania shall consist of six persons, whose term of office shall be for three years, from the first day of September of the year in which they may be appointed.

The Pennsylvania State Dental Society shall have power to nominate from its membership at least double the number of candidates required to fill the vacancies occurring annually in the office of dental examiner. Said candidates shall have been engaged in the actual practice of dentistry in this commonwealth during a period of not less than ten years. The Governor of this commonwealth shall have power to appoint

dental examiners to fill all vacancies occurring from any cause, only from the candidates nominated as aforesaid, no member of the faculty of a dental college shall be eligible to appointment as a member of the State Board of Dental Examiners. In the event of failure of the Pennsylvania State Dental Society to nominate candidates as aforesaid, the governor shall appoint members in good standing of the said society, without other restrictions. The governor shall have power to remove any examiner for continued neglect of duty, incompetency, or dishonorable conduct. The Board of Dental Examiners may make all necessary rules, regulations, and by-laws concerning the transaction of its business, subject to the approval of the dental council; and shall have power to require attendance of persons and papers, and take testimony concerning all matters within its jurisdiction, and the presiding officer of said board, or of any committee thereof, shall have power to issue subpenas and administer oaths.

SECTION 4. For the purpose of examining applicants for license, the State Board of Dental Examiners shall hold two stated meetings each and every year, to wit, one in June and one in December. The June meetings shall be held simultaneously in Philadelphia and Pittsburg. The December meetings shall be held simultaneously in Philadelphia and Pittsburg, or in the discretion of the board, may be held in Harrisburg.

Special meetings may be held, the time and the place to be fixed by said board. Due notice of all meetings shall be given. At stated and special meetings a majority of the board shall constitute a quorum thereof; but the examinations may be conducted by a committee of one or more of the examiners, duly authorized by the said board.

All candidates for examination for license to practise dentistry in the State of Pennsylvania shall be required to pass an examination by the State Board of Dental Examiners, upon the following subjects: (1) General anatomy and physiology; (2) special dental anatomy; (3) dental histology; (4) dental physiology; (5) chemistry and metallurgy; (6)

materia medica; (7) dental pathology, bacteriology, and therapeutics; (8) anesthesia; (9) oral surgery; (10) principles and practice of operative and prosthetic dentistry.

Said examination shall be conducted in writing, and shall embrace all the subjects named in this act. Each applicant shall also furnish to the Board of Dental Examiners satisfactory evidence of his or her proficiency in the manipulative procedures of dentistry, either by producing an example of his or her work, with proof of the execution of the same, or by a practical demonstration of his or her skill in the presence of the examiner. After each stated examination an official report, signed by the president and secretary and each acting member of the said Board of Dental Examiners, stating the examination average of each candidate in each branch, the general average, and the results of the examination, whether successful or unsuccessful, shall be transmitted to the dental council. The said report shall embrace all the examination papers, questions, and answers thereto. All such examination papers shall be filed by the dental council at Harrisburg, and kept for reference and inspection for a period of not less than five years.

SECTION 5. It shall be the duty of every person practising dentistry within this commonwealth to display, or cause to be displayed, his or her name, posted in a conspicuous place at or near the entrance to the office or place where he or she is practising dentistry. Any person practising dentistry within this commonwealth, within six months from the passage of this act, shall cause his or her license to be registered in the office of the prothonotary of the court of common pleas of the county in which such person shall practise dentistry, unless the same has already been registered in said county.

Any person who shall neglect to cause his or her license to be registered as herein provided shall be construed to be practising dentistry without a license: *Provided,* That this act shall not affect the right of any person to practise dentistry, who is entitled to do so under the provisions of an act of assembly in force, or who shall have conducted the actual,

lawful practice of dentistry in this commonwealth for five years continuously, preceding the passage of this act.

SECTION 6. It shall be unlawful for any person to employ any person as an operator in dental surgery, or practitioner in dentistry, for hire or reward, or to cause or permit any person to act as an operator in dental surgery or as a practitioner in dentistry, for hire or reward, who is not duly qualified and registered as a practitioner in dentistry, as provided by law. All persons shall be construed to be practising dentistry who shall be the owner, part owner, partner, shareholder, operator, manager, assistant, or in any other manner engaged in conducting any office, or other place for the purpose of performing dental operations, or treating, extracting, or filling human teeth or inserting artificial appliances or sets of artificial teeth, for hire or reward: *Provided*, That this act shall not prohibit any licensed dentist having any person as assistant or attendant, to perform any service other than extracting, filling, treating, or operating upon human teeth, or the taking of impressions for, and the insertion of artificial appliances in, the mouth.

SECTION 7. Nothing in this act shall be construed to prohibit physicians or surgeons, in the regular practice of their profession, from extracting teeth for the relief of pain, or making applications for such purpose; or shall prevent bona fide students of dentistry, in the regular course of their instruction, from operating upon patients at clinics, or under the immediate supervision and in the presence of their preceptor, who is in lawful practice: *Provided*, That no fee, salary, or other reward for such operation shall be paid to or received by any student of dentistry either directly or indirectly, under any circumstances. And nothing in this act shall be construed to prohibit the practice of dentistry, within this commonwealth, by any practitioner who shall have been duly registered in accordance with the laws of this commonwealth existing prior to the passage of this act.

SECTION 8. Any person who shall practise dentistry without being duly licensed or lawfully registered, or who shall practise dentistry or induce any person to practise

dentistry in violation of any of the provisions of this act, shall be guilty of a misdemeanor, and upon conviction, shall be punished by a fine not exceeding five hundred dollars, or by imprisonment not exceeding six months, or by both fine and imprisonment, at the discretion of the court.

RHODE ISLAND

General Laws, 1909, Chapter 181, p. 596.

SECTION 1 and 2. Board of Registration in Dentistry.

SECTION 3. It shall be the duty of every person engaged in the practice of dentistry in the State to cause his or her name and place of business to be registered with said board, who shall keep a book for that purpose; and persons so registering shall receive a certificate to that effect from the board.

SECTION 4. All persons who hereafter intend to enter the practice of dentistry in this State shall appear before said board and be examined with reference to their knowledge and skill in dentistry; and to such as pass a satisfactory examination, certificates to that effect, signed by the president and secretary of the board, shall be issued; and thereupon the names of such persons receiving certificates as aforesaid shall be registered with said board.

SECTION 5. Each person applying for an examination shall pay to said board, before examination, the sum of twenty dollars, which shall in no case be returned. In case of failure on the part of any person to pass a satisfactory examination, such person shall be entitled to a second examination before said board, at a subsequent meeting thereof, upon payment to the board of the sum of five dollars. The fees received for examination shall be applied to defray the expenses of the said board.

SECTION 6. All questions given to each person who takes the examinations shall be written or printed in ink, and the answer shall be written in ink. The said questions and answers shall be placed on file at least two years with said

board, and open to the inspection of any person or persons who are affected by such examination.

SECTION 7. Any person who shall practise or attempt to practise dentistry in this State without being registered with said board and obtaining a certificate as required by this chapter or who shall violate any of the provisions of this chapter, and any person or corporation owning or carrying on a dental business and in said business employing or permitting any person to practise dentistry in this State without being registered and obtaining a certificate as aforesaid, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than fifty dollars nor more than one hundred dollars for each and every offence; and the opening or maintaining of a dentist's office, displaying of a dentist's sign or door-plate, or the advertising of a readiness to practise dentistry in this State in the public prints, or by cards, circulars, posters, or in any other manner, by any such person, shall be evidence of such violation.

SECTION 8. Any person registered with said board in accordance with the provisions of this chapter, who shall be convicted of any crime, or who shall be found guilty, upon hearing before said board, of grossly immoral conduct, shall cease to have or exercise any rights or privileges hereunder, and said board forthwith, upon such conviction or finding, shall revoke and cancel his or her registration and certificate.

SECTION 9. Complaints for the violation of the provisions of this chapter may be made by any person, and if made by a member of said board, said member shall be exempt from giving surety for costs on any complaint made as aforesaid.

SECTION 10. Every practising dentist shall keep his certificate of license, or, in case it be lost, a duplicate thereof, posted in some conspicuous place or manner, so as to be in plain view of his patients; and every person, firm, or corporation owning or carrying on a dental business in any office, or other room or rooms, shall have, if a person, his or her full name, if a firm, the full names of the members thereof, and if a corporation, the full corporate name thereof, exhibited in plain readable letters in such office or other room or rooms.

Whoever violates any of the provisions of this section shall be fined not exceeding twenty dollars.

SECTION 11. Any person shall be regarded as practising dentistry within the meaning of this chapter, who shall treat or profess to treat any of the diseases or lesions of human teeth or jaws, or extract teeth, or shall prepare and fill cavities in human teeth, or correct the malposition of teeth, or supply and insert artificial teeth crowns or bridges as substitutes for natural teeth, or perform any operation on, or make examination of with the intent of performing or causing to be performed any operation on, the human teeth or jaws: *Provided,* That the treating of diseases of the mouth or performing operations in oral surgery by regularly licensed physicians and surgeons shall not be deemed to be the practice of dentistry within the meaning of this chapter.

SOUTH CAROLINA

South Carolina Code of 1902, Vol. I, p. 437.

SECTION 1127. No person shall hereafter enter upon the practice of dentistry in this State unless he shall have obtained a license from the Board of Dental Examiners in the State of South Carolina.

SECTION 1128. Board of Dental Examiners.

SECTION 1129. Meeting of board. (As amended 1911, February 7, p. 130.) The Board of Examiners shall meet annually at such time and place as they shall designate, giving thirty days' notice in the public newspapers, published in not less than three different places in the State, viz.: One in Charleston, one in Columbia, and one in Greenville, of such annual meeting; shall prescribe a course of reading for those who study dentistry under private instructions; shall grant licenses to all applicants who undergo a satisfactory examination; shall keep a book in which shall be registered all persons licensed to practise dentistry in the State of South Carolina. The expenses of said license shall be fifteen dollars, to be paid by said licensee.

SECTION 1130. The book so kept shall be a book of record, and a transcript from it, certified by the officer who has it in keeping, with the common seal, shall be evidence in any Court of the State.

SECTION 1131. Quorum.

SECTION 1132. One member of said board may grant a license to an applicant to practise until the next regular meeting of the board, when he shall report the fact, at which time the temporary license shall expire; but such temporary license shall not be granted by a member of the board after the board has rejected the applicant.

SECTION 1133. Every dentist in this State shall keep a record of all cases treated in his practice, in accordance with a form to be designated by the South Carolina State Dental Association, and furnish his patient with a copy of the same, if so desired by the patient.

Criminal Code, section 301, Vol. II.

Any person who, for fee or reward, shall practise dentistry in violation of the laws of this State regulating the practice thereof, shall be liable to indictment, and on conviction shall be fined not less than fifty nor more than three hundred dollars, or be imprisoned at hard labor on the county chain gang for a period of not less than one month nor more than twelve months: *Provided*, That nothing in this section shall be construed as to prevent any person from extracting teeth. All fines collected shall enure to the educational fund of the county where the offender resides.

SOUTH DAKOTA

1909, Laws of South Dakota, Chapter 4, p. 3.

SECTION 1. It shall not be lawful for any person to practise dentistry in this State without having a license so to do from the Board of Dental Examiners.

SECTION 2. Board of Dental Examiners.

SECTION 3. Power to make rules. Officers. Records.

SECTION 4. It shall be the duty of each person licensed by the board to practise dentistry in this State to procure from the secretary of the board, on or before July 1st, annually, a certificate of registration. Such certificate shall be issued by the secretary upon the payment of a fee to be fixed by the board, not exceeding the sum of two dollars. All certificates so issued shall be prima facie evidence of the right of the holder to practise dentistry in this State, during the time for which they were issued. Any certificate or license granted by the board may be revoked by it upon conviction of the party holding it of a violation of any of the provisions of this act. Every person receiving such certificate shall conspicuously expose the same in his place of business.

SECTION 5. A person not already a registered dentist in this State, desiring to practise dentistry therein, shall apply to the secretary of the board for examination, and pay a fee of twenty-five dollars, which in no case shall be refunded. At the next regular meeting he shall present himself for examination and produce his diploma from some dental college of good standing of which standing the board shall be the judges, or furnish to the board satisfactory evidence that he has been engaged in the active practice of dentistry for at least five years immediately preceding such examination. The board shall give the applicant such an elementary examination as to thoroughly test his fitness for the practice and include therein the subjects of anatomy, physiology, chemistry, materia medica, therapeutics, metallurgy, histology, pathology, and operative, surgical, and mechanical dentistry; and the applicant shall be required to demonstrate his skill in operative and mechanical dentistry. If the applicant successfully passes the examination, he shall be registered by the board as a licensed dentist, and supplied with a certificate of registration signed by all members of the Board of Dental Examiners.

SECTION 6. Any person shall be said to be practising dentistry within the meaning of this act, who shall hold himself out before the public as practising dentistry by

equipping an office, advertising or permitting 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 jaws, or replace lost teeth by artificial ones, or attempt to correct malpositions 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. The foregoing provisions of this section shall not apply to students enrolled in and regularly attending any dental college, who perform acts of dentistry in the pursuit of clinical advantages under the direct supervision of a preceptor or a licensed dentist, during the period of their enrolment; and the provisions of this act shall not prevent any legally licensed resident physician or surgeon from extracting teeth or to prevent any person from using any domestic remedy for relief of pain.

SECTION 7. Officers' Meeting; Compensation; Report.

SECTION 8. Any person violating any of the provisions of this act is guilty of a misdemeanor and upon conviction, for the first offence, shall be punished by a fine not to exceed one hundred dollars, or less than fifty dollars, or by imprisonment in the county jail not to exceed thirty days, or by both fine and imprisonment. For the second offence, the punishment shall be a fine of three hundred dollars and thirty days' imprisonment in the county jail. For the third offence, the punishment shall be a fine of five hundred dollars and ninety days in the county jail.

SECTION 9. Any person who shall knowingly or falsely claim or pretend to have or hold a certificate of registration, diploma, or decree granted by a society or by the Board of Dental Examiners, 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, is guilty of a misdemeanor, and upon conviction is punishable as provided in section 8 of this act.

SECTION 10. Any person who shall be licensed under the provisions of this article and who shall practise dentistry under a false name with intent to deceive, shall be liable to have his license revoked upon twenty days' notice of such proposed revocation and of the time and place of considering such revocation by the State Board of Dental Examiners. Any person who after the revocation of his license, continues to practise dentistry in this State is guilty of a misdemeanor and upon conviction thereof is punishable as provided in section 8 of this act.

SECTION 11. Sections 285 to 296 inclusive, contained in Article 10 of the Revised Political Code of 1903, together with all acts amendatory thereto and all acts and parts of acts conflicting with the provisions of this act are hereby repealed.

TENNESSEE

1907, April 11, Acts, p. 1135.

SECTION 1. Repeal of act of 1891, March 25, Chap. 108.

SECTION 2. It shall be unlawful for any person to practise or attempt to practise dentistry or dental surgery in the State of Tennessee without first having complied with the requirements of section 6 hereof as hereinafter set out, or for any person to practise or attempt to practise dentistry or dental surgery in this State whose license or certificate shall have been revoked as provided in section 8 hereof: *Provided*, That nothing in this section of this act shall apply to any person engaged in the practice of dentistry or dental surgery in the State at the time of the passage of this amended act, except as hereinafter provided: *Provided, further*, That nothing in this act shall be so construed as to prevent physicians, surgeons, or other persons from extracting teeth.

SECTIONS 3 to 5. Board of Examiners; Terms; Record.

SECTION 6. That any person desiring to commence the practice of dentistry or dental surgery within this State after the passage of this act and before commencing such practice shall present to said board his or her diploma from some

reputable school or college of dentistry or a duly authenticated copy thereof, the sufficiency and validity of which said board shall have the power to determine, and upon undergoing a satisfactory examination by said board, said board shall issue to such person a certificate, duly signed by all or a majority of said board, and which certificate shall entitle the person to whom it is issued to all the rights and privileges set forth in this act; that any dentist who has been in legal practice for five years or more and is a reputable dentist of good moral character and who is desirous of making change of residence to this State may apply to the Examining Board of the State in which he is registered (provided such State requires diplomas and examination for registration) for a certificate of recommendation, which shall attest to his moral and professional character; and such certificate if granted, shall be deposited with the examining board of this State, in which he proposes to reside, and the State board in exchange therefor may grant him a license to practise dentistry upon his paying to said secretary and treasurer of said board the fee hereinafter required. The Board of Dental Examiners shall give a report to each applicant who has been examined by said board, stating his grade in each branch of study upon which he has been examined.

SECTION 7. That to provide for the proper and efficient enforcement of this said board of examiners shall be entitled to a fee of ten dollars for each application for examination and certificate of registration. Such fee shall accompany such application, and shall be non-returnable, unless the applicant shall be unavoidably prevented from presenting himself for examination to said board, and also a fee of ten dollars for each certificate issued to any dentist upon credentials coming from another State as provided for in Section 6 of this act.

SECTION 8. That the board shall have the right to review the evidence upon which a license has been obtained; and if obtained by fraud, collusion, or perjury, said board shall revoke such license. The board may also revoke or suspend any license or certificate for any of the following causes:

1. Conviction of felony.
2. For habitual drunkenness or confirmed drug habit.

Or for the advertisement of dental methods or specialties in which untruthful, improbable, or impossible statements are made.

SECTION 9. Compensation of Board; Disposition of Fines.

SECTION 10. That any person who shall violate this act by practising or attempting to practise dentistry or dental surgery within the State without first complying with the provisions of this act shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined in a sum not less than twenty-five nor more than three hundred dollars, and the grand juries of this State are given power to inquire into any and all violations of this act, and to subject any and all offenders against the provisions of this act to trial by either presentment or indictment and the circuit and criminal judges of this State are hereby required to give the substance of this act in their charges to grand juries.

TEXAS

1905, General Laws, p. 143.

SECTION 1. It shall be unlawful for any person to practise or attempt to practise dentistry or dental surgery in the State of Texas without having first obtained a certificate from the State Board of Dental Examiners: *Provided*, That physicians and surgeons may, in the regular practice of their profession, extract teeth or make application for the relief of pain; *Provided, further*, That nothing in this act shall apply to any person legally engaged in the practice of dentistry or dental surgery in this State, at the time of the passage of this act.

SECTION 2. It shall be unlawful for any person or persons to extract teeth or perform any other operation pertaining to dentistry for pay or for the purpose of advertising, exhibiting or selling any medicine or instrument or business of any kind or description whatsoever, unless such person or persons shall first have complied with the provisions of this title.

SECTIONS 3 to 6. Creation of Dental Board; Rules; Duties, etc.

SECTION 7. Any person desiring to commence the practice of dentistry or dental surgery within this State after the passage of this act, shall before commencing such practice make application to said board, and upon undergoing a satisfactory examination before said board, shall be entitled to a certificate from said board granting such person the right to practise dentistry or dental surgery within this State.

SECTION 8. Any member of said board may, when the board is not in session, grant a license to practise dentistry to any person whom such member finds on examination to be qualified, on the payment of two dollars by such person. A license so granted shall be valid until the next meeting of the board but no longer. Each member shall make a report of license so granted by him, at the meeting of the board following the granting of the license. A member shall not grant a license under the provision of this Article to one who has been rejected by the board as disqualified.

SECTION 9. Every person to whom license is issued by said board of examiners shall within thirty days of the date thereof, present the same to the clerk of the county in which he or she resides or expects to practise, who shall officially record said license in his office book provided for that purpose and shall be entitled to a fee of fifty cents for his services.

SECTION 10. Said board shall have power, when it shall be made to appear to said board by satisfactory evidence from credible witnesses that any person who has been granted a certificate to practise dentistry or dental surgery, has been convicted of a felony or who has been guilty of any fraudulent or dishonorable conduct or malpractice, or such conduct involving fraudulent or dishonorable conduct or malpractice, to revoke his or her license to practise dentistry or dental surgery in this State: *Provided*, That the license of no person shall be so revoked by said board without first notifying such person of the charges preferred against him or her and citing him or her to appear before said board upon some day certain at a regular meeting of said board: *Provided, further*, That

no charge shall be considered against any person unless the same shall have first been made in writing and subscribed and sworn to by some credible person and filed with the secretary of said board, who shall furnish a copy of the same to the party so accused at least ten days before the meeting of the board at which the same is to be considered.

SECTION 11. To provide for the proper and effective enforcement of this act, said board of examiners shall be entitled to a fee of twenty-five dollars from each applicant examined, which said sum shall accompany the application and which sum shall in no event be refunded to the person examined.

SECTION 12. Compensation of Board; Disposition of Money Received.

SECTION 13. Any person who shall violate this act by practising or attempting to practise dentistry or dental surgery within this State without first complying with the provisions of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in a sum of not less than twenty-five nor more than three hundred dollars for each and every offence, each day in the practice constituting an offence. All fines collected from prosecutions under this law shall be appropriated to the common school funds in the county where collected.

SECTION 14. Any person or persons who shall violate this act by extracting teeth, or performing any other operation pertaining to dentistry for the purpose of advertising, exhibiting, or selling any medicine, instrument, or business of any kind or description, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum of not less than twenty-five nor more than three hundred dollars for each and every offence.

SECTION 15. All laws and parts of laws in conflict with the provisions of this act are hereby repealed.

SECTION 16. The near approach of the end of the session, the crowded condition of the docket, the great importance to the people for an amendment to the dental law, creates an emergency and imperative public necessity requiring the

rule requiring bills to be read on three several days be suspended, and that this bill be in force from and after its passage, and it is so enacted.

UTAH

1909, March 11, Laws of Utah, p. 35.

SECTIONS 1 to 7. Board of Dental Examiners Created; Compensation; Term of Office; Qualifications of Members; Organization; Bond; Meetings; Quorum; By-laws, Rules, and Regulations.

SECTION 8. It shall be unlawful for any person to practise dentistry without having been licensed so to do by the State Board of Dental Examiners, and without having complied with the provisions of this act: *Provided, however,* That this section shall not annul any license heretofore granted by the Board of Dental Examiners hitherto existing, if, at the time this act takes effect, or within sixty days thereafter, such license, or certified copy thereof, shall have been filed with the county clerk as hereinafter provided.

SECTION 9. Any and all persons shall be held to be practising dentistry, within the meaning of this act, who, for a fee, salary, or reward, paid or to be paid, directly or indirectly, either to himself or any other person, performs operations of any kind upon, or treats lesions of the human teeth or jaws or corrects or attempts to correct malimposed positions thereof, or who is manager, proprietor, conductor, or operator of a place for the performance of dental operations; or who displays a sign or in any way advertises himself as a dentist; and proof of any such facts shall be taken and considered, in the trial of any action for the violation of any of the provisions of this act, as prima facie evidence of such violation. But nothing in this act shall prohibit an unlicensed person from extracting teeth, or from performing merely mechanical work on inert matter in a dental office or laboratory; or the student of a licentiate from assisting his preceptor in dental operations, while in the presence of, and

under the personal supervision of his instructor; or a duly licensed physician or surgeon from treating diseases of the mouth, or performing operations in oral surgery, unless he practises dentistry as a specialty; or a dental surgeon of the United States army or navy from practising dentistry in the performance of his duties; or a legal practitioner of dentistry of another State from making clinical demonstrations before a dental society, convention, association of dentists, or a dental college.

SECTION 10. Any person who desires to practise dentistry in this State, shall file with the secretary of the board a written application for a license and furnish satisfactory evidence that he or she is at least twenty-one years of age, of good moral character, and that he or she is a graduate of a reputable dental college, recognized by the National Association of Dental Examiners, or has practised dentistry for at least two years, or has been a bona fide student of dentistry for at least three years, or has been under the immediate supervision of a reputable licensed dentist for at least three years, and at the first meeting of the board thereafter he or she shall appear before the board and pass a satisfactory examination in the English language in the following subjects: the branches of a common school education if required by the board; anatomy, physiology, chemistry, materia medica, therapeutics, metallurgy, histology, pathology, bacteriology; operative, surgical, and mechanical dentistry; also demonstrations in operative and mechanical dentistry, if required by the board.

SECTION 11. If the examination proves satisfactory to the board it shall issue a license to the person examined, which shall be signed by the president and the secretary and the other members of the board, and have the official seal of the board affixed thereto.

SECTION 12. The secretary shall, upon the recommendation of any three members of the board, grant to any applicant for a license a temporary license to practise dentistry until the next meeting of the board, at which the applicant is required to present himself for examination, at which time

such license shall expire. Such temporary license shall not be granted to any person who has been rejected by the board.

SECTION 13. Within sixty days after this act takes effect, but not thereafter, the board may issue a license without such examination to any person who furnishes satisfactory proof that at the time this act takes effect, he or she was legally engaged in the practice of dentistry in this State.

SECTION 14. The board may in its discretion, issue a license, without examination, to any applicant who furnishes satisfactory proof that he is a graduate from a reputable dental college and holds a license from a dental board of any other State, Territory, or district of the United States, under requirements equal to those of this State, or who for five consecutive years next prior to filing his application has been in the legal and reputable practice of dentistry in any other State, Territory, or district of the United States and holds a license from a similar dental board thereof, if in either case the laws of such State, Territory, or district accord equal rights to a licensed dentist of this State, who removes, or resides and desires to practise his profession in such State, Territory, or district. No license shall be issued under this section unless authorized by an affirmative vote of a majority of the members of the board.

SECTION 15. Any reputable dentist of good moral character who, having been in the legal practice of dentistry in this State for five years or more, desires to change his residence into another State, Territory, or district of the United States may apply to the board for, and said board may grant to him, a certificate attesting his moral character and professional attainments.

SECTION 16. Every person who receives a license from the board, shall within thirty days thereafter cause a copy of such license, certified by the secretary, to be filed with the clerk of the county in which such person resides, and if he engages in the practice of dentistry in any other county or counties, he shall also file a certified copy thereof with the clerk of each such counties. The original license, or a certi-

fied copy thereof, shall also be conspicuously displayed in his office. A violation of any of the provisions of this section shall work a forfeiture of such license, which shall not be reinstated except upon payment to the board of the sum of $25 as a penalty for such violation.

SECTION 17. It shall be the duty of the county clerk of each county within the State, to make and file, with the secretary of the board, on or before the first day of January of each year, a list of all licenses filed with such clerk during the preceding year.

SECTION 18. The board may revoke the license of any dentist:

1. If he be convicted of a felony, or a misdemeanor involving moral turpitude; in which case, the record of conviction, or a certified copy thereof, certified by the judge or clerk of the court in which the conviction is had, shall be conclusive evidence.

2. If he be guilty of unprofessional conduct, such as obtaining any fee by fraud or misrepresentation, or by employing, directly or indirectly, any student, or any unlicensed dentist, or one whose license has been revoked, to perform operations of any kind, or to treat lesions of the human teeth, or jaws, or correct malimposed positions thereof, except as hereinbefore provided; or employs what are known as cappers or steerers to obtain business; or wilfully betrays professional secrets; or advertises his dental business or treatment or devices by untruthful, improbable, or impossible statements.

3. If he uses intoxicants or drugs to such an extent as to render him unfit to practise dentistry.

4. If he maltreats his patients by reason of gross ignorance, wilfulness or neglect.

5. If he be guilty of gross immorality.

6. If he wilfully violate any of the provisions of this act.

SECTION 19. No action to revoke a license shall be taken until the accused has been furnished a statement of the charges against him and notice of the time and place of hearing thereof. The accused may be present at the hearing in person, by counsel, or by both.

The statement of charges and notice may be served personally upon the accused, or mailed to him at his last known address, at least twenty days prior to the hearing. If upon such hearing the board find the charges to be true, it may revoke his license, and all rights and privileges thereunder shall cease. When a license is revoked the secretary shall certify the revocation to the clerk of the county or counties with whom the accused shall have filed his license, or certified copy thereof; the board may, for good cause shown, reinstate any license so revoked and in the case of reinstatement of the license the secretary shall certify such reinstatement to said clerk. The right of appeal from the action of the board in revoking the license of any dentist is hereby granted. Such appeal shall be to the district court of the county in which such dentist is practising, and must be taken within thirty days after notice of the action of the board in revoking such license. The appeal is perfected upon filing notice of appeal, together with an undertaking in the sum of $100 with two sureties, conditioned that if the action of the board in revoking the license be affirmed by the district court, the dentist will pay the cost of the appeal and the action in the district court. Such undertakings shall be approved by the president of the board. In lieu of the undertaking, the dentist may deposit $100 with the treasurer of the board.

SECTION 20. *Guilty of Misdemeanor; When.*—Every person is guilty of a misdemeanor, who,

1. Practises dentistry, within this State, without a license.

2. Continues to practise dentistry after his license has been revoked by the board.

3. Practises dentistry under a false or assumed name, with intent to deceive.

4. Falsely pretends to be a graduate of any dental college.

5. With others, practises dentistry, under any title or name, corporate, or otherwise without causing to be displayed and kept in a conspicuous manner and place at the entrance of his place of business, his own and the name of every person employed therein in the practice of dentistry; together with the word mechanic or apprentice after the name of each unlicensed person employed.

6. Fails to furnish to said board, within ten days after demand made by the secretary, the name and address of every person practising or assisting in the practice of dentistry in his office at any time within sixty days prior to said demand, together with a sworn statement showing under and by what license or authority said person or employee has been practising dentistry; provided said statement shall not be used as evidence against the person who has made the same in any prosecution for the violation of any of the provisions of this section.

7. Impersonates another at any examination held by the board.

8. Procures a license with intent that it shall be used as evidence of the right to practise dentistry by a person other than the one to whom such license is issued.

9. Permits a license issued to another as authority of the user to practise dentistry.

10. Uses a license issued to another as authority of the user to practise dentistry.

11. Violates any of the provisions of this act.

SECTION 21. The secretary shall collect in advance and pay over to the treasurer, for the use of the board, the following fees:

For filing an application for license and examination the sum of $20, no part of which shall be returned: *Provided, however,* If the applicant shall fail to pass a successful examination, he may, within six months thereafter again apply for examination without the payment of an additional fee:

For issuance of a license, $5.

For certified copy of license, $2.50.

For issuance of license without examination, $25.

For certified transcript, per folio, 25 cents.

For certificate of character and attainments, $5.

For each other certificate under seal, 50 cents.

SECTION 22. Every licensed dentist practising within this State, shall pay to the treasurer of the board an annual license fee of $1, payable on or before the first day of January, in each and every year, except the year in which his license

is issued to him. In case any person defaults in paying said annual license fee, his license may be revoked on thirty days' notice in writing from the secretary, unless within said time fee is paid, together with such penalty, not exceeding $10, as the board may impose: *Provided*, The board may reduce or remit such fee for any year, but such reduction or remission must be made alike to all liable to pay the same.

SECTION 23. *Board or Member May Make Complaint.*— The board or any member or officer thereof may make a complaint for the violation of any of the provisions of this act; and the board, by its officers, counsel, and agents may aid in presenting the law or facts in any proceeding taken thereon; an injunction shall lie at the suit of the board to restrain any unlicensed person, or one whose license has been revoked from practising dentistry in this State.

VERMONT

1904, November 29, act No. 135, p. 178.

SECTIONS 1 and 2. Board of Dental Examiners Created. Meetings.

SECTION 3. Upon the payment of a fee of twenty-five dollars, the Board of Dental Examiners shall, at its meetings, examine applications and grant licenses to such applicants as they shall find qualified. An applicant who fails to pass a satisfactory examination shall be entitled to a reëxamination at any future meeting of the board without fee, but for any subsequent examination a fee of five dollars shall be paid.

SECTION 4. Compensation of board.

SECTION 5. If any person without a license practises dentistry he shall be punished by a fine of not more than one hundred dollars and not less than twenty-five dollars. But this section shall not apply to extracting teeth.

SECTION 6. The Board of Dental Examiners shall keep a book in which it shall enter the name of each person licensed as provided for by this act.

SECTION 7. A person who receives a license from the Board of Dental Examiners shall, within thirty days from

the date thereof, cause it to be recorded in the office of the Secretary of State, who shall be entitled to a fee of fifty cents for recording the same.

SECTION 8. If a person does not cause his license to be recorded within the time required by the preceding section, he shall forfeit the same, and shall not be relicensed until he has paid the board a fee of twenty-five collars.

SECTION 9. The Board of Dental Examiners may without examination issue a license to practise to any dentist who shall have been in legal practice in some other State or Territory for a period of at least five years, upon the certificate of the Board of Dental Examiners or a like board of the State or Territory in which such dentist was a practitioner certifying his competency and that he is of good moral character; and upon the payment of twenty-five dollars.

SECTION 10. Any duly licensed dentist of this State who is desirous of changing his residence to that of another State shall upon application to the Board of Dental Examiners receive a certificate which shall attest that he is a duly licensed dentist in the State of Vermont. The same shall be given without fee.

SECTION 11. Duties of treasurer of the board.

SECTION 12. Chapter 191 of the Vermont Statutes and all amendments thereto are hereby repealed.

VIRGINIA

Code of Virginia, Vol. I, p. 933.

SECTION 1767. *Who May Practise Dentistry.*—From and after the passage of this act it shall be unlawful for any person to engage in the practice of dentistry in the Commonwealth of Virginia or to assist in the practice of dentistry for compensation as either assistant or employee, or to receive license from any commissioner of the revenue unless such person shall have obtained a certificate from the board of examiners, as provided in section seventeen hundred and sixty-nine of this chapter, as herein amended and re-enacted:

Provided, That persons who held license to practise dentistry in this commonwealth on the twenty-eighth day of January, eighteen hundred and ninety, or who have been authorized and empowered to practise dentistry under any special enabling act of the General Assembly passed prior to the tenth day of July, nineteen hundred and two, and have complied with the requirements of section seventeen hundred and seventy-four, as herein amended and re-enacted, shall be otherwise exempt from the provisions of this section: *Provided, further,* That nothing contained in this section shall prevent any authorized physician or surgeon from extracting teeth, or any other person from extracting teeth for anyone suffering from toothache, or to prevent a bona fide student in regular attendance upon any dental college in this State from practising dentistry, under the direct supervision of one of its teachers, in the regular infirmary of such college. (As amended 1910, February 25; Chap. 45, p. 61.)

SECTION 1768. *Board of Examiners; Their Appointment and Terms.*—The board of examiners shall consist of six practitioners of dentistry, of acknowledged ability in the profession, to be appointed by the governor. The board shall continue to be divided into three classes with two members each, one of which classes shall go out of office each succeeding year; and the governor shall annually appoint the successors of each class, as it goes out, for the term of three years. He shall make the appointments in each case from four persons who shall be nominated by the Virginia State Dental Association and reside in different sections of the State. All vacancies for unexpired terms shall be filled by the Governor on nominations made by the board. If no nominations be made by the said association or board, as the case may be, or the nominations made be not approved by the Governor, he shall appoint such persons as he may deem fit.

SECTION 1769. *Their Duties and Powers.*—It shall be the duty of this board:

First. Meetings.—To meet annually at the time and place of meeting of the Virginia State Dental Association, or at such other time and place as the board shall agree upon, to

conduct the examination of applicants. They shall also meet for the same purpose at the call of any four members of the board at such time and place as may be designated by said members. Thirty days' notice of the meetings shall be given by advertising in at least two of the daily papers published in the State.

Second. Examination of Applicants, et cetera.—To grant a certificate of ability to practise dentistry to all applicants who undergo a satisfactory examination and receive at least four affirmative votes, which certificate shall be signed by the members of the board and be stamped with a suitable seal (which they may adopt).

Third. Registry.—To keep a book in which shall be registered the name and qualification (as far as practicable) of every person to whom such certificate is granted.

Fourth. Temporary certificates.—Any member of the board designated by the president thereof may, upon presentation by any applicant of the evidence of the necessary qualifications to practise dentistry under this chapter, grant a temporary license to practise until the next meeting of the board and no longer: *Provided*, That no such temporary license shall be granted to any person who has been rejected on an examination by the board. All such temporary licenses shall be signed by the president and secretary of the board. (As amended 1906, March 12; Chap. 154, p. 239.)

SECTION 1770. *Transcripts from Record Book; Evidence.*—The book so kept shall be a book of record, and transcripts from it, certified by the officer who has it in keeping, with the seal of the board affixed, shall be evidence in any court of this State.

SECTION 1771. *Quorum.*—Four members of the board shall constitute a quorum; and should a quorum not be present on any day appointed for their meeting, those present may adjourn from time to time until a quorum be present.

SECTION 1772. *Penalties.*—Any person who shall in violation of this chapter practise dentistry in this State shall on conviction thereof be fined not less than fifty nor more than two hundred dollars, and shall not be entitled to any fee for

services rendered; and if a fee shall have been paid the patient may recover back the same. On the trial of any person charged with violation of any of the provisions of this chapter it shall be incumbent on the defendant to show that he has authority under the law to practise dentistry in this State in order to relieve himself from the penalties herein prescribed. Any commissioner of the revenue who shall in violation of section seventeen hundred and sixty-seven issue a license to any person not authorized to practise dentistry by this chapter shall upon conviction thereof be fined not less than twenty nor more than fifty dollars, and no license issued by any commissioner in violation of this chapter shall be valid.

SECTION 1773. *Disposition of Fines.*—(Repealed, 1902–3–4, p. 753, having been previously amended, 1885–6, p. 230.)

SECTION 1774. *Dentists Required to Register.*—Every person practising dentistry in the Commonwealth of Virginia, at the time of the passage of this act, shall annually register his name and post-office address with the Board of Examiners before renewing his license, and it shall be the duty of the board to issue to each person so registered a certificate of registration stamped with the seal of the board, and signed by its secretary. Such person so registered may continue such practice without incurring any of the liabilities imposed by this chapter by annually causing his name and residence or place of business to be registered by such board, who shall keep a book for that purpose. Such registration may be made by furnishing proof of the fact of being then so engaged in the manner prescribed by law. All persons holding a certificate of ability from said board shall annually register in like manner. A certified list of the persons registered from each city or county shall be furnished the clerk thereof, except that in the city of Richmond such list shall be furnished the clerk of the chancery court of said city, and the names on such lists shall be at once recorded by such clerk in a book to be kept for that purpose, for which he shall receive a fee of fifty cents for each certificate of the persons so recorded to be paid by said board. Every person who, prior to the passage of

this act, was duly authorized by said board to practise dentistry in this State, and whose certificate is duly recorded as herein prescribed, shall be allowed to practise. But no license to practise dentistry shall be issued by any commissioner of the revenue to any person whose name is not so recorded in the clerk's office of the city or county, as herein prescribed, and any person who shall engage in the practice of dentistry and fail to register annually, as herein provided, shall, after ninety days' notice in writing from said board of such neglect, be liable to the penalties prescribed in section seventeen hundred and seventy-two of this chapter. (As amended 1906, March 12; Chap. 154, p. 239.)

SECTION 1775. *Fees from Applicants and Registration.*—Said board shall charge each person who appears before them for examination a fee of ten dollars, and shall charge for each person registering one dollar. From the funds so received, all proper and reasonable expenses of the board, and each of its members, incurred in carrying out, maintaining and enforcing the provisions of this chapter, may be paid. No part of such expenses shall be paid out of the State treasury. Any excess of receipts over disbursements shall be held by the board to meet future expenses of the board and members. The secretary of the board shall have custody of its funds and may be required to give a bond in such terms as the board may direct. An annual report of the proceedings of the board, containing an account of all moneys received and disbursed, pursuant to this chapter, shall be made to the Governor on the first day of February of each year. (As amended 1906, March 12; Chap. 154, p. 241.)

1910, March 14, Acts of Assembly, p. 267.

Recognizing that dentistry is a specialty of medicine and surgery; therefore:

SECTION 1. Be it enacted by the General Assembly of Virginia, That after this act goes into effect it shall be unlawful for any person to engage in the practice of this specialty for compensation as either assistant or employee or to receive a license from any commissioner of the revenue to practise

this specialty except he shall have passed the examinations provided for by this act and received the certificates herein provided, and any person practising this specialty in this State without having passed examinations and received certificates as herein provided shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than one hundred dollars nor more than two hundred and fifty dollars for the first offence, and for the second offence a fine of not less than five hundred dollars, or imprisonment of from three to twelve months in jail, or both, in the discretion of the jury. Nor shall such person receive any compensation for services rendered by him; provided that nothing contained in this section shall prevent any authorized physician or surgeon from extracting teeth, or any other person from extracting teeth for anyone suffering from toothache, or to prevent a bona fide student in regular attendance upon any dental college in this State from practising dentistry under the direct supervision of one of its teachers in the regular infirmary of such college.

On the trial of any person charged with violation of any of the provisions of this act it shall be incumbent on the defendant to show that he has authority under the law to practise this specialty in this State in order to relieve himself from the penalties herein prescribed.

Any commissioner of the revenue who shall, in violation of section one, issue a license to any person not authorized to practise this specialty by this act, shall, upon conviction thereof, be fined not less than twenty dollars nor more than fifty dollars and no license issued by any commissioner in violation of this act shall be valid.

SECTION 2. From and after January 1, 1914, the practice of this specialty in this State shall be a branch or specialty of medicine and surgery, and no person, after this act goes into effect, shall be given the examination or certificate required by section four of this act unless he shall first show to the satisfaction of the examining board provided herein that he has passed the examination provided by law for applicants to practise medicine or surgery and has received from the

Virginia State Board of Medical Examiners the certificate thereof required by law to be given by them to such applicants.

SECTION 3. There shall be for the commonwealth of Virginia a Board of Dental Examiners, consisting of three practitioners of dentistry of recognized ability in the profession, to be appointed by the Governor upon recommendation of the Virginia State Dental Association. Such examiners shall hold office for a term of three years.

The board shall continue to be divided into three classes with one member each, one of which classes shall go out of office each succeeding year. And the Governor shall annually appoint the successors of each class, as it goes out of office, for the term of three years. He shall make the appointments in each case from two persons, who shall be nominated by the Virginia State Dental Association and reside in different sections of the State.

All vacancies for unexpired terms shall be filled by the Governor on nominations made by the board. If no such nominations be made, the Governor may appoint such persons he may deem fit.

SECTION 4. It shall be the duty of this board to meet annually at a time and place of meeting of the Virginia Dental Association or at such time and place as the board may agree upon, to conduct the examinations of the applicants. They may also meet for the same purpose at the call of two members of the board at such time and place as may be designated by them. Thirty days' notice of the meetings shall be given by advertising in at least two of the daily papers published in the State. It shall be the duty of the said board to grant a certificate to practise this specialty to all applicants who undergo the State examination and receive at least two votes, which certificates shall be signed by the members of the board and be stamped with a suitable seal. It shall further be the duty of such board to register the name and qualifications, as far as practicable, of every person to whom such certificate is granted in a book to be kept for that purpose.

SECTION 5. Any member of the board may, upon presentation by any applicant of the evidence of the necessary qualifications to practise this specialty under this act, grant a temporary license to practise until the next meeting of the board and no longer, provided that no such temporary license shall be granted to any person who has not passed the examination and obtained the certificate of the Virginia State Board of Medical Examiners.

SECTION 6. The book provided for by section four shall be a book of record, and transcripts from it, certified by the officer who has it in keeping, with the seal of the board affixed, shall be evidence in any court of the State.

SECTION 7. Every person practising this specialty in the Commonwealth of Virginia at the time of the passage of this act shall annually register his name and postoffice with the board of examiners before renewing his license, and it shall be the duty of the board to issue to each person so registered a certificate of registration stamped with the seal of the board and signed by its secretary. Such person so registered may continue such practice without incurring any of the liabilities imposed by this chapter by annually causing his name and residence or place of business to be registered by such board, who shall keep a book for that purpose. Such registration may be made by furnishing proof of the fact of being then so engaged in the manner prescribed by law. All persons holding a certificate of ability from said board shall annually register in like manner. A certified list of the persons registered from each city or county shall be furnished the clerk thereof, except that in the city of Richmond such list shall be furnished the clerk of the chancery court of said city, and each name on such list shall be at once recorded by such clerk in a book to be kept for that purpose, for which he shall receive a fee of fifty cents for each certificate of the person so recorded, to be paid by said board. Every person who prior to the passage of this act was duly authorized by said board to practise this specialty in this State, and whose certificate is duly registered and recorded as herein prescribed, shall be allowed to continue to so practise. But no

license to practise this specialty shall be issued by any commissioner of the revenue to any person whose name is not so recorded in the clerk's office of the city or county as herein prescribed, and any person who shall engage in the practice of this specialty and fail to register with the board as herein prescribed, shall, after ninety days' notice in writing from said board of such neglect, be liable to the penalties prescribed in this act.

SECTION 8. Said board shall charge each person who appears before them for examination a fee of two dollars for each examination, and shall charge for each person registering one dollar. From the funds received all proper and reasonable expenses of the board and each of its members, incurred in carrying out and maintaining and enforcing the provisions of this chapter, must be paid. No part of such expense shall be paid out of the State treasury. Any excess of receipts over disbursements shall be paid by the board to meet future expenses of the board and members. The secretary of the board shall have custody of its funds and may be required to give bond in such terms as the board may direct. An itemized report of the proceedings of the board, containing an account of all moneys received and disbursed pursuant to this chapter, shall be made to the governor on the first day of February of each year.

SECTION 9. This act shall be in force from and after the first day of January, nineteen hundred and fourteen, Anno Domini.

WASHINGTON

Remmington and Ballinger's Annotated Codes and Statutes. Vol. II, 1910.

SECTION 8412. Dental Examiners.

SECTION 8413. Board of Examiners; Appointment, Terms, etc.

SECTION 8414. Oath of Office.

SECTION 8415. Organization; Meetings, Notice of

SECTION 8416. Examinations; Certificate. Any person or persons seeking to practise dentistry in the State of

Washington, or to (own) operate or cause to be operated, (or to run or manage) a dental office or place for the practice of dentistry in the State of Washington after the passage of this act, shall file his or her name, together with an application for examination, with the secretary of the State Board of Dental Examiners, and at the time of making such application shall pay to the secretary of the board a fee of twenty-five dollars, and to present him or herself at the first regular meeting thereafter of said board to undergo examination before that body. No person shall be eligible for such an examination unless he or she shall be of good moral character and shall present to said board his or her diploma from some dental college in good standing and shall give satisfactory evidence of his or her rightful possession of the same: *Provided*, that this section shall not apply to persons engaged in the practice of dentistry at the time of the passage of this act who are bona fide citizens of the State of Washington. All persons successfully passing such examination shall be registered as licensed dentists in the board register as hereinafter provided and also receive a certificate, said certificate to be signed by the president and secretary of said board and in substantially the following form: to wit:

This is to certify that . . . . . is hereby licensed to practise dentistry in the State of Washington. This certificate must be filed for record in the office of the auditor of any county in which the party holding such certificate desires to practise, and it is unlawful for him or her to practise dentistry in any county in which said certificate is not filed for record.

Dated at . . . . this . . . . day of . . . ., A.D. 19 . . .

SECTION 8417. *Certificate to be Recorded.*—The certificates in this chapter provided for shall entitle the holder thereof to practise dentistry in any county in the State of Washington. *Provided*, such certificate shall first be filed for record in the office of the auditor of the county in which such holder desires to practise, and nothing herein contained shall be construed to permit any holder of any certificate to practise in any county in this State unless such certificate shall have been

first recorded in the office of the auditor of such county as herein provided: *Provided, further*, That any such holder of a certificate may practise in more than one or any number of counties in this State on having such certificate recorded in each of such counties in which such holder desires to so practise. Said Board of Dental Examiners shall, upon satisfactory proof of the loss of any certificate issued under the provisions of this chapter, issue a new certificate in place thereof. Any person failing to pass the first examination successfully may demand a second examination at a subsequent meeting of said board, and no fee shall be charged to (for) said examination: *Provided*, That the second examination is taken before the expiration of one year.

SECTION 8418. *Register of Practising Dentists; Certificate.* —Every person having been admitted to the practice of dentistry by said board in this State after the approval of this act shall on or before the first day of July, 1901, cause his or her name, residence, and place of business to be registered with the Board of Dental Examiners, if not already registered. A statement of every such person that he was engaged in the practice of dentistry in this State at the time of approval of this act shall be verified under oath by him and placed with the Board of Examiners. It shall be the duty of the secretary of the said board to send to each person registered under the provisions of this act without fee a certificate similar in form to the other certificate provided for by this act, signed by the president and the secretary of said Board of Examiners, which certificate the holder thereof shall have recorded with the county auditor of the county in which the holder desires to practise, within ninety days from the date of said certificate.

SECTION 8419. *Firms to Display Names of Employees.*— Hereafter if any association or company of persons, whether incorporated or not, shall engage in the practice of dentistry under the name of "company," "association," or any other title, said company or association shall cause to be displayed and kept in a conspicuous place at the entrance to its place of business the name of each and every person employed by

said company or association in the practice of dentistry; and any person employed by such company or association whose names shall not be displayed as above provided, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished as hereinafter provided, and the said association or company if incorporated, or the persons comprising the same if not incorporated, shall for such failure to display the aforesaid name be guilty of a misdemeanor, and upon conviction thereof, shall be punished as hereinafter provided.

SECTION 8420. *Auditor's Record.*—The county auditor of each county is required to record, in a special book to be kept by him for that purpose, all certificates issued under the provisions of this chapter which may be presented to him for that purpose. After the record of any such certificate, such auditor shall return the same with a certificate of its record to the party entitled to the same. Said auditor shall receive for such filing and record a fee of one dollar.

SECTION 8421. *Penalty.*—Any person who, as principal, agent, employer, employee or assistant, who in any manner whatsoever shall practise dentistry or who shall own, run, operate or cause to be operated, or manage a dental office or headquarters in the State of Washington without having first filed for record and had recorded in the office of the auditor of the county wherein he shall so practise or do such act, a certificate from said Board of Dental Examiners as herein provided shall be guilty of a misdemeanor, and upon conviction shall be fined in any sum not less than fifty dollars, nor more than two hundred dollars, or be confined for any period not exceeding six months in the county jail for each and every offence: *Provided,* The foregoing provisions of this section shall not, prior to the tenth day of July, 1901, apply to any person who shall be practising dentistry in this State at the time of the passage of this act and whose name shall be registered under the provisions of this act in the records of said board. After said tenth day of July, 1901, all of the provisions of this section shall apply to all persons whomsoever. All fines recovered under this act

shall be paid into the common school fund of the county in which the conviction is had.

SECTION 8422. *Certificate of Auditor as Evidence.*—In any prosecution for misdemeanor under the provisions of this chapter, the certificate of the county auditor of the county within which such misdemeanor is alleged to have been committed, to the effect that there is no certificate of the Board of Dental Examiners of this State on file in such auditor's office, issued under the provisions of this chapter to the person accused of such misdemeanor, shall be sufficient proof prima facie that such person is not entitled to practise dentistry in such county.

SECTION 8423. Fees; Compensation of Board.

SECTION 8424. *Practising Dentistry Defined.*—All persons shall be said to be practising dentistry within the meaning of this chapter who shall contrary to this act for fee, or salary or other reward paid either to himself or to another person for operations or parts of operations of any kind, treat diseases or lesions of the human teeth or jaws or correct malpositions thereof, or who shall own, run, or manage a dental office or department in the State of Washington, without registering and procuring the license as herein provided.

WEST VIRGINIA

West Virginia Code, 1907, Supplement.

SECTION 4419. It shall be unlawful for any person who is not at the time of the passage of this act lawfully engaged in the practice of dentistry in this State to practise dentistry therein, unless such person shall have obtained a certificate as hereinafter provided. A board of examiners to consist of five practising dentists is hereby created, whose duty it shall be to carry out the purpose and enforce the provisions of this act; the members of said board shall be appointed by the Governor; the term for which the members of said board shall hold their office shall be four years, except that two of the members of the board first to be appointed under this act

shall hold their office for the term of two years, two for the term of three years, and one for the term of four years respectively, and until their successors shall have been appointed and qualified; in case of a vacancy occurring in said board, such vacancy shall be filled by the governor as hereinbefore provided; each member of said board shall take the oath prescribed by the constitution of this State; said board shall choose one of its members president and one, the secretary and treasurer thereof, and it shall meet on the second Wednesday in June in each year, and as much oftener and at such time and place as a majority of the board may decide upon; the secretary and treasurer shall keep a record of all the transactions of the board in a minute book which the board shall provide for that purpose, and shall make an annual report to the Governor; a majority of the board shall at all times constitute a quorum. Any person who desires to begin the practice of dentistry in the State of West Virginia after the passage of this act, shall file an application for examination with the secretary of the State Board of Dental Examiners at least one week before the regular meeting, and shall present himself at the first regular meeting thereafter of such board to undergo examination before that body; any person successfully passing such examination shall be registered as hereinafter provided and also receive a certificate from said board. It shall be the duty of every person lawfully engaged in the practice of dentistry in this State, upon the passage of this act, to cause his or her name, residence, date of diploma or license, to be registered with the secretary of the State Board of Dental Examiners within ninety days after the passage of this act. The board may, without examination as above provided, issue a certificate to any applicant who shall furnish satisfactory proof to the board that he is a graduate of a reputable dental college, as determined by the board, and that he has been licensed after examination by a State Board of Dental Examiners, that recognizes this interchangeable clause. Any person who shall receive a certificate from the board without examination under this provision shall also be registered as hereinafter

provided. All persons who shall be understood to be practising dentistry within the meaning of this act who shall for a fee, salary, or reward paid either to himself or some other person, perform operations or parts of operations of any kind; treat diseases or lesions of the human teeth or jaw, or manufacture or insert artificial dentures, fixtures or appliances for restoration, regulation or improvement of the dental organs, or who shall display a sign or in any way advertise himself as a dentist, and any person who shall, after this act takes effect, use any other than his or her individual name, or in case of a firm, the names of the individuals composing the firm for the purpose as a dentist, shall be liable to the penalties hereinafter prescribed for every violation of the provisions of this act: *Provided,* That nothing in this act contained shall apply to bona fide students of dentistry in pursuit of clinical advantages in the office of, and under the immediate supervision of a licensed dentist in this State, or shall prevent any person from extracting teeth with or without compensation in an emergency; any person who shall in violation of this act practise dentistry in the State of West Virginia, shall be liable to prosecution and upon conviction of such person so offending, he shall be fined not less than fifty dollars nor more than two hundred dollars or confined in the county jail not less than one, nor more than three months or both for each and every offense; provided, that any person so convicted shall not be entitled to any fee for services rendered, and if a fee has been paid, the patient or his or her guardian or heir may recover the same as debts of like amount are now recovered by law. All fines collected under this act shall inure to the common school fund.

It shall also be the duty of said board to issue a certificate to any applicant who shall furnish satisfactory proof that he was engaged in the practice of dentistry in the State of West Virginia before the passage of any law of said State regulating such practice, and that since said time such applicant has been continuously engaged in the practice of dentistry in this State. To provide for the proper and effective enforcement of this act said board of examiners shall be entitled to the

following fees: for each certificate issued to persons in lawful practice in this State at the passage of this act the sum of two dollars, and each applicant for examination, or who is granted a certificate to practise dentistry without examination as above provided, shall pay into the treasury of the board the sum of twenty-five dollars.

All acts or parts of acts inconsistent with this act are hereby repealed.

WISCONSIN

Laws of 1909, Chap. 258, p. 481.

SECTIONS 1410*e* and 1410*f*. Board of Examiners, etc.

SECTION 1410*g*. Every person who was engaged in the lawful practice of dentistry in this State on the 30th day of September, 1885, may continue such practice without incurring any of the liabilities imposed by this Chapter, by annually causing his name and residence and place of business to be registered by said board, who shall keep a book for that purpose. Such registration may be made by furnishing proof of the fact of being then so engaged and paying a fee of one dollar. All persons licensed by the board shall annually register in like manner. Every person who, prior to the passage and publication of this act, was duly licensed by the board to practise dentistry in this State, and who has annually registered according to law, shall be allowed to continue to practise dentistry in this State so long as he shall conform to the requirements of this chapter and said board shall have power to revoke the license of any person who has failed or may hereafter fail to annually register as herein provided, if, for ninety days after notice in writing from said board of such neglect, such person shall fail to so register.

SECTION 1410*h*. 1. After the year 1911 no person shall be examined by the board for a license to practise dentistry in this State who shall not file with the secretary of the board credentials showing that he has a general education equivalent to that required for graduation from a high school or

academy in the State of Wisconsin having a four year course beyond that of the elementary school, and who is not a regular graduate of a reputable dental college, or dental department of a university, provided, however, that the privileges of such examination are not denied an applicant therefor who holds a license to practise dentistry in some other State than Wisconsin prior to the passage of this act.

2. In the years 1909, 1910, and 1911 the board shall admit to such examination any graduate of a reputable dental college or dental department of a university who shall file with the secretary of the board credentials showing that he has a general education equivalent to that demanded for entrance to the junior class of an accredited high school. The examination shall be in writing and shall include the subjects properly relating to the science of dentistry. The board shall also require as part of the examination demonstrations in operative and mechanical dentistry.

3. If such examination shall prove satisfactory to said board, the board shall issue to such person a license to practise dentistry in this State. All licenses shall be signed by the members of the board and be attested by the president and secretary.

4. The State board may, without examination, issue a license to any applicant therefor who shall furnish satisfactory proof, said proof must be deposited in person with the secretary of the State Board of Dental Examiners of this State that he has been duly licensed to practise dentistry in some State other than Wisconsin, and that he has been lawfully and reputably engaged in such practice for five years next preceding his application: *Provided, however*, That the State recommending such applicant requires a preliminary education required in this State, and provided the State in which he lives extends to the dentists of this State, who may remove to said State, a similar privilege of practising without examination: *Provided, however*, That if a dentist who is licensed to practise in this State removes to another State and engages in the practice of dentistry there, he shall have his name carried on the list of dentists of this State upon the

payment of the annual registration fee while out of this State. The fee for such license shall be twenty-five dollars.

SECTION 1410 *i*. Any person who shall practise dentistry in this State, without being annually registered or without being licensed as herein provided, shall be punished by a fine of not less than ten dollars nor more than one hundred dollars for each and every offence; each patient treated shall be a separate offence. *Provided*, That this chapter shall not be construed so as to prevent any duly licensed physician or surgeon residing in this State from extracting teeth or performing any operation upon the palate or maxillary bones.

A person shall be deemed to be engaged in the practice of dentistry within the meaning of this act who shall treat diseases or lesions of the human teeth or jaws or perform operations of any kind thereon, or insert any artificial teeth, fixtures, or appliances for the restoration, regulation, or improvement of the dental organs.

But nothing in this act contained shall be construed to prevent a bona fide student, in regular attendance upon any dental college in this State from practising dentistry, under the direct supervision of one of his teachers, in the regular infirmary of such college.

SECTION 1410 *j*. Said board may charge each person applying for a license to practise dentistry in this State, whether such applicant be examined or not, a fee of twenty-five dollars, which in no case shall be returnable, unless from sickness or some other good cause such applicant was prevented from attending and completing such examination. Out of the funds coming into the possession of the board under the provisions of this act, the members of the board shall each receive as compensation the sum of ten dollars for each day actually engaged in the duties of the office, and all legitimate and necessary expenses incurred in attending the meetings of the board. The secretary of the board shall receive an annual salary to be fixed by the board.

The secretary of the board shall have custody of its funds and shall be required to give a bond in such terms as the board may require. An annual report of the proceedings of

the board, containing an account of all moneys received and disbursed, pursuant to this chapter shall be made to the Governor on the thirtieth day of November.

This act shall take effect and be in force from and after its passage and publication.

WYOMING

Laws of 1905, chapter 89, p. 138.

SECTION 1. It shall be unlawful for any person to practise dentistry or dental surgery in the State of Wyoming, unless he or she shall have first obtained a license for such purpose as provided for in this act: *Provided,* That nothing in this act shall be construed to prohibit any physician or surgeon from extracting teeth.

SECTIONS 2 and 3. State Board of Dental Examiners; Officers, etc.

SECTION 4. Any person desiring to practise dentistry in this State shall first submit to an examination before the State Board of Dental Examiners of this State, touching his or her qualifications, and every applicant for such examination shall, with his or her application for examination submit to the said board, as a prerequisite of such examination, a diploma of graduation of some reputable dental college recognized by the National Association of Dental Faculties: *Provided,* That all bona fide residents or citizens of this State who have been legally practising dentistry for at least one year prior to the time of the passage of this act shall be exempt from the requirements of this act: *Provided, further,* That such person shall make affidavit to such lawful practice before a notary public, and present this affidavit to the secretary of the State Board of Dental Examiners, together with five dollars for a license, within sixty days after the creation of said board.

SECTION 5. Any and all persons possessing the diploma prescribed by Section 4 of this act, and upon the deposit of the examination fee, shall be examined by said board, at such

times and under such rules as said board may prescribe, not inconsistent with this act, and upon the science of dentistry and dental surgery, and all who are found qualified shall be registered in a record book and shall receive a license from the said board to practise dentistry in this State, in accordance with the provision of this act.

SECTION 6. The examination fee in all cases shall be twenty-five dollars, to be paid to the secretary of the said board before such examination is had, and in no case shall the examination fee be refunded; but any person who shall so fail, shall, within one year, be entitled to reëxamination without the payment of a further fee. Said board by its secretary shall keep a record book in which shall be recorded the names and addresses of all persons so examined, the date and the result of such examination, names and dates of all applications, and such other matters as shall afford a full record of the same, which book with such records or transcripts therefrom duly certified by the president and secretary of said board with the common seal of the board attached, shall be prima facie evidence before all the courts of this State of the entries therein contained. The said board shall make and prescribe all reasonable rules for its government and for the conduct of its business.

SECTION 7. Any person who shall violate any of the provisions of this act, shall be deemed guilty of a misdemeanor, and shall be liable to prosecution before any court of competent jurisdiction, upon information or by indictment, and upon conviction shall be punished by a fine in a sum not less than one hundred dollars nor more than three hundred dollars. Each day that this act is violated shall be considered a separate offence.

SECTION 8. The said Board of Dental Examiners shall not have the right to create any indebtedness on behalf of the State of Wyoming, except as provided in this section. No compensation shall be paid to any member of the board for his services. All moneys received from examinations, fees or otherwise shall be deposited with the State treasurer, to be known as the Dental Fund, and shall only be paid out upon

an authorized voucher duly verified and accompanied by a certificate signed by the president and secretary of the board, showing that the expense has been actually and properly incurred in the performance of the duties devolving upon the board. Upon presentation of such voucher and certificate the auditor shall draw his warrant upon the treasurer, against the said dental fund in favor of the proper person; but no such warrant shall be drawn unless and until there are sufficient moneys in said fund to pay same; and the expenses of said board shall not be a charge upon any other State fund. Said dental fund shall only be applied to the necessary expenses of the board, and such expenses as may be necessary to carry out and execute the provisions of this act, including the actual travelling expenses of the members in attending the meetings of the board. Any money on hand at the dissolution of the board or the repeal of this act shall be paid to the credit of the Common School Fund. This said board shall make an annual report of its proceedings to the Governor on or before the 15th day of December of the year immediately preceding the next ensuing session of the Legislature, together with all moneys received and disbursed by them, pursuant to this act.

SECTION 9. The State Board of Dental Examiners may refuse license to individuals guilty of unprofessional or dishonorable conduct, and may revoke licenses for like causes.

SECTION 10. Said board may, in its discretion, accept and register upon payment of the registration fee, and without examination of the applicant, any certificate which shall have been issued to him by the dental examining board of any State or Territory of the United States: *Provided, however,* That the legal requirements of such dental examining board shall have been at the time of issuing such certificate in no degree or particular less than those of Wyoming at the time when such certificate shall have been presented for registration to the board created by this act: *Provided, further,* That the provisions in this section contained shall be held to apply only to such of said dental examining boards as accept

and register the certificates granted by this board without examination by them of the ones holding such certificates. Each applicant, on making application, shall pay to the secretary of said board a fee of twenty-five dollars, which shall be paid to the secretary of said board.

SECTION 11. Every person holding a certificate as having successfully passed an examination, or otherwise complied with the requirements of said Board of Dental Examiners, shall have the same recorded at the office of the county clerk of the county in which he resides, and the date and place of record shall be endorsed thereon. Any person moving to another county to practise shall procure a certificate to that effect from the county clerk and the holder of the certificate shall pay to the county clerk the usual fees for making the record. The county clerk shall keep in a book provided for that purpose a complete list of all the certificates recorded by him with the date of issue.

SECTION 12. Any member or members of the State Board of Dental Examiners who shall be found guilty of having sold or offered for sale any license, contrary to the provisions of this act, shall be deemed guilty of a misdemeanor and shall be liable to prosecution, and upon conviction shall be punished by a fine in a sum of not less than one hundred dollars nor more than three hundred dollars.

SECTION 13. Any act or parts of acts in conflict with the provisions of this act are hereby repealed.

HAWAII

Revised Laws of Hawaii, 1905, C. 90.

SECTION 1078. *Dentists Defined.*—All persons shall be held to be practising dentistry within the meaning of this chapter who shall charge a fee or salary or other reward, to be paid either to him or to some other person, for operations or parts of operations of any kind in the treatment of diseases or lesions of the human teeth or jaws, or extracting teeth, or in the correction of the malformation thereof:

Provided, That nothing in this chapter shall apply to regularly licensed physicians or surgeons in extracting teeth or performing surgical operations. (L. 1903, c. 40, s. 1.)

SECTION 1079. *Who Licensed to Practise.*—The following persons shall be deemed licensed to practise dentistry in this Territory:

1. Those on April 25, 1903, duly licensed and registered as dentists, pursuant to the laws of the Territory of Hawaii, and

2. Those duly licensed and registered as dentists, pursuant to the provisions of this chapter. (L. 1903, c. 40, s. 2.)

SECTION 1080. Appointment of board of examiners.

SECTION 1081. Officers, meetings, quorum.

SECTION 1082. Expenses.

SECTION 1083. Report.

SECTION 1084. *Licenses Issued on Examination, When; Fee.*—Any person twenty-one years of age and of good moral character, who has graduated at, and holds a diploma from a reputable college, and who desires to practise dentistry in this Territory, shall file his or her application with and pay to the secretary of the board a fee of twenty dollars which in no case shall be refunded, and present himself or herself for examination at the first meeting of the board after such application, and upon passing an examination satisfactory to the board, his or her name, age, nationality, location and number of years of practice shall be entered in a book kept for that purpose, and a certificate of license to practise shall be issued to such person. (L. 1903, c. 40, s. 5.)

SECTION 1085. *Without Examination, When; Fee.*—Every person engaged in the practise of dentistry, or dental surgery, within the territory on April 25, 1903, shall cause his or her name, residence, and place of business to be registered with said board, and pay a fee of one dollar, upon the payment of which the board shall issue to such person a certificate of license, duly signed and sealed. (L. 1903, c. 40, s. 6.)

SECTION 1086. *Certificate, Evidence.*—All certificates of license issued by the board shall be signed by each member thereof, sealed and attested by the secretary, and shall be presumptive evidence of the right of the holder to practise

dentistry in this Territory; and no person, association, or company, whether incorporated or not, shall practise dentistry within this territory without having first procured such a certificate, except as hereinbefore provided. Any person, association, or company practising dentistry within this territory and not having at the time a valid and uncancelled license shall be guilty of a failure to comply with the provisions of this chapter, and upon conviction thereof, shall be punished as hereafter in this chapter provided. (L. 1903, c. 40, s. 7.)

SECTION 1087. *Names, etc., to be Displayed.*—Every association or company of persons, whether incorporated or not, engaged in the practice of dentistry under the name of company, association, or other title, shall cause to be displayed and kept in a conspicuous place at the entrance to its place of business the names of each and every person employed by said association in the practice of dentistry; and every person so employed by any association or company shall cause his or her name to be so displayed. Any person employed by such company or association whose name shall not be displayed as above provided shall be guilty of a failure to comply with the provisions of this chapter, and, upon conviction thereof, shall be punished as hereafter in this chapter provided; and the company or association, if incorporated, or the persons comprising the same, if not incorporated, shall, for failure to display the aforesaid names, be guilty of a failure to comply with the provisions of this chapter, and upon conviction thereof shall be punished as hereafter in this chapter provided.

SECTION 1088. *Duty to Furnish Names, etc.*—It shall be the duty of every person, company, or association practising dentistry in this territory, upon demand in writing by the secretary of the board, to furnish within fifteen days after such demand, to the board, through its secretary, a true statement of the name and address of each and every person practising dentistry or assisting in the practice thereof, in the office of said person, company, or association, together with a statement showing under what license or authority the said

person, company, or association is practising; and any person, company, or association failing so to do, or making any false statement concerning or touching anything covered by this section shall be guilty of a failure to comply with the provisions of this chapter, and, upon conviction thereof, shall be punished as hereafter in this chapter provided. (L. 1903, c. 40, s. 12.)

SECTION 1089. *License Cancelled; When.*—If any dentist shall be guilty of gross negligence, indecent conduct toward patients, or any such professional misbehavior as shows unfitness on the part of the dentist to practise, he or she shall be guilty of a misdemeanor and upon presentation to the board by three or more persons of such facts, certified, the license of such dentist shall be cancelled and such fact shall be noted on the record of licenses. Any person whose license shall be so cancelled shall be deemed an unlicensed person within the meaning of this chapter. (L. 1903, c. 40, s. 7*a*.)

SECTION 1890. *Using Assumed Degrees Prohibited.*—Nothing in the provisions of this chapter shall be construed to permit the performance of dental operations by an unlicensed person under the cover of the name of a registered and licensed practitioner, and no person shall practise dentistry under an assumed name, title, or degree. Any person practising dentistry under a false or assumed name, or who shall assume the degree of "Doctor of Dental Surgery" or "Doctor of Dental Medicine" or shall append the letters "D.D.S.," or "D.M.D." to his or her name, the same not having been duly conferred on him or her by some college or school legally empowered to confer the same; or shall assume any title or append any letters to his or her name with intent to represent falsely that he or she has received a dental degree or license, shall be guilty of a failure to comply with the provisions of this chapter and upon conviction thereof, shall be punished as hereafter in this chapter provided. (L. 1903, c. 40, s. 9.)

SECTION 1091. *Practising for Advertising Purposes, Penalty.*—Any person who shall extract teeth or perform any

other operation pertaining to dentistry for the purpose of advertising, exhibiting, or selling any medicine, instrument, or business of any description, whether the extraction or operation be for pay or not, shall be guilty of a misdemeanor, and upon conviction thereof in any court of the territory, shall be fined in a sum not more than two hundred dollars. (L. 1903, c. 40, s. 10.)

SECTION 1092. *Conviction for Felony, Effect.*—Upon presentation to the board of a certified copy of a court of record showing that a practitioner of dentistry has been convicted of a felony, that fact shall be noted on the record of licenses, and shall be marked "cancelled." Any person whose license shall be so cancelled shall be deemed an unlicensed person, and as such shall be subject to the penalties prescribed for other unlicensed persons who practise dentistry in this territory. (1903, c. 40, s. 8.)

SECTION 1093. *Violating Provisions; Penalty.*—Any person, company, or association who shall fail to comply with each and every provision of this chapter, penalty for the violation of which is not otherwise provided, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not more than five hundred dollars. (L. 1903, c. 40, s. 15.)

SECTION 1094. *Prosecuting Officers, Duty.*—It shall be the duty of the several prosecuting officers of the territory to institute, on notice from any member of the board, prosecutions for offences under this chapter. (L. 1903, c. 40, s. 16.)

PHILIPPINE ISLANDS

January 10, 1903, Acts of the Philippine Commission, p. 291.

SECTION 1. Creation of dental board.

SECTION 2. Compensation, duties, etc., of board.

SECTION 3. The Board of Dental Examiners shall meet in the city of Manila for the purpose of examining candidates desiring to practise dentistry in the Philippine Islands on the

first Tuesdays of January and July of each year, after giving thirty days' written or printed notice of such meeting to each candidate who has filed his name and address with the secretary-treasurer of the board, and after publishing such notice in one newspaper published in the English language and one newspaper published in the Spanish language at Manila at least once per week for a like period. The Board of Dental Examiners shall issue a dental surgeon's certificate to each candidate who furnishes satisfactory proof of having received a diploma as either Doctor of Dental Medicine or Doctor of Dental Surgery from a legally incorporated dental educational institution, and who in addition passes a satisfactory examination before the board in the following subjects: anatomy, physiology, histology, physics, chemistry, metallurgy, dental anatomy and physiology, dental materia medica, therapeutics, dental pathology and bacteriology, orthodontia, oral surgery, operative dentistry, and prosthetic dentistry. For each such certificate the secretary-treasurer of the board shall collect a fee of ten dollars.

The board is further empowered to make such rules and regulations not in conflict with the provisions of this act as may be necessary to carry said provisions into effect.

SECTION 4. The board shall, on or before the thirtieth day of June of each year, make a report to the secretary of the interior of its proceedings during the past year, and of all moneys received and disbursed by it during that period.

SECTION 5. Sixty days after the first meeting of the Board of Dental Examiners for the Philippine Islands and subsequent to the passage of this act, it shall be unlawful for any person to practise dentistry in any of its branches in the Philippine Islands, without a certificate of registration from the Board of Dental Examiners or without having filed with the secretary-treasurer of said board an affidavit for the purpose of securing a registration certificate, setting forth the time and place in which he has practised dentistry in the Philippine Islands prior to the passage of this law: *Provided*, That dentists who have passed successful examinations before a board established by the Provost-Marshall-General, city

of Manila, pursuant to authority from the Military Governor of the Philippine Islands, dated August second, eighteen hundred and ninety-nine, shall be furnished with a certificate of registration by the Board of Dental Examiners on payment of the required fee for registration without further examination: *Provided, also,* That nothing in this act shall apply to dental surgeons of the United States Army on duty in the Philippine Islands, nor in any way apply to or affect any person who was resident in the Philippine Islands and lawfully engaged in the practice of dentistry there prior to the passage of this act: *And provided, further,* That persons who have studied medicine in the Santo Tomas University at Manila for a period of not less than two years and who have received the title of "Cirujanos Ministrantes" and who have studied dentistry for the last four months of their course in such university, may be registered as undergraduates in dentistry upon passing a satisfactory examination before the board, and, when so registered, shall be authorized to practise dentistry in remote towns where no regularly qualified dentist is available. The names of the towns in which each such undergraduate in dentistry is authorized to practise shall be included in his certificate of registration. The secretary-treasurer shall collect a fee of five dollars for each certificate of registration as undergraduate in dentistry issued by the board.

SECTION 6. Every person engaged in the practice of dentistry in the Philippine Islands at the time of the passage of this act shall within sixty days from the date of its passage register with the secretary-treasurer of the board and pay the usual fee of registration, and the secretary-treasurer shall issue the usual certificate of registration to each person so registered. Any person failing to comply with this provision within the stated period shall be required to appear before the board and pass a satisfactory examination before it shall be lawful for him to again engage in the practice of dentistry in the Philippine Islands.

SECTION 7. Any person shall be regarded as practising dentistry within the meaning of this act who shall for a fee,

salary, or other reward, paid to himself or to another person, perform any operation or part of an operation upon the human teeth or jaws, or who shall restore lost teeth, jaws, or portions of jaws artificially, or who shall treat diseases or lesion or correct malpositions thereof; but this provision shall not apply to artisans engaged in the mechanical construction of artificial dentures or other oral devices, or to students of dentistry practising in any legally chartered dental school or college on patients under the direct supervision of an instructor in such dental school or college: *And provided, further,* That this provision shall not be construed to interfere with physicians or surgeons in their legitimate practice as defined by act numbered three hundred and ten.

SECTION 8. Any two members of the board may issue a temporary certificate of registration to an applicant upon the presentation by such applicant of satisfactory evidence that he possesses the necessary qualifications to practise dentistry, such certificate to remain in force only until the next regular meeting of the board, at which time the person to whom it has been issued shall report for examination. Temporary licenses shall be granted only when the board is not in session and will not meet within thirty days. In no case shall a temporary certificate of registration be renewed or extended, nor shall a second temporary certificate be granted to any person. The fee for a temporary certificate of registration shall be five dollars, and the applicant shall further deposit with the secretary-treasurer of the board the sum of five dollars to complete the payment of his fee for a regular certificate. He shall also file with the secretary-treasurer of the board an affidavit to the effect that it is his intention to appear at the next regular meeting of the board and to submit to an examination with a view to obtaining a permanent certificate. Should he appear and pass a satisfactory examination, a permanent certificate shall be granted him without additional charge. Should he fail to appear and pass such examination, the money deposited by him shall not be returned to him, but shall be paid to the treasurer of the Philippine Archipelago.

SECTION 9. The Board of Dental Examiners shall refuse to issue either of the certificates provided for by this act to any person convicted by a court of competent jurisdiction of any criminal offence, or to any person guilty of immoral or dishonorable conduct or of unsound mind, and in the event of such refusal shall give to the applicant a written statement setting forth the reason for its action, which statement shall be incorporated in the record of the board. The board may revoke a certificate for like cause, or for unprofessional conduct after due notice to the person interested and on hearing, subject to an appeal to the Board of Health for the Philippine Islands, the decision of which shall be final.

SECTION 10. Every practitioner of dentistry shall display in a conspicuous place upon the house or office where he practises his full name, and he shall further display his certificate of registration in his office in plain sight of patients occupying his dental chair. Any person violating this provision shall, upon conviction, be punished by a fine of not less than twenty-five nor more than one hundred dollars for each offence. Any owner, proprietor, or manager of a dental office or establishment, who shall fail to cause to be displayed as provided in this section, the registration certificate of each person practising dentistry in such office or establishment, shall, upon conviction, be punished by a like fine.

SECTION 11. No person shall in any way advertise as bachelor of dental surgery, doctor of dental surgery, master of dental surgery, licentiate of dental surgery, doctor of dental medicine, or dental surgeon, or append the letters B.D.S., D.D.S., M.D.S., L.D.S., or D.M.D. to his name, who has not had duly conferred upon him by diploma from some school, college, university, or board of examiners legally qualified to confer the same, the right to assume said title, nor shall any person assume any title or prefix or append any letters to his name to represent falsely that he has received a dental degree or certificate of registration. Any person violating this provision shall, upon conviction,

be subject to a fine of not more than one hundred dollars or to imprisonment for not more than ninety days.

SECTION 12. Where the word "dollars" is used in this act, it shall be understood to mean dollars in money of the United States.

SECTION 13. This act shall take effect on its passage.

ENGLAND

1878, July 22, Law Reports, Statutes, p. 260.

SECTION 1. This act may for all purposes be cited as "The Dentists' Act, 1878."

SECTION 2. In this act "general council" means the general council of medical education and registration of the united kingdom, established under the Medical Act, 1858; and "branch council" means a branch of the said council as constituted by the same act:

"General registrar" means the person appointed to be the registrar by the general council, and "local registrar" means the registrar appointed by a branch council under the Medical Act, 1858:

"British possession" means any part of Her Majesty's dominions exclusive of the United Kingdom.

"Medical authorities" means the bodies and universities who choose members of the general council.

SECTION 3. From and after the first day of August, 1879, a person shall not be entitled to take or use the name or title of "dentist" (either alone or in combination with any other word or words) or of "dental practitioner," or any name, title, addition, or description implying that he is registered under this act or that he is a person specially qualified to practise dentistry, unless he is registered under this act.

Any person who after the first day of August, 1879, not being registered under this act, takes or uses any such name, title, addition, or description as aforesaid, shall be liable, on summary conviction, to a fine not exceeding twenty pounds; provided that nothing in this section shall apply to legally qualified medical practitioners.

SECTION 4. With respect to the offence of a person not registered under this act taking or using any name, title, addition, or description as above in this act mentioned, the following provisions shall have effect:

(1) He shall not be guilty of an offence under this act

(*a*) If he shows that he is not ordinarily resident in the united kingdom and that he holds a qualification which entitles him to practise dentistry or dental surgery in a British possession or foreign country, and that he did not represent himself to be registered under this act; or

(*b*) If he shows that he has been registered and continues to be entitled to be registered under this act, but that his name has been erased on the ground only that he has ceased to practise.

(2) A prosecution for such offence shall be instituted only as hereinafter mentioned.

If a person takes or uses the designation of any qualification or certificate in relation to dentistry or dental surgery which he does not possess, he shall be liable on summary conviction on such prosecution as hereinafter mentioned, to a fine not exceeding twenty pounds.

A prosecution for any of the offences above in this act mentioned shall not be instituted by a private person, except with the consent of the general council or of a branch council, but may be instituted by the general council, by a branch council, or by a medical authority, if such council or authority think fit.

SECTION 5. A person registered under this act shall be entitled to practise dentistry and dental surgery in any part of Her Majesty's dominions; and from and after the first day of August, 1879, a person shall not be entitled to recover any fee or charge, in any court, for the performance of any dental operation or for any dental attendance or advice, unless he is registered under this act or is a legally qualified medical practitioner.

SECTION 6. Any person who

(*a*) Is a licentiate in dental surgery or dentistry of any of the medical authorities; or

(*b*) Is entitled as hereinafter mentioned to be registered as a foreign or colonial dentist; or,

(*c*) Is at the passing of this act bona fide engaged in the practice of dentistry or dental surgery, either separately or in conjunction with the practice of medicine, surgery, or pharmacy, shall be entitled to be registered under this act.

SECTION 7. Where a person entitled to be registered under this act produces or sends to the general registrar the document conferring or evidencing his license or qualifications, with a statement of his name and address, and the other particulars, if any, required for registration, and pays the registration fee, he shall be registered in the dentist's register: *Provided*, That a person shall not be registered under this act as having been at the passing thereof engaged in the practice of dentistry unless he produces or transmits to the registrar, before the 1st day of August, 1879, information of his name and address, and a declaration signed by him in the form in the schedule to this act or to the like effect; and the registrar may, if he sees fit, require the truth of such declaration to be affirmed in manner provided by the act of the session held in the fifth and sixth years of the reign of King William IV, chapter sixty-two, intituled, "An act to repeal an act of the present session of Parliament intituled 'An act for the more effectual abolition of oaths and affirmations taken and made in the various departments of the State, and to substitute declarations in lieu thereof, and for the more entire suppression of voluntary and extra-judicial oaths and affidavits;' and to make other provisions for the abolition of unnecessary oaths."

A person resident in the United Kingdom shall not be disqualified for being registered under this act by reason that he is not a British subject; and a British subject shall not be disqualified for being registered under this act by reason of his being resident or engaged in the practice beyond the limits of the United Kingdom.

SECTION 8. Where a person who either is not domiciled in the United Kingdom, or has practised for more than ten years elsewhere than in the United Kingdom, or in the case

of persons practising in the United Kingdom at the time of the passing of this act, for not less than ten years either in the United Kingdom or elsewhere, shows that he holds some recognized certificate (as hereinafter defined) granted in a British possession, and that he is of good character, such person shall upon payment of the registration fee be entitled without examination in the United Kingdom, to be registered as a colonial dentist in the dentist's register.

SECTION 9. Where a person who is not a British subject, or who has practised for more than ten years elsewhere than in the United Kingdom, or in the case of a person practising in the United Kingdom at the time of the passing of this act for not less than ten years either in the United Kingdom or elsewhere, shows that he obtained some recognized certificate (as hereinafter defined) granted in a foreign country, and that he is of good character, and either continues to hold such certificate, or has not been deprived thereof for any cause which disqualifies him for being registered under this act, such person shall upon payment of the registration fee be entitled, without examination in the United Kingdom, to be registered as a foreign dentist in the dentist's register.

SECTION 10. The certificate granted in a British possession or in a foreign country, which is to be deemed such a recognized certificate as is required for the purposes of this act, shall be such certificate, diploma, membership, degree, license, letters testimonial, or other title, status, or document as may be recognized for the time being by the general council as entitling the holder thereof to practise dentistry or dental surgery in such possession or country, and as furnishing sufficient guarantees of the possession of the requisite knowledge and skill for the efficient practice of dentistry or dental surgery.

If a person is refused registration as a colonial dentist or as a foreign dentist, the general registrar shall, if required by him, state in writing the reason for such refusal, and if such reason be that the certificate held or obtained by him is not such a recognized certificate as above defined, such person may appeal to the privy council, and the privy council, after

hearing the general council, may dismiss the appeal or may order the general council to recognize such certificate, and such order shall be duly obeyed.

SECTION 11. (1) A register shall be kept by the general registrar, to be styled the dentists' register. . . .

(2) Every local registrar shall keep such register and perform such duties in relation to registration under this act as the general council from time to time direct, and receive such remuneration out of the registration fees as the general council assign him. . . .

(3) The general council may, if they think fit, from time to time make, and when made revoke and vary, orders for the registration in (on payment of the fee fixed by the orders) and the removal from the dentists' register of any additional diplomas, memberships, degrees, licenses, or letters held by a person registered therein, which appear to the council to be granted after examination by any of the medical authorities in respect of a higher degree of knowledge than is required to obtain a certificate of fitness under this act.

SECTION 12. (1) The general registrar shall from time to time insert in the dentists' register any alterations which may come to his knowledge in the name or address of any person registered.

(2) The general registrar shall erase from the dentists' register the name of every deceased person.

(3) The general registrar may erase from the dentists' register the name of a person who has ceased to practise, but not (save as hereinafter provided) without the consent of that person; and the general registrar may send by post to a person registered in the dentists' register a notice inquiring whether or not he has ceased to practise, or has changed his residence; and if the general registrar does not within three months after sending the notice receive any answer thereto from the said person, he may, within fourteen days after the expiration of the three months, send him by post in a registered letter another notice, referring to the first notice, and stating that no answer thereto has been received by the registrar, and if the general registrar either before the second

notice is sent receives the first notice back from the dead letter office of the postmaster general, or receives the second notice back from that office, or does not within three months after sending the second notice receive any answer thereto from the said person, that person shall, for the purpose of the present section, be deemed to have ceased to practise, and his name may be erased accordingly.

(4) In the execution of his duties the general registrar shall act on such evidence as in each case appears sufficient.

SECTION 13. The general council shall cause to be erased from the dentists' register any entry which has been incorrectly or fraudulently made.

Where a person registered in the dentists' register has, either before or after the passing of this act, and either before or after he is so registered, been convicted either in Her Majesty's dominions or elsewhere of an offence which, if committed in England, would be a felony or misdemeanor, or been guilty of any infamous or disgraceful conduct in a professional respect, that person shall be liable to have his name erased from the register.

The general council may, and upon the application of any of the medical authorities shall, cause inquiry to be made into the case of a person alleged to be liable to have his name erased under this section, and, on proof of such conviction or of such infamous or disgraceful conduct, shall cause the name of such person to be erased from the register:

Provided, That the name of a person shall not be erased under this section on account of his adopting or refraining from adopting the practice of any particular theory of dentistry or dental surgery, nor on account of a conviction for a political offense out of Her Majesty's dominions, nor on account of a conviction for an offense which, though within the provisions of this section, does not, either from the trivial nature of the offence or from the circumstances under which it was committed, disqualify a person from practising dentistry.

Any name erased from the register in pursuance of this section shall also be erased from the list of licentiates in

dental surgery or dentistry of the medical authority of which such person is a licentiate.

SECTION 14. Where the general council direct the erasure from the dentists' register of the name of any person, or of any other entry, the name of that person, or that entry, shall not be again entered in the register, except by direction of the general council, or by order of a court of competent jurisdiction.

If the general council think fit in any case, they may direct the general registrar to restore to the dentists' register any name or entry erased therefrom, either without fee or on payment of such fee, not exceeding the registration fee, as the general council from time to time fix, and the registrar shall restore the same accordingly.

The name of any person erased from the dentists' register at the request of such person or with his consent shall, unless it might, if not so erased, have been erased by order of the general council, be restored to the register on his application, on payment of such fee not exceeding the registration fee as the general council from time to time fix.

Where the name of a person restored to the register in pursuance of this section has been erased from the list of licentiates in dental surgery or dentistry of any medical authority, that name shall be restored to such list of licentiates.

SECTION 15. The general council shall for the purpose of exercising in any case the powers of erasing from and of restoring to the dentists' register the name of a person or an entry, ascertain the facts of such case by a committee of their own body, not exceeding five in number, of whom the quorum shall be not less than three, and a report of the committee shall be conclusive as to the facts for the purpose of the exercise of the said powers by the general council.

The general council shall from time to time appoint and shall always maintain a committee for the purposes of this section, and subject to the provisions of this section may from time to time determine the constitution, and the number and tenure of office of the members of the committee.

The committee from time to time shall meet for the despatch of business, and subject to the provisions of this section, and of any regulations from time to time made by the general council, may regulate the summoning, notice, place, management, and adjournment of such meetings, the appointment of a chairman, the mode of deciding questions, and generally the transaction and management of business, including the quorum, and if there is a quorum the committee may act notwithstanding any vacancy in their body. In the case of any vacancy the committee may appoint a member of the general council to fill the vacancy until the next meeting of the council.

A committee under this section may, for the purpose of the execution of their duties under this act, employ at the expense of the council such legal or other assistants as the committee think necessary or proper.

SECTION 16. There shall be payable in respect of the registration of any person who, before the first day of January, 1879, applies to be registered under this act, a fee not exceeding two pounds; and in respect of the registration of any person who after that day applies to be registered, a fee not exceeding five pounds.

SECTION 17. Subject to the provisions of this act, the general council may from time to time, make, alter, and revoke such orders and regulations as they see fit for regulating the general register and the local registers, and the practice of registration under this act, and the fees to be paid in respect thereof.

SECTION 18. Notwithstanding anything in any act of parliament, charter, or other document, it shall be lawful for any of the medical authorities (hereinafter referred to as colleges or bodies) who have power for the time being to grant surgical degrees, from time to time to hold examinations for the purpose of testing the fitness of persons to practise dentistry or dental surgery who may be desirous of being so examined, and to grant certificates of such fitness; and any person who obtains such a certificate from any of those colleges or bodies shall be a licentiate in dental surgery

or dentistry of such college or body, and his name shall be entered on a list of such licentiates to be kept by such college or body.

Each of the said colleges or bodies shall admit to the examinations held by them respectively under this section any person desirous of being examined who has attained the age of twenty-one years, and has complied with the regulations in force (if any) as to education of such college or body.

SECTION 19. Subject to the provisions hereinafter contained with reference to a medical board, the council or other the governing body of the Royal College of Surgeons of Edinburgh, and the Faculty of Physicians and Surgeons of Glasgow, and of the Royal College of Surgeons in Ireland, and of any university in the United Kingdom respectively, may from time to time appoint a board of examiners for the purpose of conducting the examinations and granting the certificates hereinbefore mentioned.

Each of such boards shall be called the board of examiners in dental surgery or dentistry, and shall consist of not less than six members, one-half of whom at least shall be persons registered under this act, and such registration shall notwithstanding anything in any act of parliament, charter, or other document be deemed the only qualification necessary for the membership of such board.

The persons appointed by each such council or other governing body shall continue in office for such period, and shall conduct the examinations in such manner, and shall grant certificates in such form, as such council or other governing body may from time to time, by by-laws or regulations respectively direct.

A casual vacancy in any such board of examiners may be filled by the council or other governing body which appointed such board, but the person so appointed shall be qualified as the person in whose stead he is appointed was qualified, and shall hold office for such time only as the person in whose stead he is appointed would have held office.

SECTION 20. Such reasonable fees shall be paid for the certificates to be granted under this act by the board of

examiners of the Royal College of Surgeons of Edinburgh, the Faculty of Physicians and Surgeons of Glasgow, and of the Royal College of Surgeons in Ireland, and of any such university as aforesaid respectively, as the council or other governing body of each of those colleges or bodies may from time to time, by bye-laws or regulations, respectively direct.

SECTION 21. The Royal College of Surgeons of England shall continue to hold examinations and to appoint a board of examiners in dentistry or dental surgery for the purpose of testing the fitness of persons to practise dentistry or dental surgery who may be desirous of being so examined, and to grant certificates of such fitness, subject and according to the provisions of their charter, dated the 8th day of September, 1859, and the by-laws made, or to be made, in pursuance thereof: and any person who obtains such a certificate shall be a licentiate in dental surgery of the said college, and his name shall be entered on a list of such licentiates to be kept by the said college.

SECTION 22. Medical authority to furnish information to council.

SECTION 23. General council may report to privy council.

SECTION 24. The privy council, on any representation made as aforesaid, may, if they see fit, order that a certificate granted by such college or body after such time as may be mentioned in the order shall not confer any right to be registered under this act.

Any such order may be revoked by the privy council on its being made to appear to them, by further representation from the general council or otherwise, that such college or body has made effectual provision to the satisfaction of the general council, for the improvement of such course of study or examination.

SECTION 25. After the time mentioned in this behalf in any such order in council, no person shall be entitled to be registered under this act in respect of a certificate granted by the college or body to which such order relates after the time therein mentioned, and the revocation of any such

order shall not entitle any person to be registered in respect of a certificate granted before such revocation.

SECTION 26. If it appears to the general council that an attempt has been made by any medical authority to impose on any candidate offering himself for examination an obligation to adopt or refrain from adopting the practice of any particular theory of dentistry or dental surgery as a test or condition of admitting him to examination, or granting a certificate of fitness under this act, the general council may represent the same to the privy council, and the privy council may thereupon issue an injunction to the authority so acting directing them to desist from such practice, and in the event of their not complying therewith, then to order that such authority shall cease to have power to confer any right to be registered under this act so long as they continue such practice.

SECTION 27. Certificate not to entitle holder to practise medicine or surgery.

SECTION 28. In the event of a board being at any time after the passing of this act established, whether under the name of a medical board or otherwise, for nominating on behalf of any two or more of the medical authorities examiners of persons desirous of practising medicine and surgery, whether such board (in this act referred to as a medical board) is established under the Medical Act, 1858, or otherwise, a person shall not receive a certificate of fitness to practise as a dentist from any medical authority represented on such board, or, if such board is established for the whole of England, Scotland, or Ireland, shall not be entitled to be registered in respect of any certificate obtained in England, Scotland, or Ireland, as the case may be, unless he has obtained from such board a certificate that he has shown by examination that he is qualified to practise dentistry or dental surgery: *Provided*, That one half at least of the examiners at any such examination shall be persons registered under this act.

The medical board shall, in such manner as may be from time to time directed by the general council, certify to the

general registrar and to the medical authorities the persons who have shown by examination that they are qualified to practise dentistry or dental surgery, and every person so certified shall on application receive from the Royal College of Surgeons of England, or the Royal College of Surgeons of Edinburgh, or the Faculty of Physicians and Surgeons of Glasgow, or the Royal College of Surgeons of Ireland, a certificate of fitness constituting such person a licentiate in dental surgery or dentistry of such college or faculty.

If a medical authority certify to the general registrar the names and addresses of the persons who, having been so certified by a medical board, have received certificates from that authority, together with the other particulars required for the registration of such persons, the general registrar may, upon payment of the registration fee, register every such person in the dentists register without application from that person. . . .

SECTION 29. A copy of the register of dentists for the time being, purporting to be printed and published in pursuance of this act, shall be evidence in all cases (until the contrary be made to appear) that the persons therein specified are registered according to the provisions of this act; and the absence of the name of any person from such copy shall be evidence (until the contrary be made to appear) that such person is not registered according to the provisions of this act: *Provided*, That in the case of any person whose name does not appear in such copy, a certified copy under the hand of the registrar of the general council of the entry of the name of such person in the dentists register shall be evidence that such person is registered according to the provisions of this act.

SECTION 30. Every person registered under this act shall be exempt, if he so desires, from serving on all juries and inquests whatsoever, and from serving all corporate, parochial, ward, hundred, and township offices, and from serving in the militia; and the name of any registered person shall not be returned in any list of persons liable to serve in the militia or in any such office as aforesaid.

SECTION 31. Quorum of privy council.

SECTION 32. Application of registration fees.

SECTION 33. Accounts to be published.

SECTION 34. Penalty for acts of registrar.

SECTION 35. Any person who wilfully procures or attempts to procure himself to be registered under this act, by making or producing, or causing to be made or produced, any false or fraudulent representation or declaration either verbally or in writing, and any person aiding and assisting him therein, shall be deemed guilty of a misdemeanor in England and Ireland, and in Scotland of a crime or offence punishable by fine or imprisonment, and shall on conviction thereof, be liable to be imprisoned for any term not exceeding twelve months.

SECTION 36. Duty of registrar of deaths.

SECTION 37. Any person who has been articled as a pupil and has paid a premium to a dental practitioner entitled to be registered under this act in consideration of receiving from such practitioner a complete dental education, shall, if his articles expire before the 1st day of January, 1880, be entitled to be registered under this act as though he had been in bona fide practice before the passing of this act: moreover it shall be lawful for the general council by special order to dispense with such of the certificates, examinations, or other conditions for registration in the dentists register required under the provisions of this act, or under any bye-laws, orders, or regulations made by its authority, as to them may seem fit in favor of any dental students or apprentices who have commenced their professional education or apprenticeship before the passing of this act.

SECTION 38. General council and medical authority to make by-laws.

SECTION 39. Presumption of receipt of notices.

SECTION 40. Procedure for recovering fees and penalties.

ALBERTA

Statutes 1906, Chap. 22, p. 131.

SECTION 1. This act may be cited as "The Dental Association Act."

SECTION 2. There is hereby established and constituted in the Province of Alberta an association of dental surgeons under the name of the Alberta Dental Association, which shall be a body corporate and politic under the name of "The Alberta Dental Association." . . .

SECTION 3. The following persons shall be members of and shall constitute the said association, namely:

(*a*) Every person who at the time of the coming into force of this Act is a duly qualified and registered member of the College of Dental Surgeons of the Northwest Territories under the provisions of "The Dental Profession Ordinance," being chapter sixteen of the Northwest Territories Ordinances of 1903 (Second Session), or under any other ordinance of the Legislature of the Northwest Territories relating to the said college;

(*b*) Every person who shall hereafter be duly licensed and registered under the provisions of this act.

SECTION 4. There shall be a board of directors of said association, which shall consist of five members, who shall, except as hereinafter provided, hold office for two years. . . .

SECTIONS 5 to 9. Election Board; Qualification of Voters, etc.

SECTION 10. The board of directors at their first meeting shall elect from among themselves a president, a vice-president, and a secretary-treasurer-registrar.

SECTION 11. The board of directors of the association shall hold two meetings in each and every year in such place as may from time to time be fixed by the board, for the purpose of conducting examinations, granting certificates of license and doing such other business as may properly come before them. Such meetings shall be held on the second Monday in January and July of each year and may be continued or adjourned until the business before the board is disposed of.

SECTION 12. Majority must be present.

SECTION 13. The board of directors shall from time to time make such rules, regulations, and by-laws as may be

necessary for the better guidance, government, discipline, and regulation of the said board and of the profession of dentistry and for the carrying out of this act:

Provided, That such rules, regulations and by-laws shall, before coming into force, be approved by the Lieutenant Governor in Council.

SECTION 14. The board of directors of said association shall also have the authority to examine candidates, both for intermediate and final examinations, and to appoint examiners to assist them in conducting such examinations or such portions thereof as they may desire, and they may accept the report of such examiners in respect to the said examinations or any portion thereof, and the directors may grant certificates of license to practise dental surgery in this Province.

SECTION 15. The said board shall also have power and authority to appoint one or more examiners for the matriculation or preliminary examination of all students entering the profession, or may accept, in lieu of such matriculation or preliminary examination, evidence that any student has passed any other satisfactory examination: *Provided,* That the examiners so appointed shall be approved by the Minister of Education.

SECTION 16. The board shall also have the power and authority to fix and determine the period for which every student shall be articled and employed under some duly licensed and registered practitioner and the examinations necessary to be passed including such intermediate examinations as the board may think proper, and including the curriculum of studies to be pursued by students, and to fix and determine the fees to be paid into the hands of the treasurer of the association before the applicant shall receive a certificate of license to practise the profession of dentistry or be entitled to registration under this act, and also to fix the annual fee to be payable by each member of the association: *Provided,* That the fees hereinbefore mentioned shall not in any case exceed those set forth in the following schedule of fees:

Matriculation of students	$10.00
Examination for students	40.00
Examination for other than students . .	50.00
Registration	50.00

SECTION 17. The matriculation or preliminary examination as provided in the fifteenth section of this act shall be passed by all students prior to entering into articles of indenture with a licentiate of dentistry, provided that a certificate from any recognized university of the Dominion of Canada that the intending student has matriculated according to the curriculum of any such university, or a certificate from the Department of Education that the candidate has a standing equal to that required for second class non-professional certificates of teachers, shall be taken in lieu of the matriculation or preliminary examination aforesaid. The commencement of the term of any articled student shall date from the signing of his articles as aforesaid.

SECTION 18. The board of directors shall, at its regular meetings, examine or cause to be examined all candidates for license to practise dentistry and for registration under this act who present themselves pursuant to the provisions of the next succeeding sections.

SECTION 19. Every person being desirous of being examined by the said board touching his qualifications for the practice of the said profession of dentistry shall, at least one month before the sitting of said board, pay into the hands of the treasurer the required fees and furnish him satisfactory evidence of his term of apprenticeship having been fulfilled, and as to the applicant's integrity and good morals.

SECTION 20. The following persons, upon payment of the required fees, shall be entitled to receive certificates of license to practise dentistry in this province from the board of directors of said association, namely:

(*a*) Any person who is a graduate of any school or college of dentistry, or a member of any dental association recognized by order in council as hereinafter provided, and produces sufficient evidence of identity and passes the final

examination prescribed for the admission of students to practise.

(*b*) At any time after the passing of this act the Lieutenant Governor may by order in council set forth and declare the names of such schools, colleges and associations the graduates of which shall be entitled to receive certificates of license as aforesaid, and may at any time by further order in council recognize any other school, college, or association, or rescind any former order in council recognizing any such school, college, or association, and until an order in council is passed refusing recognition to any school of dentistry of any of the Provinces of the Dominion of Canada having authority by law to grant certificates of license or diplomas to practise dentistry or any association or school having like powers in the United Kingdom of Great Britain and Ireland, any graduate or member of any such school or association who passes the final examination prescribed for admission of students to practise shall be entitled to receive a certificate of license as aforesaid.

(*c*) The board of directors shall have power to appoint one or more members of the association as representatives of the association upon the Dominion Dental Council, and the board shall, so long as represented on the said council, accept the certificate of qualification of the said Dominion Dental Council as a qualification sufficient without further examination for the granting to the holder thereof of a license to practise dentistry in the Province of Alberta, provided such certificate is accompanied by satisfactory evidence of the good moral character of the applicant.

SECTION 21. If the board is satisfied, by the examination provided for in the eighteenth section of this act, that the person is duly qualified to practise the profession of dentistry, or that he possesses any other of the foregoing qualifications, and is further satisfied that the applicant is a person of integrity and good moral character, it shall grant him a certificate of license subject to the rules, regulations, and by-laws promulgated under the authority of this act, and the title of "Licentiate of Dental Surgery," which certificate

and title shall entitle him to all the rights and privileges of this act, subject however, to the provisions of this act respecting registration.

SECTION 22. Every certificate of license shall be sealed with the corporate seal of the association and signed by the board of directors of said association and the production of such certificate of license shall be prima facie evidence in all courts of law and in all proceedings of whatever kind of its execution and contents.

SECTION 23. No diploma or certificate of license shall be granted to any person under the age of twenty-one years.

SECTION 24. Every person holding a valid and unforfeited certificate of license to practise dentistry under the provisions of this act, and who on or before the second Monday of January in each year shall have paid to the registrar appointed by the said board a registration fee of two dollars, or who, having during the then current year obtained a certificate of license from the said association to practise the profession of dentistry, forthwith pays to the said registrar a registration fee of two dollars, shall subject to the other provisions of this act, be entitled to have his name entered in the register referred to in the next succeeding section of this act; and a copy of such register, certified by the said registrar, shall be evidence in any court of justice in Alberta that the persons therein named are the members of the said association for the said year.

SECTION 25. It shall be the duty of the registrar as early as possible in each year to make a correct register in the form in Schedule A to this act of the names and addresses of all persons who may be entitled to registration under this act as members of the said association for the then current year.

SECTION 26. No person shall be entitled to have his name on the said register unless the registrar is satisfied by proper evidence that such person is entitled to be registered, and any appeal from a decision of the registrar shall be decided by the board of directors of said association.

(2) Any person dissatisfied with the decision of the board of directors with respect to the sufficiency of the evidence

produced by him of his having passed a sufficient preliminary or matriculation examination or of his having received a diploma from a recognized college or association or a college or association mentioned in subsection (*b*) section 20 may appeal to the Minister of Education whose decision shall be final.

SECTION 27. If it shall at any time be proved to the satisfaction of the said board that the name of any person has been improperly inserted in the register for the year, such name may be erased therefrom by order of said board.

SECTION 28. Upon any person being registered under this act he shall be entitled to receive a certificate under the corporate seal of said association and signed by the registrar in the form in Schedule B to this act or to the like effect.

SECTION 29. The secretary of the said association shall on or before the first day of February in each and every year enclose to the provincial secretary a certified list of the names of all persons then registered as members of the said association for the then current year.

SECTION 30. All persons registered under this act, and no others, shall be entitled to practise the profession of dentistry in the Province of Alberta, and no person shall be entitled to any of the privileges of a licentiate or member of the said association, or to practise the profession of dentistry, who is in default in respect of any fees payable by him by virtue of this act.

SECTION 31. No person shall be entitled to recover in any court of law for any professional services rendered or materials provided by him in the exercise of the profession of a dentist, unless he be a duly and legally qualified licentiate of dentistry and duly registered under the provisions of this act.

SECTION 32. If any person not holding a valid certificate of license as aforesaid or not duly registered, shall practise within this Province the said profession of dentistry, either publicly or privately, for hire, gain, or hope of reward, or shall voluntarily and falsely pretend to be a duly qualified licentiate of dentistry, or assume any title, addition or

description implying or calculated to lead people to infer or believe him to be a duly qualified licentiate of dentistry, he shall be liable, upon conviction in a summary manner before any justice of the peace having jurisdiction where the offence is committed, to a penalty not exceeding two hundred dollars and not less than fifty dollars for the first offence, and for each and every subsequent offence to a penalty of four hundred dollars.

SECTION 33. In case a charge is made against any licentiate of unprofessional conduct, or other misconduct provided for by the by-laws passed or to be passed under the provisions of any of said former acts or this act, the board of directors shall have power to hear and determine the same, and for this purpose to summon witnesses before them and administer an oath or affirmation to such witnesses; and if any licentiate shall be found guilty of the charge preferred against him he shall forfeit his certificate and title and the same shall be cancelled. Such forfeiture, however, may be annulled and the said license and all rights and privileges thereunder fully renewed and restored by said board in such manner and upon such conditions and terms as the said board shall think fit:

Provided, however, That nothing in this act contained shall empower the said board to deal with any criminal or other offence provided for by law.

SECTION 34. Any licentiate who shall be convicted of any malpractice shall forfeit his license and the same shall be cancelled; but the board shall have power to restore the same if it shall think fit and proper, notice of such restoration to be given for two weeks in some local newspaper to be determined upon by the board.

SECTION 35. All prosecutions under the provisions hereof may be brought and heard before any justice of the peace having jurisdiction where the offence is committed, and such justice of the peace shall have power, in addition to the aforesaid penalty, to award payment of costs; and in case such penalty and costs be not paid forthwith after conviction he shall have power to issue a warrant of distress therefor

against the goods and chattels of the party so convicted, and in default of distress to order imprisonment for any period not exceeding six months.

SECTION 36. Any penalties imposed by this act may be also proceeded for and recovered by suit in any court of law having jurisdiction and one-half of all penalties recovered shall go to the prosecutor and the remainder shall be paid to the treasurer of the said association and form part of the funds of the association. Any person may be complainant or prosecutor:

Provided, always, That every such prosecution shall be commenced within six months of the alleged offence.

SECTION 37. In any such prosecution and trial the onus of proof as to being a legally qualified licentiate of dentistry and a duly registered member of said association is upon the person charged.

SECTION 38. Nothing in this act contained shall interfere with the privileges conferred upon physicians and surgeons by the various acts relating to the practice of medicine and surgery in this Province; but in case a regular physician and surgeon shall desire to practise dentistry as a profession and to publicly avow himself as a practitioner of said profession of dentistry he shall first obtain a license from said board of directors by paying the necessary fees and passing an examination in operative and mechanical dentistry only.

SECTION 39. Nothing in this act shall prevent any duly indentured and registered student of dentistry from receiving clinical instruction and practice under the personal supervision of a member of the said association.

SECTION 40. All moneys forming part of the funds of the said association shall be paid to the treasurer and shall be applied to carry on the objects of this act.

SECTION 41. All fees that are now payable under the provisions of this act, and the acts referred to in the third section of this act and the by-laws of said association shall continue to be payable until duly changed by the by-laws of the association pursuant to the provisions of this act.

SECTION 42. All rules, regulations, and by-laws of the College of Dental Surgeons of the Northwest Territories in force at the passing of this act shall, until the first meeting of the board of directors, be the rules, regulations, and by-laws of the said association.

SCHEDULE

SCHEDULE A (Section 25)

Register.

Name.	Residence.	Qualification.
A. B.	Edmonton	Certificate of License, 15th March, 1895.
E. F.	Macleod	Member of (stating name of college or school and where situate).

SCHEDULE B (Section 29)

Certificate of Registration.

I hereby certify that A. B. was, on the . . . . . day of . . . . , 19 , duly registered as a member of the Alberta Dental Association, and is authorized to practise his said profession up to the 31st day of December, 19 , subject to the provisions of "The Dental Association Act."

(Signed) E. F.

Registrar of The Alberta Dental Association.

Corporate Seal of the Association.

BRITISH COLUMBIA

Statutes 1908, Chap. 2, p. 3.

SECTION 1. This act may be cited as the "Dentistry Act."

SECTION 2. (1) In and for the Province of British Columbia there shall be a College of Dental Surgeons, hereinafter called "the College."

(2) The membership of the said College shall be composed of all persons who are at the time of the passing of this act by law authorized to practise the profession of dentistry or dental surgery in the Province of British Columbia, and all such persons shall be registered as members of the College without any application or other proceeding; and also of all persons who may hereafter become and be registered members of the College under and by virtue of the provisions of this act.

SECTION 3. The members of the College are hereby constituted a body corporate under the name of "The College of Dental Surgeons of British Columbia," and shall have perpetual succession and a common seal, with the power to acquire, hold, and dispose of chattel property and real estate for the purposes of this act, and to sue and be sued.

SECTION 4. There shall be a council of the College to be elected in the manner hereinafter provided for in this act, and referred to in this act as the "council."

SECTIONS 5 to 10. Members of Council; Election; Term; Vacancy, etc.

SECTION 11. The council shall annually appoint from amongst themselves a president, a registrar, a treasurer, and other officers, as may from time to time be necessary for the working of this act, who shall hold office during the pleasure of the council; and the said council shall have power to fix by by-law from time to time the salaries or fees to be paid to such officers.

SECTION 12. The council shall appoint annually from amongst its members an "Executive Committee" to take cognizance of and action upon all as such matters shall be

delegated to it by the council, or such as may require immediate action, interference or attention between the adjournment of the council and its next meeting, and all such acts shall be valid only until the next ensuing meeting of the council. But such committee shall have no power to alter, repeal, or suspend any by-law of the council.

SECTIONS 13 to 17. Meetings.

SECTION 18. The council shall cause to be kept, by an officer appointed by them and to be called the registrar, a book or register to be known as "The Register of the Members of the College of Dental Surgeons of British Columbia," and hereinafter in this act called "The Register," in which shall be entered and registered the name of every person who becomes a member of the College under and by virtue of the provisions of this act. Such register may be in the form set forth in the Second Schedule to this act.

SECTION 19. Only those persons whose names are entered and registered in the register shall be qualified and permitted to practise dentistry and dental surgery in the Province of British Columbia, or shall be licensed to so practise by the issuance of the annual licenses hereinafter provided for.

SECTION 20. The register shall at all times be open and subject to inspection by any member of the College.

SECTION 21. The registrar shall, immediately upon his appointment, without the payment of any fee whatever, enter and register in the register the name of every person who is at the time of the passing of this act entitled to membership in the College, under and by virtue of the provisions of subsection (1) of section 2 of this act.

SECTION 22. The following persons shall, upon payment of all fees required to be paid for that purpose, be entitled to be registered as members of the College and to receive a certificate of license to practise dentistry or dental surgery in the province, which license shall be in the form prescribed by council:

(*a*) Any person who has, prior to the passing of this act, been articled to and employed and instructed as a student for the full term of service called for by such articles by any

person who is entitled under the provisions of subsection (1) of section 2 of this act to registration as a member of the College, or who hereafter may become so articled to and employed and instructed as a student by a member of the College, and who shall have served the term and shall have passed the examinations required by the council and complied with the rules and regulations of the council.

(*b*) Any person who has passed the final examinations prescribed by the council for persons applying for registration as members of the College under this act, and who is a graduate of any school or College of dentistry duly established, equipped, and maintained in any part of the Dominion of Canada, having authority under and by virtue of the provisions of any act or statute of the Parliament of Canada or of the Legislative Assembly of any Province in Canada to grant degrees evidencing proficiency in and conferring the right to practise the profession of dentistry and dental surgery and who produces his certificate of graduation evidencing his degree, together with such evidence as the council may require that his degree has not been revoked or cancelled.

(*c*) Any person who has passed the final examinations prescribed by the council for persons applying for registration as members of the College under this act, and who is a graduate of any school or college in the United Kingdom of Great Britain and Ireland, or in any of the British Dominions beyond the seas other than the Dominion of Canada, having authority under and by virtue of any act or statute of the Parliament of the United Kingdom of Great Britain and Ireland, or of the Parliament or Legislative Assembly of any British Dominion aforesaid, to grant degrees evidencing proficiency in and conferring the right to practise the profession of dentistry and dental surgery and who produces his certificate of graduation evidencing his degree, together with such evidence as the council may require that his degree has not been revoked or cancelled.

(*d*) Any person who has passed the final examination prescribed by the council for persons applying for registration as

members of the College under this act and who is a graduate of any duly established, equipped, and maintained school or college of dentistry in any State of the United States of America having authority under and by virtue of any act, law or statute of such State to grant degrees evidencing proficiency in and conferring the right to practise the profession of dentistry or dental surgery and who produces his certificate of graduation evidencing such degree, together with such evidence as the council may require that his degree has not been revoked or cancelled, and who also produces evidence proving to the satisfaction of the council that he has passed a matriculation or preliminary examination of the same scope and nature as hereinafter in this act prescribed for a student who enters upon his study of the profession of dentistry and dental surgery under articles to a member of the College.

SECTION 23. No person shall be entitled to be registered under the provisions of this act as a member of the College unless and until such person shall satisfy the council that he is a person of good character.

SECTION 24. No person shall be registered under the provisions of this act as a member of the College unless such person be of the full age of twenty-one years.

SECTION 25. Powers of Council; Rules, and Regulations.

SECTION 26. The council shall also have authority to make rules and regulations respecting the preliminary examination and the matriculation of all students entering upon the study of the profession of dentistry and dental surgery in the Province of British Columbia, and to provide in lieu of such matriculation or preliminary examination any other satisfactory examination, and to fix and determine the period not exceeding five years for which such students shall be articled to and employed under a member of the College, and to prescribe the studies and course of instruction of such students, the intermediate and final examinations to be passed by such students to entitle them to registration under this act, and to make all such regulations and rules as may be necessary for the conduct of such examinations: *Provided,*

always, however, That any student who at the time of the coming into force of this act is regularly articled to any person duly licensed to practise the profession of dentistry or dental surgery in the Province of British Columbia and in active practice shall be deemed to have matriculated or passed the preliminary examination and to have been duly articled and employed under this act since the day of the date of his articles.

SECTION 27. The matriculation or preliminary examination provided in the next preceding section shall be passed by all persons applying to be admitted as students of dentistry or dental surgery prior to becoming articled to any member of the College: *Provided,* That a certificate from any University in the Dominion of Canada established by authority of any act of the Parliament of Canada or of the Legislative Assembly of any Province of Canada, that the applicant has passed the matriculation examinations prescribed by the curriculum of such University, shall be accepted in lieu of the preliminary examination or matriculation required by this act.

SECTION 28. The council shall also have power to examine candidates applying for a license under the provisions of section 22 of this act, and to make all regulations necessary for the conduct of such examinations and to appoint such times and places therefor as they may deem fit: *Provided, however,* That examinations shall be held at least twice in each year.

SECTION 29. Every person who is desirous of taking the final examination of the council shall, pursuant to the rules of the council, notify the registrar of the council and shall pay to the council the fees required for such examination and furnish the council with evidence of his qualifications, as provided in section 22 hereof.

SECTION 30. The council shall also have power and authority to appoint a board of examiners to examine all candidates for examination, which board shall be governed by the rules and regulations of the council and shall report the result of such examinations to the council. Any member of the council

shall be eligible for appointment as a member of the board of examiners.

SECTION 31. There shall be payable to the College by students and persons applying for a license the following fees:

(*a*) For each registration as student . .	$10.00
(*b*) For each intermediate examination .	30.00
(*c*) For each final examination. . . .	50.00
(*d*) For registration as member of the College	10.00

SECTION 32. Salaries of officers.

SECTION 33. It shall be the duty of the registrar to keep his register correct in accordance with the provisions of this act, and the rules and regulations of the council, and he shall from time to time make the necessary alterations in the addresses or qualifications of the persons registered under this act and issue to each member of the College a certificate of registration in the form prescribed by the council, and perform such other duties as may be imposed upon him by the council.

SECTION 34. Regulation of Register.

SECTION 35. Every person registered under this act who obtains a higher degree, or any qualification additional to the qualification in respect of which he has been registered, shall be entitled to have such higher degree or additional qualification inserted in the Register, in substitution for, or in addition to the degree or qualification previously registered on the payment of such fees as the council may appoint.

SECTION 36. No degree or qualification shall be entered on the Register, either on the first registration or by way of addition to a registered name, unless the registrar be satisfied by proper evidence that the applicant is duly entitled; and any appeal from the decision of the registrar on any matter or question of fact or evidence may be decided by the council.

SECTION 37. Any entry in the Register proved to the satisfaction of the council to have been fraudulently or incorrectly made may be erased from the Register by an order of the council or of the Executive Committee.

SECTION 38. If any person procure or cause to be procured his registration under this act by means of any false or fraudulent representations or declaration, either verbally or in writing, it shall be lawful for the registrar, upon the receipt of sufficient evidence of the falsity or fraudulent character of said representations or declaration, and upon order of the council or the executive committee, to erase the name of such person from the Register, and to make known the fact and cause of such erasure by notice to be published in the *British Columbia Gazette;* and after such notice has appeared, the person whose name has been erased as aforesaid shall cease to be a member of the College and shall cease to enjoy any of the privileges enjoyed or conferred by registration under this act.

SECTION 39. Any member of the College who shall be convicted in any court, of an indictable offence shall thereby, in the discretion of the council, forfeit the right to registration, and upon an order of the council his name shall be erased from the Register by the registrar; and in case a person known to have been convicted of an indictable offence present himself for registration, the registrar shall have power to refuse such registration unless and until the council, after investigation, shall direct registration to be made, and if any person registered under this act shall, after inquiry and hearing by the council or the executive committee, be adjudged to have been guilty of infamous or unprofessional conduct in any respect, the council or the executive committee shall have power to order the registrar to erase the name of such person from the Register and erasure shall be forthwith made pursuant to such order.

SECTION 40. The council may, and upon application of any three members of the College shall, cause inquiry to be made into the case of a person alleged to be liable to have his name erased under the last preceding section, and on proof to the satisfaction of the council or of the executive committee of such conviction, or of such infamous or unprofessional conduct, shall order the name of such person to be erased from the Register by the registrar, and erasure shall be forth-

with made pursuant to such order: *Provided*, That the name of a person shall not be erased under this or the last preceding section on account of his adopting or refraining from adopting the practice of any particular theory of dentistry or dental surgery, nor on account of a conviction for a political offence out of His Majesty's dominions, nor on account of a conviction for an offence which, though within the provisions of the last preceding section, ought not, in the opinion of the council or the committee hereinafter named, either from the trivial nature of the offence or from the curcumstances under which it was committed, to disqualify a person from practising the profession of dentistry or dental surgery.

SECTION 41. The council or executive committee may order to be paid out of the funds of the College such costs as may seem just to any person against whom any complaint has been made, which, when finally determined, is found to have been frivolous and vexatious.

SECTION 42. Where the council or the executive committee shall order the erasure from the Register of the name of any person or of any other entry, the name of that person or that entry shall not be again entered on the Register, except by the direction of the council, or by an order of the Supreme Court of British Columbia or a judge thereof.

SECTION 43. The council may order the registrar to restore to the register any name or entry erased therefrom either without fee, or on payment of such fee, not exceeding the registration fee, as the council may from time to time fix, and the registrar shall restore such name or entry according to the terms of the order of the council.

SECTION 44. The executive committee of the council shall always have all the powers of the council for the purposes of sections 39, 40, and 41 of this act, in addition to all other powers by this act conferred upon or vested in the executive committee.

SECTION 45. Transaction of business by executive committee.

SECTION 46. The executive committee may, for the purpose of the execution of the duties of the committee under

this act, employ at the expense of the council such legal or other assessor or assistant as the committee may think necessary or proper; and any person whose status or conduct is the subject of inquiry shall also have the right to be represented by counsel.

SECTION 47. At least one week before the first meeting of the committee to be held for taking evidence or otherwise ascertaining facts, a notice shall be served upon the person whose status or conduct is the subject of inquiry, and such notice shall embody a copy of the charges made against him, or a statement of the subject matter of the inquiry, and shall also specify the time and place of such meeting. The testimony of witnesses shall be taken under oath, which the chairman, or acting chairman, of the committee is hereby authorized to administer, and there shall be full right to cross-examine all witnesses called, and to call evidence in defence and reply. In the event of the non-attendance of the person whose status or conduct is the subject of such inquiry, the committee may, upon proof of the personal service of the notice aforesaid in accordance with the provisions of this section, which proof of service may be by statutory declaration, proceed with the subject matter of the inquiry in his absence, and make their report of the facts without further notice to such person.

SECTION 48. No action shall be brought against the council or the executive committee for anything done bona fide under this act, notwithstanding any want of form in the proceedings; but any person aggrieved or affected by any order of the council or of the executive committee, or whose name has been ordered to be erased from the register may appeal from the decision of the council or executive committee to any judge of the Supreme Court of British Columbia, at any time within six months from the date of the order appealed from; the said judge thereof may, upon the hearing of such appeal, make such order confirming or reversing, in whole or in part, or varying the order appealed from, or directing further inquiries by the committee or council into the facts of the case, and as to costs as to the said judge

thereof shall seem right in the premises. An appeal shall lie from the decision of such judge to the full court, and the full court shall have all the powers which may by this act be exercised either by the committee or council or the judge appealed from.

SECTION 49. Material to be used on appeal.

SECTION 50. In any hearing or proceeding under this act, or in respect of any matter or thing dealt with by this act, and in any suit or action wherein the status of any person, so far as relates to any matter or thing dealt with by this act, is called into question, and in any prosecution of any person for any contravention of any of the provisions of this act or of any rule or regulation of the council made under and by virtue of the provisions of this act, the burden and onus of proof shall be upon the person alleging or setting up or claiming membership in the College and the right to practise the profession of dentistry and dental surgery under and by virtue of the provisions of this act, in so far as relates to proof of such membership and right to practise.

SECTION 51. In all cases where proof of registration under this act is required to be made, the production of the last annual list published in the *British Columbia Gazette* as hereinafter provided or of a certificate bearing a date subsequent to the issue of the said *Gazette* containing said annual list, showing that the person or persons therein named is or are duly registered, certified under the hand of the registrar and seal of the College for the time being, shall be sufficient evidence of such registration in lieu of the production of the original register; and any such certificate purporting to be signed by any person in the capacity of registrar shall be prima facie evidence that such person is such registrar without any proof of his signature or of his being in fact such registrar: *Provided, always*, That the evidence herein aforesaid may be displaced by any certificate of the registrar under seal of the College, showing the fact of erasure of any name or suspension or revocation of any license to practise.

SECTION 52. There shall be due and payable annually by every member of the College actually engaged in the practice

of the profession of dentistry or dental surgery to the College, on the first Monday in March in each year, the sum of ten dollars, but the council may by a rule provide that such amount may be reduced to a sum not exceeding five dollars, if paid on or before the first Monday in February and each member of the College so engaged in practice shall obtain from the registrar annually a certificate under the seal of the College of the same date, stating his qualification to practise, and that the certificate is in force for one year from its date, and it shall be the duty of the registrar, upon payment of such fee, to issue the certificate. Such certificate may be in the following form:

"College of Dental Surgeons of British Columbia.

"Annual Certificate, No. ——

"This is to certify that . . . . . has paid to the College of Dental Surgeons of British Columbia, under the provisions of the 'Dentistry Act,' the sum of . . . dollars, and that the said . . . . . is hereby entitled to practise the profession of Dentistry and Dental Surgery in the Province of British Columbia for one year from the date hereof.

"Dated February, 19

———— ————,

"Registrar."

SECTION 53. Subject to the provisions of the preceding section, if any member of the College, either in his own name or as a member of any firm, practises the profession of dentistry or dental surgery in British Columbia, without having taken out a certificate for the current year, as directed by the last preceding section of this act, he shall for every such offence forfeit and pay the sum of fifty dollars to the College, which sum may be recovered in any court of competent jurisdiction in British Columbia by the College; and he may also be suspended by the council from membership in the College and from practise of the profession of dentistry and dental surgery for any period not exceeding six months, or

until the fee payable for such certificate, and the further sum of fifty dollars forfeited as aforesaid, have been duly paid.

SECTION 54. Application of fees.

SECTION 55. On the first Tuesday in the month of March in each year the registrar, under the direction of the council, shall prepare and shall certify under his hand and the seal of the College a list setting forth in alphabetical order the names, and giving also the place of residence of all the members of the College who have paid their annual fees for the then current year and have had issued to them annual certificates; and shall, so soon as may be thereafter and at the cost of the College, cause a true copy of such list, certified as aforesaid, to be published in one issue of the *British Columbia Gazette;* and production of a copy of said *Gazette* containing such list shall be prima facie evidence of the right of every person named in such list to practise the profession of dentistry or dental surgery in British Columbia for one year from the date of such list, and the absence of the name of any person from such list shall be prima facie evidence that such person is not registered or entitled to practise under the provisions of this act.

SECTION 56. Complaint regarding omission from list.

SECTION 57. Every person registered and holding an unexpired annual certificate under the provisions of this act shall be entitled to practise the profession of dentistry and dental surgery in the Province of British Columbia, and to demand and recover from any person or patient in any court of law, with full costs of suit, reasonable charges for professional aid, advice, and services and the cost of any medicines, materials, or appliances rendered or supplied by him to such person or patient.

SECTION 58. Any person entitled to be registered under this act, but who neglects or omits to be so registered or to take out an annual certificate in every year, shall not be entitled to any of the rights or privileges conferred by registration under the provisions of this act, so long as such neglect or omission continues; and he shall be liable to all the

penalties imposed by this act, or by any other act in force against unqualified or unregistered practitioners.

SECTION 59. It shall not be lawful for any person not registered under this act, and not holding an unexpired annual certificate, to practise the profession of dentistry or dental surgery in British Columbia, for hire, gain, or hope of reward.

SECTION 60. No person shall be entitled to recover any charge in any court of law for any aid, advice, or assistance rendered by him or for attendance, or for the performance of any operation, or for any medicine or materials that he may have prescribed or supplied as a dentist or dental surgeon, unless he be registered under this act and be the holder of an unexpired annual certificate under this act.

SECTION 61. Every person who shall be registered under the provisions of this act shall be exempt, if he so desire, from serving on all juries and inquests whatsoever.

SECTION 62. No duly registered member of the College shall be liable in any action for negligence or malpractice by reason of professional services requested or rendered, unless such action be commenced within one year from the date when, in the matter complained of, such professional services are terminated.

SECTION 63. The right by this act conferred upon a member of the College holding an annual unexpired certificate to practise the profession of dentistry or dental surgery in British Columbia is a personal right, and every such member so practising shall at his office or place of practice, by a proper sign, conspicuously placed, set forth his proper name, so that all persons applying to him for professional aid and treatment may have certainty of his identity and means of availing themselves of the protective provisions of this act:

(*a*) Nothing herein shall be deemed or construed to prevent any partnership between two or more duly registered and licensed members of the College, provided that the proper name of each member of the partnership shall at all times be conspicuously displayed in manner aforesaid:

(*b*) Nothing herein shall be deemed or construed to prevent a duly licensed and registered member of the College entering the employ of any other duly registered and licensed member of the college actually engaged in practising the profession of dentistry and dental surgery in British Columbia.

SECTION 64. Nothing in this act shall prevent any duly indentured and registered student of dentistry from receiving clinical instruction and practice under the personal supervision of a member of the College, but no student shall engage in or perform any dental work, or any work in the nature of dental surgery, except in the presence of and under the direct personal supervision of a member of the College.

SECTION 65. No student shall be placed in charge of any dental office or place where dental work is carried on, and no member of the College shall leave or permit his office or place to be left in charge of any student to perform any dental operation during the absence of his principal.

SECTION 66. No member of the College shall, in the practice of the profession of dentistry or dental surgery, use any trade name or designation, or corporate name, or any distinguishing name, for any premises in which he carries on the practice of his profession, but every such member shall for all purposes in connection with his profession use his own proper name.

SECTION 67. No company incorporated, registered, or licensed under any of the acts of the Province of British Columbia regulating or respecting joint stock companies shall carry on, or attempt, or purport to carry on, the practice of the profession of dentistry or dental surgery in the Province of British Columbia, and no member of the College shall assist or enter the employ of any such company to carry on, or attempt to purport to carry on, such practice in anywise howsoever: *Provided,* That this section shall not come into force until the 1st day of October, 1908.

SECTION 68. Every student shall present himself for examination forthwith upon the determination of the period of service prescribed as a condition precedent to every such examination, and in the event of any student neglecting or

being unable from any cause to so present himself for examination he shall forthwith make application to the council for an extension of the term of his studentship:

(1) The council may extend any such term of studentship, upon such conditions as the council may think fit:

(2) No graduate of any Dental College shall be articled, enrolled, or engaged as a student by any member of the College.

SECTION 69. If any person wilfully procure, or attempt to procure, himself to be registered under this act, by making any false or fraudulent representation or declaration, either verbally or in writing, he shall, on summary conviction, incur a penalty not exceeding one hundred dollars; and every person knowingly aiding or assisting him therein shall, on summary conviction, incur a penalty of not less than twenty nor more than fifty dollars for each offence.

SECTION 70. If any person not registered pursuant to this act, for hire, gain, or hope of reward, practise or profess to practise the profession of dentistry or dental surgery in British Columbia, he shall, upon summary conviction, for any and every such offence, pay a penalty not exceeding one hundred dollars. If any person not registered under this act contracts with any person registered under this act to practise dentistry or dental surgery for him or in his stead, both parties to such contract shall be liable, upon summary conviction, to a penalty not exceeding one hundred dollars and not less than twenty-five dollars.

SECTION 71. Any person who falsely and wilfully pretends to be a practitioner of dentistry or dental surgery in British Columbia or assumes any title, addition, or description in respect of such profession other than he actually possesses and is legally entitled to, shall be liable, on summary conviction, to a penalty not exceeding fifty dollars nor less than ten dollars.

SECTION 72. Any person not registered pursuant to this act who wilfully and falsely takes or uses any name, title, addition or description implying or calculated to lead people to infer that he is registered under this act, or that he is

recognized by law as a person qualified to practise the profession of dentistry or dental surgery in British Columbia, shall be liable, upon summary conviction, to a penalty not exceeding one hundred dollars nor less than twenty-five dollars.

SECTION 73. Application of Fund.

SECTION 74. Prosecutions to be under "Summary Convictions Act."

SECTION 75. Prosecutor.

SECTION 76. Every prosecution under this act shall be commenced within six months from the date of the alleged offence.

SECTION 77. The council by an order signed by the president, having the seal of the council appended thereto, may stay proceedings in any prosecution under this act, where it is deemed expedient.

SECTION 78. Application of Funds of College.

SECTION 79. All rules and regulations respecting and regulating the practice of the profession of dentistry and dental surgery in British Columbia, now existing and in force under and by virtue of any act by this act repealed, shall, notwithstanding such repeal, remain in full force and effect until replaced by rules and regulations made by the council under this act.

SECTION 80. Every member of the College shall for the year 1908 pay to the council the fee of five dollars, on or before the 30th of June 1908.

SECTION 81. "The Dentistry Act," being chapter 19 of the Revised Statutes of British Columbia, 1897, and the "Dentistry Amendment Act, 1905," are hereby repealed.

MANITOBA

Revised Statutes, 1902, Chap. 47, p. 798.

SECTION 1. This act may be cited as "The Dental Association Act."

SECTION 2. The association heretofore incorporated under the name of "The Manitoba Dental Association" is hereby

continued and shall be deemed to be a body corporate and politic, and by the said name shall have perpetual succession and a common seal. . . .

SECTION 3. The following persons shall be members of and shall constitute the said association, namely:

(*a*) Every person who at the time of the coming into force of this act is a duly qualified and registered member of said association under the provisions of the "Manitoba Dental Association Act," being Chapter 44 of the Revised Statutes, and acts amending the same, or under any other act of the Legislature of Manitoba relating to the said association:

(*b*) Every person who shall hereafter be duly licensed and registered under the provisions of this act.

SECTION 4. There shall be a board of directors of said association, which shall consist of five members who shall hold office for three years. Any director may at any time resign by letter directed to the secretary, and in the event of such resignation or of a vacancy occurring by death or otherwise, the remaining members of the board shall elect some fit and proper person from among the members of the said association to supply such vacancy.

SECTION 5. Election of board.

SECTION 6. Qualification of voters.

SECTION 7. Members of present board and offices continued.

SECTION 8. Voting to be by ballot.

SECTION 9. Publication of board.

SECTION 10. The board of directors at their first meeting shall elect from among themselves a president, a secretary, a treasurer, and a registrar.

SECTION 11. The said board shall hold one meeting in each and every year in the city of Winnipeg at such places as may from time to time be fixed by the board, for the purpose of examining students, granting certificates of license and doing such other business as may properly come before them; such meetings shall be held on the second Tuesday of January of each year and shall continue from day to day

until the business before the board is finished; but no such meeting shall continue for more than one week.

SECTION 12. Majority of members must be present.

SECTION 13. The board of directors shall from time to time make such rules, regulations, and by-laws as may be necessary for the better guidance, government, discipline, and regulation of the said board and of the profession of dentistry, and for the carrying out of this act.

SECTION 14. The board of directors of said association shall also have authority to examine candidates and grant certificates of license to practise dental surgery in this province.

SECTION 15. The said board shall have power and authority to appoint one or more examiners for the matriculation or preliminary examination of all students entering the profession, or may accept, in lieu of such matriculation or preliminary examination, evidence that any student has passed any other satisfactory examination.

SECTION 16. The said board shall also have the power and authority to fix and determine from time to time a curriculum of studies to be pursued by students, and to fix and determine the period for which every student shall be articled and employed under some duly licensed and registered practitioner, and the examination necessary to be passed before the board, and the fees to be paid into the hands of the treasurer of the association before the applicant shall receive a certificate of license to practise the profession of dentistry and be entitled to registration under this act.

SECTION 17. A matriculation or preliminary examination of students desiring to enter the profession shall be held once in every year; and, except as provided in the fifteenth section of this act, such examination shall be passed by all students prior to entering into articles of indenture with a licentiate of dentistry, and the commencement of study shall date from the signing of said articles.

SECTION 18. The board of directors shall at their annual meeting examine all candidates for a license to practise dentistry and for registration under this act who present

themselves pursuant to the provisions of the next succeeding section.

SECTION 19. The board of directors shall fix the times for two examinations in each twelve months for the examination of persons referred to in subsection (*b*) of the twenty-first section of this act; one of which times shall be the time for the final examination of students; and in case any such person takes his examination at the time other than such annual time for students, he shall, in addition to any fees otherwise prescribed for certificates of license, pay a fee to be fixed by the board, nor exceeding forty dollars.

SECTION 20. Every person being desirous of being examined by the said board touching his qualifications for the practice of the said profession of dentistry shall, at least one month before the sitting of said board, pay into the hands of the treasurer the required fees, and furnish him with satisfactory evidence of his term of apprenticeship having been fulfilled, and as to the applicant's integrity and good morals.

SECTION 21. The following persons upon payment of the required fees, shall be entitled to receive certificates of license to practise dentistry in this Province, from the board of directors of said association, namely:

(*a*) All persons in the Province of Manitoba who were and had been in regular and continuous office practice as dentists for a period of not less than six months immediately preceding the seventh day of July in the year one thousand eight and eighty-three.

(*b*) Any person who is a member of any college of dentistry of any of the Provinces of the Dominion of Canada having authority by law to grant certificates of license or diplomas to practise dentistry, or who is a member of any association or school of dentistry having the like powers in the United Kingdom of Great Britain and Ireland, and who, in either case, produced sufficient evidence of such membership and testimonials of good character and conduct, and passes the final examination prescribed for admission of students to practise.

(*c*) Any person, other than those possessing the qualifications hereinbefore mentioned, upon his satisfying the said board of his proficiency and upon production of satisfactory evidence of membership in a college or school of dentistry approved of by said board.

(*d*) Every person who shall satisfy the said board, by passing the examination provided by this act, that he is duly qualified to practise the profession of dentistry and that he is a person of integrity and good moral character.

SECTION 22. If the board is satisfied, by the examination provided for in the eighteenth or nineteenth section of this act, that the person is duly qualified to practise the profession of dentistry, or that he possesses any other of the foregoing qualifications, and is further satisfied that the applicant is a person of integrity and good moral character, it shall grant him a certificate of license, subject to the rules, regulations and by-laws promulgated under the authority of this act, and the title of "Licentiate of Dental Surgery," which certificate and title shall entitle him to all the rights and privileges of this act, subject, however, to the provisions of this act respecting registration.

SECTION 23. Every certificate of license shall be sealed with the corporate seal of the association, and signed by the president, secretary, and registrar of said association; and the production of such certificate of license shall be prima facie evidence in all courts of law, and in all proceedings of whatever kind, of its execution and contents.

SECTION 24. No diploma or certificate of license shall be granted to any person under the age of twenty-one years.

SECTION 25. Every person holding a valid and unforfeited certificate of license to practise dentistry under the provisions of this act, and who on or before the second Tuesday of January in each year shall have paid to the registrar appointed by said board a registration fee of two dollars, or who, having during the then current year obtained a certificate of license from said association to practise the profession of dentistry, forthwith pays to the said registrar a registration fee of two dollars, shall, subject to the other provisions of

this act, be entitled to have his name entered in the register referred to in the next succeeding section of this act, and a copy of such register, certified by the said registrar, shall be evidence in any court of justice in Manitoba that the persons therein named are the members of the said association for the said year.

SECTION 26. It shall be the duty of the registrar, as early as possible in each year, to make a correct register, in the form in Schedule A to this act, of the names and addresses of all persons who may be entitled to registration under this act as members of the said association for the then current year.

SECTION 27. No person shall be entitled to have his name on the said register, unless the registrar is satisfied by proper evidence that such person is entitled to be registered, and any appeal from a decision of the registrar shall be decided by the board of directors of said association.

SECTION 28. If it shall at any time be proved to the satisfaction of the said board that the name of any person has been improperly inserted in the register for the year, such name may be erased therefrom by order of said board.

SECTION 29. Upon any person being registered under this act, he shall be entitled to receive a certificate under the corporate seal of said association and signed by the registrar, in the form in Schedule B to this act or to the like effect.

SECTION 30. List of licentiates to be sent to Provincial Secretary.

SECTION 31. All persons registered under this act, and no others, shall be entitled to practise the profession of dentistry in the Province of Manitoba, and no person shall be entitled to any of the privileges of a licentiate or member of the said association, or to practise the profession of dentistry, who is in default in respect of any fees payable by him by virtue of this act.

SECTION 32. No person shall be entitled to recover in any court of law for any professional services rendered or materials provided by him in the exercise of the profession of a dentist, unless he be a duly and legally qualified licentiate of dentistry and duly registered under the provisions of this act.

SECTION 33. If any person, not holding a valid certificate of license as aforesaid or not duly registered, shall practise, within this Province, the said profession of dentistry, either publicly or privately, for hire, gain, or hope of reward, or shall voluntarily and falsely pretend to be a duly qualified licentiate of dentistry, or assume any title, addition, or description other than he actually possesses and is legally entitled to, or use any name, title, addition, or description implying or calculated to lead people to infer or believe him to be a duly qualified licentiate of dentistry, he shall be liable, upon conviction in a summary manner before any justice of the peace having jurisdiction where the offence is committed, to a penalty not exceeding two hundred dollars and not less than fifty dollars for the first offence, and for each and every subsequent offence to a penalty of four hundred dollars.

SECTION 34. In case a charge is made against any licentiate of unprofessional conduct, or other misconduct provided for by the by-laws passed or to be passed under the provisions of any of said former acts or this act, the board of directors shall have power to hear and determine the same, and for this purpose to summon witnesses before them and administer an oath or affirmation to such witnesses; and if any licentiate shall be found guilty of the charge preferred against him, he shall forfeit his certificate and title and the same shall be cancelled; such forfeiture, however, may be annulled, and the said license and all rights and privileges thereunder fully renewed and restored by said board, in such manner and upon such conditions and terms as the said board shall think fit:

Provided, however, That nothing in this act contained shall empower the said board to deal with any criminal or other offence provided for by law.

SECTION 35. Any licentiate who shall be convicted of any malpractice shall forfeit his license, and the same shall be cancelled; but the board shall have power to restore the same if it shall think fit and proper, notice of such restoration to be given for two weeks in some local newspaper to be determined upon by the board.

SECTION 36. All prosecutions under the provisions hereof may be brought and heard before any justice of the peace having jurisdiction where the offence is committed; and such justice of the peace shall have power, in addition to the aforesaid penalty, to award payment of costs; and in case such penalty and costs be not paid forthwith after conviction, he shall have power to issue a warrant of distress therefor against the goods and chattels of the party so convicted, and, in default of distress, to order imprisonment for any period not exceeding six months.

SECTION 37. Any penalties imposed by this act may be also proceeded for and recovered by suit in any court of law having jurisdiction, and one-half of all penalties recovered shall go to the prosecutor and the remainder shall be paid to the treasurer of the said association and form part of the funds of the association. Any person may be complainant or prosecutor:

Provided, always, That every such prosecution shall be commenced within six months of the alleged offence.

SECTION 38. In any such prosecution and trial, the onus of proof as to being a legally qualified licentiate of dentistry and a duly registered member of said association is upon the person charged.

SECTION 39. Nothing in this act contained shall interfere with the privileges conferred upon physicians and surgeons by the various acts relating to the practice of medicine and surgery in this Province: but in case a regular physician or surgeon shall desire to practise dentistry as a profession and to publicly avow himself as a practitioner of said profession of dentistry, he shall first obtain a license from said board of directors, by paying the necessary fees and passing an examination in operative and mechanical dentistry only.

SECTION 40. Nothing in this act shall prevent any duly indentured and registered student of dentistry from receiving clinical instruction and practice under the personal supervision of a member of the said association.

SECTION 41. All moneys forming part of the funds of the said association shall be paid to the treasurer, and shall be applied to carry on the objects of this act.

SECTION 42. All fees that are now payable under the provisions of this act and the acts referred to in the third section of this act and the by-laws of the said association shall continue to be payable, until duly changed by the by-laws of the association pursuant to the provisions of this act.

SECTION 43. All rules, regulations, and by-laws in force at the passing of this act shall be the rules, regulations, and by-laws of the said association, until amended, altered, or repealed under this act.

SCHEDULES

The following are the schedules referred to in this act:

SCHEDULE A (Section 26)

Name.	Residence.	Qualifications.
A. B.	Winnepeg	Certificate of license, 15th March, 1885.
C. D.	Portage la Prairie.	Six months' practice prior to 7th July, 1883.
E. F.	Brandon.	Member of (stating name of college or school, and where situated.)

SCHEDULE B (Section 29)

Certificate of Registration.

I hereby certify that A. B., being the holder of a certificate of license to practise the profession of dentistry from the Manitoba Dental Association, was, on the . . . . . day of . . . . . , 19 , duly registered as a member of The Manitoba Dental Association, and is authorized to practise his said profession up to the 31st day of December, 19 , subject to the provisions of "The Dental Association Act."

(Signed) E. F.

Registrar of The Manitoba Dental Association.

Corporate Seal of the Association.

NEW BRUNSWICK

Consolidated Statutes, 1903, Chap. 75, p. 729.

This act may be cited as "The New Brunswick Dental Act."

SECTION 2. The New Brunswick Dental Society incorporated by the Act of Assembly, 53 Vict. Chap. 22, is hereby continued and all persons who are duly qualified and registered at the coming into force of this chapter, and all persons who are qualified to register under section 25 of this chapter, and who do register after this chapter comes into force, shall constitute the said society.

SECTION 3. Officers.

SECTION 4. There shall be a dental council, composed of seven registered dentists, or dental surgeons, three of whom shall be nominated and appointed by the Lieutenant-Governor-in-Council and four by the society, of which council any five shall constitute a quorum for the purpose of carrying out the provisions of this chapter.

SECTION 5. Title of council.

SECTION 6. (1) No dentist or dental surgeon shall be appointed a member of the council unless he is before and at the time of his appointment duly registered under this Chapter.

(2) If any member of the society shall use unprofessional means to acquire, extend, or retain practice as a dentist or dental surgeon, or be guilty of any other unprofessional conduct, he may be convicted thereof, if he be a member or officer of the council, by a majority of the members of the council, at any meeting duly called for the purpose, or if he be an officer of the society, by a majority of the members of the society present at any regular meeting thereof; provided that no person shall be so convicted, unless reasonable notice shall have been given him of the charge, and the time and place of hearing and after he shall have been allowed full opportunity to be heard in his defence. If any person be convicted hereunder, he shall thereupon forfeit any office he

may then hold in the council or society, and if he is a member of the council, he shall thereupon cease to continue in such membership; and no person so convicted shall within three years after such conviction, be eligible to be elected, or appointed to any office in the council or society, or to become a member of the council.

(3) The society shall by by-law declare what conduct shall be deemed unprofessional. Such by-law, before it goes into operation, shall be first approved by the Lieutenant-Governor-in-Council.

SECTIONS 7 to 10. Members of council, vacancies, meetings, etc.

SECTION 11. No dentist or dental surgeon having more than one office or place of business, shall employ any assistant to take charge of or assist him in such additional office or place of business unless such assistant is registered under this chapter.

SECTION 12. The name of any dentist or dental surgeon who shall fail to comply with the provisions of the last preceding section may, at the discretion of the council, be removed from the dental register for a period not to exceed thirty days, or as an alternative penalty, such dentist or dental surgeon may, in the discretion of the council, be ordered to pay a fine not exceeding the sum of twenty dollars for every such failure to comply with the terms of the said section.

SECTION 13. In the event of the omission of any dentist or dental surgeon to pay the fine by such council imposed under the last preceding section, or in the event of a second failure to comply with the provisions of section 11, the two penalties by section 12 provided, may be together imposed as cumulative penalties. In the event of a third or subsequent failure to comply with the provisions of the said section 11, the name of such offender, may, in the discretion of the council, be permanently stricken from the dental register: *Provided, however,* That where any dentist or dental surgeon shall feel himself aggrieved, by reason of his name having been temporarily or permanently stricken from the register, as herein

provided, or by reason of the imposition of a fine, as provided for in section 12, or both, it shall be open to such dentist or dental surgeon to appeal from the decision of the said council, to the Lieutenant-Governor-in-Council.

SECTION 14. The books and accounts of the council shall at all times be open to the examination of such persons as the Lieutenant-Governor-in-Council or the society shall appoint to inspect the same, and also of all the members of the council.

SECTION 15. The council shall have power and it shall be their duty—

(1) To elect a secretary from among the members of the society to act as secretary to the council, who shall among other things attend the meetings of the council, and keep a record of the proceedings of the same in a book or books to be provided by him for that purpose.

(2) To elect a president, treasurer, and such other officers as may be necessary.

(3) To cause every member of the profession practising in New Brunswick to register his name, place of residence, the date of his diploma, if he has one, and the place where he obtained it, in the dental register hereinafter provided for.

(4) To make all such orders, rules, regulations, and by-laws for carrying this chapter into effect as to the council shall seem proper or necessary, which orders, rules, regulations and by-laws shall not be inconsistent with this chapter, or with any by-laws made by the society, and may be disallowed by the Lieutenant-Governor-in-Council, or may be amended or repealed by the society.

SECTION 16 and 17. Adoption by society of by-laws; Meetings.

SECTION 18. (As amended by Chap. LXV of Statutes of 1907.) All persons who shall hereafter enter upon the study of dentistry with a view of being registered under this chapter, are required, subject to the exception in favor of graduates and matriculants in arts of any college or university in good standing, to pass a preliminary examination before the board of examiners mentioned in section 20 of this chapter; such examination to be equivalent as near as may be to the

matriculation examination of the University of New Brunswick: *Provided,* That graduates in arts or matriculants in arts in any college or university in good standing shall not be required to pass the preliminary examinations.

SECTION 19. No person shall be received as a candidate for the preliminary examinations unless he shall, at least thirty days prior to the time of such examination, forward to the registrar a written notice of his intention to present himself for such examination, and shall before such examination, satisfy the registrar that he is of the full age of sixteen years, and pay to the registrar a fee of five dollars.

SECTION 20. The board of examiners shall consist of three persons, appointed by the council at each annual meeting of the council. Two of the examiners shall be members of the society. The examiners shall hold office for one year, or until the annual meeting of the council next after their appointment, but shall be eligible for re-election.

SECTION 21. (As amended by Chap. LXV of Statutes of 1907.) The board of examiners will meet, at least once every year on the last Tuesday in June, in the city of Saint John, at a time and place appointed by the council, for the purpose of holding examinations under this Chapter, and in case there are applications for examinations, they shall also meet as aforesaid, on the last Tuesday of September in each year for the purpose of holding such examinations.

SECTION 22. Any applicant for examination who is dissatisfied with the decision of the board of examiners, shall have the right to appeal to the Lieutenant-Governor-in-Council, who, upon due cause shown, shall order the board of examiners to hold another examination.

SECTION 23. Should any candidate for the preliminary examination fail to pass his examination, two dollars of his fee shall be retained as examiner's fee; and should any candidate for the final examination fail to qualify for registry, five dollars of his fee shall be retained as examiner's fee.

SECTION 24. Every person who shall have fulfilled the requirements for entry as such, shall be entered by the registrar as a student in dentistry, and the registrar shall make a memorandum of the date of such entry as student.

SECTION 25. (Repealed 1907, Chap. 65, p. 227, section 6.)

SECTION 26. (As amended 1907, Chap. 65, p. 227, section 5.) If any applicant for registration or any registered dentist or dental surgeon is dissatisfied with the decision of the registrar, the question shall be referred to the council for its decision, and the applicant, or any member of the society objecting to the decision of the council, may appeal to the Lieutenant-Governor-in-Council, who may affirm, alter in any way or reverse the decision of the council and the council shall forthwith give effect to such decision on appeal.

SECTION 27. Each registered dentist or dental surgeon shall pay to the treasurer or any person deputed by the treasurer to receive it, such annual fee as may be determined by by-law of the council, not less than one dollar nor more than three dollars.

SECTION 28. If any registered dentist or dental surgeon do not pay the annual fee required by the council under section 27 prior to the first day of January in each year, he shall thereupon cease to be deemed registered; and if any such fee remains due from any dentist or dental surgeon on the first day of January in any year, the name of such person shall not be printed or published in the *Royal Gazette* in such year, as provided in section 32, but any such practitioner upon the payment of all arrears of such fees, shall thereupon be registered and be deemed registered from the time of such payment.

SECTIONS 29 to 32. Registrar, duties, register, etc.

SECTION 33. Every person registered under this chapter, who may have obtained any higher degree or qualification other than the qualification in respect of which he may have been registered, shall be entitled to have such higher degree or additional qualification inserted in the register in substitution for or in addition to the qualification previously registered on the payment of such fee as the council may demand.

SECTION 34. Evidence of title to use degree.

SECTION 35. If in any case it shall be proved to the satisfaction of the council on application by a registered dentist or dental surgeon that any entry in the register was fraudu-

lently or incorrectly made, the council may order the entry to be erased or amended, as the case may be, and if it shall be proved to their satisfaction that any person has fraudulently registered or attempted to register, the name of such person may at the discretion of the council be published in the *Royal Gazette*.

SECTION 36. Any registered dentist or dental surgeon who shall have been convicted in any court of any crime punishable by imprisonment in a penitentiary, although a less penalty than such imprisonment be imposed by the court, or shall after due inquiry be adjudged by the council to have been guilty of infamous conduct in any professional respect, shall thereby, subject to an appeal to the Lieutenant-Governor-in-Council, forfeit his right to registration and by direction of the council his name shall be erased from the register.

SECTION 37. Subject to the exceptions hereinafter named, no person not registered under this Chapter shall practise dentistry or dental surgery in this Province, be entitled to any of the rights or privileges conferred by this chapter.

SECTION 38. Every person who shall be registered under this chapter shall be entitled to practise dentistry or dental surgery in this province, and to demand and recover in any court of law of competent jurisdiction, reasonable and customary charges for professional services, and the cost of any medicine supplied by him as dentist or dental surgeon to his patients.

SECTION 39. No person shall be entitled to recover any charges in any court of law for services as dentist or dental surgeon, or for any medicine which he shall as such dentist or dental surgeon have both prescribed and supplied, unless he shall prove upon the trial that at the time the services were performed or the medicine prescribed and supplied he was registered under this chapter.

SECTION 40. Construction of words used in act.

SECTION 41. No person shall be appointed as dental officer or dental surgeon in any branch of public service or in any hospital or other charitable institution, unless he be registered under this chapter.

SECTION 42. No certificate required by any act from any dentist or dental surgeon shall be valid unless the person signing the same shall be registered under this chapter.

SECTION 43. If any person not registered under this chapter practises dentistry or dental surgery in any form for hire, gain, or hope of reward, he shall thereby forfeit a sum of twenty dollars for each day upon which he so practises.

SECTION 44. Any person who attempts to evade the law by causing his services as a dentist or dental surgeon to be indirectly paid for in any manner, whether by the sale of drugs or medicines or otherwise, shall forfeit the sum of twenty dollars for each offence.

SECTION 45. If the registrar make or cause to be made any wilful falsification in any matter relating to the register, he shall forfeit the sum of one hundred dollars.

SECTION 46. If any person shall wilfully procure or attempt to procure himself to be registered under this chapter by making or producing or causing to be made or produced, any false or fraudulent declaration or representation, either verbally or in writing, every such person so doing, and every person knowingly aiding or assisting him therein, shall forfeit the sum of one hundred dollars.

SECTION 47. Any person who shall wilfully and falsely pretend to be registered under this chapter, or take or use any name, title, addition, or description implying that he is so registered, shall forfeit the sum of one hundred dollars.

SECTION 48. Nothing in this chapter shall prevent any person from giving necessary aid as dentist or dental surgeon to anyone in urgent need of it, provided that such aid is not given for hire, gain, or hope of reward, nor the giving of it made a business, or way of gaining a livelihood, either directly or indirectly by such person.

SECTION 49. This chapter shall not apply to, or be construed to extend to, any duly qualified medical practitioner extracting teeth, nor, subject to Section 11, to any paid assistant not registered under this chapter, employed by any registered dentist or dental surgeon in his office; but this

section shall not be construed to permit any such assistant to act as dentist or dental surgeon outside of the office of his employer.

SECTION 50. Proceedings for recovery of penalties.

SECTION 51. By whom information to be laid.

SECTION 52. Upon the trial of any information for the recovery of any penalty or forfeiture under Section 43 or Section 44 of this chapter, the burden of proof as to the right of defendant to practise dentistry or dental surgery in this Province shall be upon the defendant.

SECTION 53. No prosecution for any penalty or forfeiture under this chapter shall be commenced after six months from the date of the offence.

SECTION 54. Whenever an inquiry shall be ordered under the provisions of Section 36 of this chapter, a time and place for holding the inquiry shall be fixed by the council, and notice of such time and place shall be given to the party against whom the inquiry is ordered, at least fourteen days before the time so fixed. The inquiry may be adjourned from time to time to such place as may be designated.

SECTION 55. Power to administer oaths at inquiry.

SECTION 56. Funds.

SECTION 57. No dentist or dental surgeon shall administer chloroform or ether in the practice of dentistry unless by the consent and in the presence and under the direction of a duly registered physician.

SCHEDULE A (Section 30)

Name.	Residence.	Qualification.	College which granted degree and date of degree.	Date of registry.
A. B.	Fredericton	D. D. S.	Boston Dental School, June 1, 1890.	Sept. 20, 1890.
C. D.	St. John.	Residence and Practice.	....	Oct. 1, 1890.

SECTION 4. (Act of 1907, Chapter 65, p. 227.)

No person shall be entitled to be registered as provided for by The New Brunswick Dental Act, and acts in amendment thereof, unless he shall, at or before making application, or when an examination is necessary before such examination, pay to the registrar the sum of twenty dollars, and shall satisfy the registrar:

(1) That he is of the full age of twenty-one years.

(2) That he has given three months' notice in writing of his intention to make application for registry.

(3) That he has resided continuously within the Province during such period of three months (but the attendance of a resident of this Province who is pursuing his study of dentistry abroad at any dental college or school of good standing approved of by the National Association of Dental Faculties and requiring for graduation an attendance of at least three school years of nine months each, or four school years of seven months each, shall not for the purposes of this section be deemed a resident out of the Province.)

(4) Either:

(*a*) That he has fulfilled all requirements for graduation in some such dental college or school as aforesaid, and received a degree therefrom, and has passed an examination before said board of examiners in subjects prescribed by the council of the said New Brunswick Dental Society; or

(*b*) That he was practising dentistry in this Province prior to the twenty-third day of April, A.D. 1890, and has since that time (except while he may have been attending such dental college or school as aforesaid) continued regularly to practise as a dentist or dental surgeon in this Province; or

(*c*) That he has been registered or admitted or licensed to practise as a dentist or dental surgeon in any other Province of Canada, in which the standard for admission is equal to that required for admission in this Province, and in which persons registered under this act, are by the laws of that Province permitted to be registered or admitted or licensed to practise there: *Provided,* That a certificate from the

Dominion Dental Council shall, if the said council of the New Brunswick Dental Society think proper to receive the same, be evidence of such registration, license, or admission in such other Province and of the equality of such standard.

NEWFOUNDLAND

Dental Act of 1906, Statutes Chap. 7, p. 54.

SECTION 1. This act may be cited as "The Newfoundland Dental Act."

SECTION 2. There shall be a dental board consisting of three practising dentists and four medical practitioners, who shall be appointed by the Governor-in-Council for the purpose of carrying out the provisions of this act, of which board any four shall constitute a quorum.

SECTION 3. The dental board shall be styled and named "The Dental Board of Newfoundland," hereinafter called "The Board."

SECTION 4. Term of membership of the board.

SECTION 5. Officers of the board.

SECTION 6. The board shall have power to make rules not inconsistent with this act respecting—

(*a*) The holding of meetings, and the place and time of, and the order of such meetings.

(*b*) The conduct of examinations and the granting of certificates.

(*c*) The registration of members.

(*d*) The fees payable for registration, certificates, licenses, and examinations under this act, and fixing the amount of such fees.

(*e*) The inquiry by the board into complaints against persons charged with an offence under section 12 of this act and the mode of procedure thereon.

(*f*) The regulating and prescribing the nature of the duties and services to be performed or undertaken by paid assistants not registered under this act employed by any registered dentist or dental surgeon in his office. (Amended 1910, by adding this subsection.)

SECTION 7. Powers of the board.

SECTION 8. Registrar.

SECTION 9. The registrar shall make and keep a correct register in the form set forth in schedule "A" to this act, of the names of the persons registered under the provisions of this act with the other particulars required by said schedule, which register shall be called the "Dental Register," herein called the "Register."

SECTION 10. Every person shall be entitled to have his name registered on the register upon passing before the members of the board or such other examiners as may be appointed by the board for that purpose, a satisfactory examination touching his fitness and capacity to practise as a dentist or a dental surgeon or upon satisfying the board.

(*a*) That he has fulfilled all the requirements for graduation, and graduated in any college or dental school recognized by the board; or

(*b*) That he was registered under the provisions of "The Dental Act, 1893," and was practising dentistry in the Colony before the first day of January, A. D. 1906, and has since that time continued regularly in practise as a dentist or dental surgeon: *Provided, however*, That temporary absence from practice in this Colony since that date shall not prevent his being registered within thirty days after the passing of this act.

SECTION 11. If any applicant for registration or any registered dentist is dissatisfied with the decision of the board he may appeal to the Governor-in-Council, who is hereby empowered to affirm, alter in any way, or reverse the decision of the board, and the board shall forthwith give effect to such decision or appeal.

SECTION 12. Any registered dentist or dental surgeon who shall have been convicted of any felony in a court of competent jurisdiction, or shall after due inquiry by the board be adjudged to have been guilty of infamous conduct in any professional respect, shall thereby, subject to an appeal to the Governor-in-Council, forfeit his right to registration, and

by direction of the board his name shall be erased from the register.

SECTION 13. Subject to the exceptions hereinafter named, no person not registered under this act shall practise dentistry or dental surgery in this Colony under a penalty of twenty dollars for each offence.

SECTION 14. Nothing in this act shall prevent any person from giving necessary aid as dentist or dental surgeon to any one in urgent need of it, provided that such aid is not given for hire, gain, or hope of reward, nor the giving of it made a business or way of gaining a livelihood, either directly or indirectly, by such person.

SECTION 15. No person, who has not received the certificate required by this act, shall recover in any court of law any fees or money for any professional services, or operation performed by him, nor for any materials provided by him in the practice of dentistry or dental surgery.

SECTION 16. (As amended March 22, 1910, Chap. III.) This act shall not apply to or be construed to extend to any duly qualified medical practitioner extracting teeth, nor to any bona fide resident in any town or settlement where there is no resident medical practitioner, dentist, or dental surgeon.

Nothing in this act shall be construed to prohibit paid assistants not registered under this act, employed by any registered dentist or dental surgeon in his office, from performing or undertaking such duties or services as may be prescribed by the board under subsection (*f*) of section 6.

SECTION 17. The act 56 Vict., Chap. 13, entitled "An Act to regulate the Practice of Dentistry and Dental Surgery," is hereby repealed.

SCHEDULE A

The Dental Register of Newfoundland.

Name.	Residence.	Qualification.	Date.
A. B.	St. John's	D.S., Univ. of Penn.	Feb. 1, 1906
C. D.	Harbor Grace	Practice	Mar. 1, 1906

NOVA SCOTIA

Revised Statutes 1900, Chap. 105, p. 190.

SECTION 1. This chapter may be cited as "The Dental Act."

SECTION 2. Interpretation.

SECTION 3. The Dental Association of the Province of Nova Scotia, incorporated by chapter one hundred and forty-seven of the acts of the Legislature of Nova Scotia, passed in the year 1891, is hereby continued, and every person whose name is registered in the register of the Provincial Dental Board shall be entitled to be a member of the said corporation.

SECTION 4 to 6. Meetings, powers, dues, etc.

SECTION 7. (1) The Provincial Dental Board shall consist of the registrar and several members of the dental association, of whom four shall be appointed by the Governor-in-Council, and three shall be elected by the association, and shall hold office for two years, or until their successors are appointed. Four members of the board shall constitute a quorum.

(2) Qualifications of members.

SECTION 8. Resignation; Filling Vacancy.

SECTION 9. (1) The board shall hold an annual meeting at which it shall appoint examiners, fix times of examination, and transact all necessary business.

(2) Any such meeting may be adjourned from day to day until the business before the board is finished, but no such meetings shall be so adjourned beyond the Saturday of the week in which the meeting commenced.

(3) The board may also hold such other meetings as are necessary, and at such meetings it shall have the like powers and duties as at the annual meeting.

(4) President may summon special meeting.

SECTION 10. Appointment of registrar.

SECTION 11. The board may from time to time establish the standard of preliminary or matriculation examination to

be passed, the curriculum of studies to be pursued, the period of study required, and the necessary examinations to be passed, before the granting of a license to practise to a candidate, or his registration: *Provided*, That no alteration so made shall go into effect until the same has been approved by the Governor-in-Council and by the association, nor shall it apply to any candidate who has entered upon the study of dentistry before such regulation is approved.

SECTION 12. The board shall have authority to examine all candidates and grant certificates of license to practise dental surgery in the province.

SECTION 13. The board shall have power, and it shall be its duty:

(*a*) To elect a president and such other officers as are necessary to the working of this chapter;

(*b*) To make rules and by-laws as to the calling of meetings and the order and conduct of business at such meetings;

(*c*) To regulate the study of dentistry, operative and prosthetic, by making rules not inconsistent with this chapter with regard to the preliminary qualification, course of study to be followed, the final examination, and the nature of the evidence to be produced before the board upon those subjects.

(*d*) To appoint fit and proper persons to conduct the preliminary or matriculation examination, and to fix the remuneration, if any, to be paid to such examiners;

(*e*) To examine all degrees, diplomas, licenses, and other credentials presented or given in evidence under this chapter, for the purpose of enabling the owner of such credentials to be licensed to practise and to be registered under the provisions of this chapter, and to require the owner of such credentials to attest on oath that he is the person whose name is mentioned therein, and that he became possessed thereof honestly.

(*f*) To cause every member of the profession practising in Nova Scotia to register his name, age, place of residence, place of nativity, the date of his license or diploma, and the institution from which he obtained it.

(*g*) To make rules and orders for regulating the registers to be kept under this chapter.

(*h*) To make all such rules, regulations, and by-laws, not inconsistent with this chapter, for carrying this chapter into effect as to the board seems proper or necessary.

(*i*) To appoint as many examiners to hold final examinations as the board deems proper, and to decide whether any remuneration should be paid to such examiners, and to fix the remuneration if it is determined that they should be paid. (As amended by the Act of 1911.)

SECTION 14. No person shall begin to enter upon the study of dentistry in any or all of its several branches, for the purpose of qualifying himself to practise the same in this Province, unless he has obtained from the board a certificate that he has satisfactorily passed a preliminary examination in such subjects as are from time to time prescribed by regulations made by the board when approved by the association and by the governor-in-council.

SECTION 15. No candidate shall be admitted to such preliminary examination unless he has at least fourteen days previous to such examination given notice to the registrar of the board of his intention to present himself for such examination, and transmitted to the registrar a certificate showing that he has completed his sixteenth year, and has before the examination, paid a fee of ten dollars to the registrar.

SECTION 16. Duty of registrar.

SECTION 17. A candidate for license to practise dentistry, except a person holding the certificate of qualification of the Dominion Dental Council of Canada must qualify as follows:

(1) He must be of the full age of twenty-one years.

(2) He must be a graduate of a dental college recognized by the board.

(3) He must forward to the registrar fourteen days before the examination—

(*a*) A written application for examination, accompanied by a satisfactory certificate of character;

(*b*) The matriculation certificate, diploma, class tickets, and any other vouches considered necessary;

(*c*) A written statement from himself and an attested certificate from preceptor or preceptors, if any, as to length of time in months he was studying under their direction.

(4) He shall pass an examination before the board of examiners on the subjects usually included in a dental education, and shall perform operations in the mouth, and shall give practical evidence of skill in prosthetic and other branches of dentistry which shall be satisfactory to the board.

(5) Before taking such examination each candidate shall pay to the registrar the sum of $50 for examination fee, and in case a candidate shall wholly fail to pass his examination he shall be permitted on payment of $30 to enter at the next examination. In case he should fail only in any subject or subjects for which a supplemental examination may be required, he may have such supplemental examination on paying the sum of $5 for each subject upon which he is to be re-examined. The above fee of $50 shall include the registration fee. The curriculum and requirements referred to in this section may be established and changed from time to time in the manner prescribed by this chapter. (As amended by the act of 1911.)

SECTION 18. The term of studentship for the practice of dentistry in Nova Scotia shall be four regular winter sessions, in a recognized dental college, the curriculum of which required four academic years of studentship before graduation, which shall aggregate a minimum of thirty months' actual attendance before receiving a diploma.

(1) For a person who is a graduate of a dental college recognized by the Provincial Dental Board, which requires less time than four years, thirty months' attendance, the term of studentship shall be thirty-six months. The extra time over and above the months in college shall be spent in *bona fide* studentship under a registered dental practitioner in Canada, in which case the student shall file a certified copy of his contract with his preceptor in the office of the

registrar of the Provincial Cental Board of Nova Scotia, or he may take the final year in a recognized Canadian dental college. Upon receiving his diploma he shall be eligible for examination under the regulations of the Dental Board.

(2) Examinations shall be held twice during the year, in April and September respectively.

(3) No candidate shall be admitted to examination who has been rejected in the subjects of the examination by any other licensing board within the three preceding months.

(4) Applicants for admission to the examinations are required to lodge with the registrar a schedule (forms of which will be supplied) showing the course of study they have pursued.

(5) All candidates for registration in Nova Scotia must take the prescribed examination, subject to the rules and regulations of the Dental Board, provided that students of the Maritime Dental College of Halifax who pass the sessional and final examinations held by the faculty of dentistry of Dalhousie University, and who have received a diploma, and persons holding certificates of qualification of the Dominion Dental Council of Canada, are exempt from such examination of the Provincial Board, and if all other requirements of the Dental Board are fulfilled, the candidates shall receive a certificate of registration to practise dentistry in Nova Scotia. (As amended by the Act of 1911.)

SECTION 19. Every person when registering shall pay to the registrar a registration fee of $20, unless he has already paid the examination fee, and shall also pay in advance the proportionate part of the annual dues for the part of the year from the date of registering up to the 31st of July ensuing, and every person whose name is registered shall, on or before the 31st of July in each and every year, pay in advance the annual dues; and the name of every registered practitioner whose annual dues remain unpaid for two years from the time the same are payable shall be erased from the register: *Provided,* That such name shall be restored on payment of all arrears, unless the same is liable to be erased for some cause other than non-payment of dues. The "annual dues"

in this section mean such sum as is fixed by the association under the provisions of this chapter. (As amended by the Act of 1911.)

SECTION 20. Every person registered under this chapter who has obtained any degree or qualification other than the qualification in respect to which he was registered, shall be entitled to have such degree or additional qualification inserted in the register in substitution for or in addition to the qualification previously registered, on the payment of such fee as the board determines.

SECTION 21. No qualification shall be entered on the register, either on the first registration or by way of addition to a registered name, unless the registrar is satisfied, by sufficient evidence, that the person is entitled to it; and any appeal from the decision of the registrar may be taken to and decided by the board; and any entry which is proved to the sat sfaction of the board to have been fraudulently or incorrectly made, may be erased from the register by order in writing of the board.

SECTION 22. Every person who is registered under the provisions of this chapter shall be entitled to practise dentistry, or dental surgery, or either of them, and to demand and recover in any court of justice reasonable charges for professional aid and advice, and the cost of any medicinal, dental, or surgical appliances rendered or supplied by him to his patients.

SECTION 23. The words "legally qualified dental practitioner," or "duly qualified dental practitioner," or any other words importing a person recognized by law as a dental practitioner or member of the dental profession, when used in any act of the Legislature, or legal or public document, shall be construed to mean a person registered under this chapter.

SECTION 24. No person shall practise dentistry in any of its several branches in Nova Scotia unless his name is registered in the dental registry, and unless he has received from such board a license to practise. And no registered dentist shall employ any unregistered person to practise, and

unregistered persons shall not employ registered dentists to practise; but this shall not apply to infirmaries in dental colleges, nor students actually operating under the personal supervision of preceptors. A person shall not, under this clause, be considered a dental student under a preceptor longer than the time necessary for him to complete the required number of months before examination for registration. (As amended by the Act of 1911.)

SECTION 25. Every person who has made any false representation for the purpose of securing registration, or in the course of applying to be registered, or who hereafter makes such false representation shall forfeit all right to be registered, and if such person has been registered his name shall be struck off the register.

SECTION 26. Every practitioner who has—

(*a*) after due inquiry been adjudged by the board to have been guilty of infamous conduct in any professional respect; or

(*b*) made any material misrepresentation to the board or the registrar in order to procure registration; or

(*c*) been convicted of any crime punishable by imprisonment in the penitentiary,

shall forfeit his right to registration, and his name if registered shall by the direction of the board be erased from the register, and his name shall be published in the dental register of the next following year as having been so erased.

SECTION 27. (1) The registrar shall, before the first day of September in every year, cause to be published in the *Royal Gazette* and in such other manner as the board directs, the dental register, in the form in the schedule or to the like effect, containing the names in alphabetical order of the surnames, with the respective residences, dental titles, diplomas, and qualifications conferred by any college or body, with the dates thereof, of all persons appearing on the register as existing on the first day of August in such year.

(2) A copy of such register for any year purporting to be published after the first day of August next preceding shall be *prima facie* evidence in all courts of justice that the

persons therein specified are in such year registered under the provisions of this chapter, and the absence of the name of any person from such copy shall be *prima facie* evidence that such person is not registered under the provisions of this chapter: *Provided, however*, That in the case of any person whose name does not appear in such copy, a certificate under the hand of the registrar of the registering of the name of such person on the register shall be evidence that such person is registered under the provisions of this chapter.

SECTION 28. No person shall be entitled to recover any charge in any court of justice for any professional advice or attendance, or for the performance of any operation appertaining to the practice of dentistry, or dental surgery, or for any surgical or dental appliances which he has supplied, unless he is registered under this chapter; but this section shall not apply to duly qualified medical practitioners, or to duly qualified druggists or chemists in the course of their practice or business.

SECTION 29. Every person not registered or licensed under the provisions of this chapter, who—

(*a*) practises dentistry or dental surgery for hire, gain, or hope of reward; or

(*b*) wilfully or falsely pretends to be a practitioner of dentistry or dental surgery; or

(*c*) takes or uses any name, title, addition, or description implying or calculated to lead people to infer that he is registered under this chapter; or

(*d*) professes by public advertisement, card, circular, sign, or otherwise to practise dentistry or dental surgery or to give advice therein, or in anywise to lead people to infer that he is qualified to practise dentistry or dental surgery in this province—

shall be liable to a penalty of twenty dollars, and every day on which any such offence occurs shall be deemed a separate offence.

SECTION 30. If the registrar makes or causes to be made any wilful falsification in any matters relating to the register, he shall be liable to a penalty of one hundred dollars.

SECTION 31. Every person who wilfully procures or attempts to procure himself to be registered under this chapter by making or producing or causing to be made or produced, any false or fraudulent representation or declaration, either verbally or in writing, and every person knowingly aiding and assisting him therein, shall be liable to a penalty of one hundred dollars.

SECTION 32. Disposition of penalties.

SECTION 33. Upon the trial of any action under the provisions of this chapter the burden of proof as to the license or right of the defendant to practise dentistry or dental surgery in Nova Scotia shall be upon the defendant.

SECTION 34. (Repealed by the Act of 1911.)

SECTION 35. Nothing in this chapter shall prevent any person from giving necessary aid to anyone in urgent need of it: *Provided,* That such aid or attendance is not given for hire or gain, nor the giving of it made a business or way of gaining a livelihood by such person.

SECTION 36. (1) Except as is in the next preceding section provided, no person, whether registered as a dental practitioner or otherwise, shall extract teeth or perform any other dental operations for fee or otherwise, on any public street or common, or in any park, square, parade ground, or other public place.

(2) Every person who violates the provisions of this section, shall be liable to a penalty of not less than five dollars for each offence, and in default of payment to imprisonment for a period not exceeding twenty days, and each such dental operation shall be a separate offence.

SECTION 37. Moneys to be paid to treasurer.

SECTION 38. The books and accounts of the board shall at all times be open to the examination of any practitioner duly qualified under this chapter.

SECTION 39. (Supplied by Act of 1907.) Power of association to establish dental college.

SECTION 40. (Supplied by Act of 1907.) Board to make by-laws.

SECTION 41. (Supplied by Act of 1907.) Affiliation of the dental college.

SECTION 42. (Supplied by the Act of 1907, as amended by the Act of 1911.) The dental board shall accept persons holding the certificates of qualification of the Dominion Dental Council of Canada for registration without examination, providing that all other qualifications imposed by the board are met. But such persons before being registered shall pay to the registrar a registration fee of $20 together with the proportion of the annual dues for the year up to the 31st of July ensuing.

SCHEDULE (Section 27)

Dental Register.

Name.	Age.	Residence.	Qualifications.
A. B.	22	Halifax.	D. D. S., Univ. of Penna.
C. D.	30	Windsor, Hants Co.	D. M. D., Harvard Univ.

ONTARIO

Statutes 1911, I Geo. V, Chap. 39, p. 325.

SECTION 1. This act may be cited as The Dentistry Act.

SECTION 2. "The Royal College of Dental Surgeons of Ontario," hereinafter called "the College," is continued and every person who holds a valid and unforfeited certificate of license to practise dentistry granted him by such college shall be a member of the corporation.

SECTION 3. Powers to hold real estate. Consent to alienation, etc., required. Notice of meetings.

SECTION 4. (1) There shall be a board of directors of the college, hereinafter called "the Board."

SECTIONS 5 to 8. Election of Board; Vacancies, Meetings.

SECTIONS 9 to 11. Officers of Board.

SECTION 12. The School of Dentistry in the city of Toronto established by the Board is hereby continued.

SECTION 13. (1) The Board may appoint one or more examiners for the matriculation or preliminary examination of all students entering the profession, or may accept in lieu of

such matriculation or preliminary examination evidence that a student has passed any other satisfactory examination.

(2) Such examination shall be passed prior to entering into articles with a licentiate of dental surgery.

SECTION 14. (1) The Board may prescribe a curriculum of studies to be pursued by students, and fix and determine the period for which every student shall be articled and employed under a duly licensed practitioner, the examination necessary to be passed and the fees to be paid to the treasurer before a certificate of license to practise dental surgery is issued.

(2) The Board may prescribe the conditions upon which dentists residing elsewhere than in Ontario, and students and graduates from other dental colleges may be admitted to membership in the College.

SECTION 15. The College may, subject to the approval of the Lieutenant-Governor in Council, make arrangements with any university or college in Ontario for the attendance of students of the School of Dentistry at such lectures or classes in such university or college as may come within the course or subjects of instruction prescribed by the by-laws of the college, and may, subject to such approval, agree with any such university or college, for the use of any library, museum, or property belonging to, or under the control of, such university or college, and may affiliate with such university or college, and may enter into all arrangements necessary to that end upon such terms as may be agreed upon.

SECTION 16. The board may by by-law provide that any licentiate in dentistry, being a member of the college of not less than five years' standing, shall receive the title of "Master of Dental Surgery," upon passing such examination and complying with such regulations as the board may prescribe.

SECTION 17. (1) The board shall make such by-laws as it may deem necessary for the proper and better guidance, government, discipline and regulation of the board, the college, the members of the college, and the profession of dental surgery and the carrying out of the provisions of this

act, and such by-laws shall be published for two consecutive weeks in the Ontario *Gazette*, and shall not take effect until so published.

(2) Such by-laws or any of them may be annulled by the Lieutenant-Governor-in-Council.

SECTION 18. (1) All persons being British subjects by birth or naturalization, who were engaged on the 4th day of March, 1868, in the practice of the profession of dentistry, or, who, not having been residents of Ontario, had then had three years' experience in the practice of dentistry, shall be entitled to the certificate of "Licentiate of Dental Surgery," upon furnishing to the board satisfactory proof of their having been so engaged, or having had such experience, passing the required examination and paying the prescribed fees.

(2) All persons being British subjects by birth or naturalization, who were continuously engaged for five years and upward in established office practice next preceding the 4th day of March, 1868, in the practice of the profession of dentistry in Ontario shall, upon satisfactory proof thereof, and upon payment of the prescribed fees, be entitled to such certificate without passing any examination.

SECTION 19. (1) The Board once at least in every year, shall cause to be held at a time fixed by the Board, an examination of the candidates for certificates and such titles as the board has authority to grant.

(2) At every such examination the candidates shall be examined orally or in writing or otherwise, by examiners to be appointed for that purpose by the board, in such subjects as the board shall prescribe.

(3) The examiners shall receive such remuneration as may be fixed by the board.

(4) Each examiner shall, if required, subscribe and take the following declaration:

"I solemnly declare that I will perform my duty of examiner without fear, favor, affection, or partiality toward any candidate, and that I will not knowingly allow to any candidate any advantage which is not equally allowed to all."

SECTION 20. (1) If the board is satisfied by the examination that the candidate is duly qualified to practise the profession of dental surgery, and that he is a person of integrity and good moral character, it shall, subject to the by-laws, grant him a certificate of license and the title of "Licentiate of Dental Surgery," which certificate and title shall entitle him to all the rights and privileges conferred by this act.

(2) The board shall hold at least one meeting in each year in the city of Toronto, for the purpose of granting such certificates and titles and for the transaction of such other business as may properly come before it.

SECTION 21. Every certificate of license shall be sealed with the corporate seal of the college and signed by the president and secretary of the board; and the production of such certificate of license shall be *prima facie* evidence in all courts and upon all proceedings of its execution and contents.

SECTION 22. The secretary of the Board shall, on or before the 15th day of January in each year, transmit to the provincial secretary a certified list of the names of all persons to whom certificates of license have been granted during the year ending on the next preceding 31st day of December.

SECTION 23. Every person desirous of being examined touching his qualifications for the practice of the profession of dental surgery, shall, at least one month before such examination, pay to the treasurer the prescribed fees, and deliver to the secretary the treasurer's receipt for the same, together with satisfactory evidence of his service under articles and compliance with the rules and regulations prescribed by the board, and of his integrity and good morals.

SECTION 24. (1) Every member of the college engaged in the practice of dental surgery in Ontario shall, on or before the first day of November in each year, pay to the treasurer or to a person deputed by him to receive the same, such annual fee, not less than $1 and not more than $3, as may be prescribed by by-law of the board, toward the general expenses of the college, and such fees shall be recoverable by suit in the name of the Royal College of Dental Surgeons of

Ontario in the division court of the division in which the member in default resides.

(2) For any services rendered in the practice of dental surgery while he is in default in respect of any annual fee a member shall not be entitled to recover in any court.

SECTION 25. (1) No person who is not a member of the college shall by himself or by any other person practise the profession of dental surgery, or perform any dental operation upon or prescribe any dental treatment for any person, for hire, gain, or hope of reward, whether by way of fees, salary, rent, percentage of receipts or in any other form, or shall pretend to hold, or take or use any name, title, addition, or description implying that he holds a certificate of license to practise dental surgery, or that he is a member of the College, or shall falsely represent, or use any title representing that he is a graduate of any dental college.

(2) Every person who contravenes any of the provisions of this section shall, for the first offence, incur a penalty not exceeding $50, and for every subsequent offence a penalty not exceeding $100, and he shall not be entitled to sue or recover in any court for any services which he performed, or materials which he provided, in the ordinary and customary work of a dental surgeon.

(3) This section shall not prevent any duly articled student of dental surgery from receiving instruction in clinics and practice under the personal supervision of a member of the college.

(4) The penalties shall be recoverable under the Ontario Summary Convictions Act and shall be paid over by the convicting justice to the treasurer of the College.

SECTION 26. In any prosecution under Section 25, the burden of proof of qualification shall be upon the defendant.

SECTION 27. (1) The board may suspend or cancel the certificate of license of a member of the college who has been heretofore or shall hereafter be convicted in Canada or elsewhere of an indictable offence if his conviction remains unreversed, or who has been or shall be guilty of any infamous, disgraceful or improper conduct in a professional respect, but

this power shall not be exercised if the conviction is for a political offence committed out of His Majesty's Dominions, or for an offence which, though indictable, ought not, either from its nature or from the circumstances under which it was committed, to disqualify the person convicted from practising dentistry.

(2) Where a member has been guilty of infamous, disgraceful, or improper conduct in a professional respect the power conferred by Subsection 1 may be exercised notwithstanding that he has been acquitted of a criminal charge in respect of the same matter.

(3) The board may of its own motion, and upon the application of any four members of the college shall, cause inquiry to be made into any case in which it is alleged that a member of the college has become liable to the suspension or cancellation of his certificate of license for any of the causes mentioned in Subsection 1.

(4) The board shall appoint and shall always maintain a committee of its own body for the purpose of ascertaining the facts of each case which may become the subject of inquiry.

(5) to (10) By-laws as to tenure of office and proceedings before council. Employment of assistance.

(11) The member whose conduct is the subject of inquiry shall have the right to be represented by counsel.

(12) All meetings of the committee for taking evidence or otherwise ascertaining the facts shall be held within the county or district in which the member whose conduct is the subject of inquiry resides.

(13) At least fourteen days' notice of the meeting of the committee for taking the evidence or otherwise ascertaining the facts shall be given to the member whose conduct is the subject of inquiry.

(14) The notice shall contain a statement of the matter which is to form the subject of the inquiry.

(15) The testimony of the witnesses shall be taken under oath, which the chairman or any member of the committee may administer, and there shall be full right to cross-examine

all witnesses called and to adduce evidence in defence and in reply.

(16) If the person whose conduct is the subject of the inquiry though duly notified does not attend, the committee may proceed in his absence, and he shall not be entitled to notice of the future meetings or proceedings of the committee.

(17) The committee and any party to the proceedings may obtain on precipe from the high court a subpena for the attendance of witnesses and the production of books, documents, and things, and disobedience thereof shall be deemed a contempt of court.

(18) Witnesses shall be entitled to the like allowances as witnesses attending upon the trial of an action in the high court.

(19) The committee shall report to the board the evidence adduced and the committee's findings thereon.

(20) The board may act upon the report of the committee and may make such order thereon as the board may deem just.

(21) Where the complaint is found to be frivolous or vexatious, the board may pay such costs as to it may seem just to a member whose conduct has been the subject of inquiry.

(22) Where the board directs the certificate of license of a member to be suspended or cancelled, it may direct that the costs of and incidental to the inquiry be paid by such member, and after taxation of such costs by one of the taxing officers at Toronto, execution may issue out of the high court for the recovery thereof in like manner as upon a judgment in an action in that court.

SECTION 28. No action shall be brought against the board or the committee or any member thereof for anything done in good faith under this act on account of any want of form or irregularity in their proceedings, but a member whose certificate of license has been suspended or cancelled may at any time within six months from the date of the decision of the board appeal from the decision of the board to a division court of the high court.

SECTION 29. Practice and procedure on appeal.

SECTION 30. The board may direct the restoration of the certificate of license of any member whose certificate has been cancelled under the powers conferred by this act, upon such terms and conditions as the board may deem just.

SECTION 31. Nothing in this act shall affect or interfere with the rights and privileges conferred upon legally qualified medical practitioners by the Ontario Medical Act.

SECTION 32. Chapter 178 of the Revised Statutes of Ontario, 1897, is repealed.

PRINCE EDWARD ISLAND

1902, Act of Assembly Chapter 16, p. 27.

SECTION 1. (*a*) This act may be cited as "The Prince Edward Island Dental Act."

(*b*) In this act unless the context otherwise requires, the "Council" means the Dental Council; the "Society" means the Dental Society of Prince Edward Island, and the "Registrar" means the Registrar of the Dental Council.

(*c*) In this act or in any other act of the Legislature or legal public document the words "qualified dental practitioner" or any other words importing a person recognized by law as a dental practitioner or member of the dental profession, shall be construed to mean a person registered under this act.

SECTION 2. The members of the dental profession of Prince Edward Island shall be a body corporate, under the name and style of "The Dental Society of Prince Edward Island," having perpetual succession and a common seal with power to acquire, hold, and dispose of chattel property and real estate for the purposes of this act, and to sue and be sued in the manner usual with such corporations.

SECTION 3. Every person holding a certificate from the Provincial Secretary, under the provisions of "The Prince Edward Island Dental Act," passed in the fifty-fifth year of Her Late Majesty's reign, shall be entitled to be registered under this act; and every person hereafter registered under

the provisions of this act, shall also be a member of the society.

SECTION 4. There shall be a council of the said society composed of five members, to be elected as hereinafter provided from among and by the registered members of the society.

(1) All members of the council shall be practitioners duly registered under this act, and shall be residents of this Province, and any member who during the term for which he was elected ceases to reside in the Province, shall thereby vacate his office as such member.

(2) The members of the council to hold office for one year.

(3) Time of meeting.

(4) Quorum.

SECTION 5. Place of Meeting; Special Meetings.

SECTION 6. The council shall annually appoint a president, vice-president, registrar, and such other officers as may from time to time be necessary for giving effect to this act.

SECTION 7. The council shall cause to be kept by the registrar a book or register in which shall be entered the name of every person registered according to the provisions of this act, and from time to time the names of all persons who shall have complied with enactments hereinafter contained, and with the by-laws, rules, and regulations of the society and of the council respecting the qualification to be required from practitioners of dentistry and dental surgery in the Province, which book or register shall be called "The Prince Edward Island Dental Register," and those persons only whose names are inscribed in the book or register above mentioned, shall be deemed to be qualified and licensed to practise dentistry and dental surgery in this Province, and such book or register shall at all times be open and subject to inspection by any person. (As amended 1904, Chapter X, p. 14.)

SECTIONS 8, 9, and 10. (Repealed 1904, Chap. X, p. 14.)

Act of 1904, Chapter X, p. 14.

SECTION 3. No person shall hereafter be entitled to have his name entered on the dental register (except students from

this Province now prosecuting their professional studies in a dental college or institution such as is mentioned in subsection "B" of this section, who shall apply for registration within three months after the date of their graduation) unless he produces evidence satisfactory to the council:

(*a*) (As amended by the act of 1906.) That he has passed a preliminary or matriculation examination in the subjects specified in the by-laws of the council and had his name entered in the dental students' register; also, (*b*) That he has after such examination and registration pursued his professional studies through a complete course through some Canadian dental college, or university having a special dental department, or some such institution, duly authorized by the laws of Great Britain or any of her dependencies, or from any dental college or university having a dental department in the United States of America recognized by the National Board of Dental Examiners of the United States, and has been graduated therefrom; also (*c*) That he has satisfactorily passed an examination in the various branches of professional studies specified in the by-laws of the council before professional examiners appointed by the council and upon passing the examination required, and on payment of the fee for such examination, also the fee for registration, which fees shall be fixed by the by-laws of the society, he shall be entitled to registration: *Providing*, That any person holding the degree B.A. from any university recognized by the by-laws of the society, or any person holding a teacher's license of the first class or second class in this Province, or anyone holding a second year certificate from Prince of Wales College or who produces a certificate of having passed (*a*) the preliminary examination for matriculation into any institution in Great Britain or Canada, recognized for the purpose of matriculation in medicine and dentistry by the General Medical Council of Great Britain, (*b*) matriculation into the faculty of arts of any provincial university of Canada, shall not be required to pass the matriculation examination.

SECTION 4. The council shall cause to be kept by the registrar a book or register to be called the "Dental Students' Register," in which shall be entered the names of all who have passed the said matriculation examination, together with the date of registration, and such other particulars with regard thereto as the council may deem necessary or expedient. A fee of two dollars shall be paid for such registration and a certificate thereof.

SECTION 5. When and so soon as it appears that there has been established in any of the other Provinces of Canada an examining body, similar to that constituted by this act, or an institution duly recognized by the Legislature of any of the other Provinces as the sole examining body for the purpose of granting certificates of qualification, and that the curriculum is at least equal to that approved of by the council; the holder of a certificate of qualification to practise granted by the proper body in such other Province shall upon due proof be entitled to registration by the council if the same privilege is accorded in such other province to practitioners registered in this Province.

SECTION 6. The majority present at the annual meetings or at any special meeting of the society called for that purpose may make regulations and by-laws for the government of the society.

SECTION 7. The majority of the council at any meeting of the council may make by-laws, rules, and regulations, and from time to time repeal, alter, or amend the same, respecting the following subjects: Rules of Order; the number to constitute a quorum of the council; the duties of the officials of the council; the holding of examinations under Section 3 of this act, and the subjects of such examinations, the fee to be charged for such examination and for registration; the appointment of properly qualified persons to conduct examinations; decide upon the times and places for holding such examinations, and the remuneration, if any, to be paid such examiners; and generally respecting all other such matters as may be found necessary for carrying out the provisions of said "The Prince Edward Island Dental Act," and of this

act. All the by-laws of the council made under this section must be approved of by the society at a general meeting before coming into force, and all official acts of the council which concern the dental profession shall be subject to an inquiry by the society which may approve, amend, alter, or reverse the same.

SECTION 8. All by-laws of the society and of the council shall receive the approval of the Lieutenant-Governor-in-Council, before the same shall have full force and effect.

SECTION 9. In any case any person registered under the provisions of said act has never been a resident of this Province, his name shall be expunged from the register, and it shall not be lawful for such person to practise dentistry or dental surgery in this island for hire, gain, or hope of reward, until and unless he complies with and becomes registered under the provisions of this act.

SECTION 21. (Act of 1902 as amended by Act of 1904.) Nothing in this act shall be construed to prevent surgeons or physicians qualified to practise medicine in this Province from temporarily filling or extracting teeth or otherwise attending to them for the prevention or cure of toothache.

SECTION 1. (Act of 1906, Chap. 27, p. 11.) Notwithstanding anything in "The Prince Edward Island Dental Act" or in any amendments thereof, or in any regulations made thereunder, any person holding a certificate of qualification from the Dominion Dental Council, shall be entitled to be registered and have his name entered in "The Prince Edward Island Dental Register," as a qualified dental practitioner, subject to the same conditions, rules, and regulations as if such person had obtained such right under the provisions of the said act or any amendment thereof.

QUEBEC

1909, Revised Statutes of Quebec, Vol. II, p. 290.

SECTION 5030. All persons residing within the Province authorized by law to practise the profession of dentist

therein, and who have obtained a certificate as a licensed surgeon dentist in this Province, and who are registered as such in virtue of this section, are incorporated under the name of the "College of Dental Surgeons of the Province of Quebec," having a common seal, with power to change, amend, cancel, or renew the same.

Under such name, the corporation shall be vested with all the powers conferred upon civil corporations under the laws of this Province, but shall not acquire immovable property of over ten thousand dollars in value.

SECTION 5031. The affairs of the college shall be administered by a board called the "Board of Governors."

SECTION 5032. The board shall consist of eleven qualified members of the college elected at a general meeting held for that purpose. At least one of such members shall be domiciled in the district of Quebec, another in one of the districts of St. Francise, Arthabaska or Bedford, and nine in any part of the province.

SECTION 5033. Election of governors, nominations, etc.

SECTION 5034. Qualifications of persons voting.

SECTION 5035. Term of office.

SECTION 5036. Date of election of governors, notice of meeting.

SECTION 5037. Quorum at meetings of college.

SECTION 5038. Appointment of president and other officers.

SECTION 5039. Other meetings.

SFCTION 5040. Quorum.

SECTION 5041. Casting vote of chairman.

SECTION 5042. Vacancies on board.

SECTION 5043. The board of governors may enact rules and regulations, not inconsistent with the provisions of this section, respecting the honor, the dignity, and the discipline of the members of the college, the examinations for admission to the study and to the practice of dentistry, and generally for all matters and things in connection with the practice of surgeon-dentist, provided, however, that such regulations be not inconsistent with the laws of this Province or of Canada.

In default of a by-law applicable to particular cases, the board of governors shall decide, subject to appeal to the annual meeting of the whole profession, whether the act complained of is derogatory to the honor, dignity, and discipline of the profession.

SECTION 5044. (1) The following alone are declared to be derogatory to professional honor:

(*a*) Acceptance by a member of the board of governors of money or any other advantage, or the promise of money or of any other advantage, for contributing or having contributed to the taking of any proceeding or the rendering of any decision whatever by the board of governors of the dental college.

(*b*) Divulging a professional secret.

(*c*) Sharing between dentists and those who are not dentists of profits arising from the practice of dentistry.

(*d*) Associating or consulting with quacks.

(*e*) The habitual abuse of alcoholic liquors or of narcotics.

(*f*) Publishing advertisements in which are mentioned the prices for different kinds of professional services; publishing cases of healing or treatment; distributing circulars mentioning things prohibited by this section; advertising by signs elsewhere than at a dentist's office; calling public attention to special modes of work with intent to deceive the public; claiming by any advertisement superiority over brother dentists; advertising free operations; soliciting patients from house to house; advertising nostrums.

(*g*) The allowing by a practising dentist of a person who is not a licentiate, to practise the said profession in his name or under his patronage, or under any style whatever in his office; the allowing a student or a licentiate who has been forbidden to practise for violation of the law or by-laws, to practise dentistry directly or indirectly, or, by placing his name in conjunction with that of a practising dentist upon a sign or otherwise, to represent himself as the partner of such practising dentist or as being connected with his office.

(*h*) An agreement between a practising dentist and a candidate who has been rejected at the final examination,

for the purpose of enabling such candidate to unlawfully practise the said profession or to evade the law respecting the practice of dentistry in the Province.

(*i*) A practising dentist allowing a licentiate forbidden to practise his profession, to continue to practise under his name or patronage, or in his office, or under any name or style whatever, or making arrangements with him to enable him to unlawfully practise such profession or to evade the law respecting the practice of dentistry in the Province.

(*j*) A dentist advertising through any business firm or allowing such firm to advertise for him; advertising under any firm or corporate name whether by signs or advertisement in newspapers, magazines, or otherwise, anything declared by this section to be derogatory to the honor of the profession.

2. Subparagraphs *g*, *h*, and *i* of paragraph 1 of this article shall not be construed as affecting articles 5065 or 5066.

SECTION 5045. 1. Any person desiring to study dentistry in this Province must previously have passed the examination for admission to study prescribed by the Board of Governors of the Dental Surgeons of the Province of Quebec, but all bachelors of any recognized Canadian or British university shall be admitted to study dentistry without such examination.

The board shall appoint the necessary examiners and indicate the subjects on which candidates for study and practice shall be examined.

2. The candidate may then enter into a notarial agreement with a licensed dentist of this province practising as such in a regularly established office, and shall deliver a copy of the said indenture to the secretary of the board, which indenture the secretary shall then register.

The period of study shall begin to run from such time and the whole of the office hours of such candidate must be actually employed in the study and the practice of dentistry.

The candidate may, if he prefers, not enter into a notarial indenture with a dentist, and he shall then follow the lectures

and clinics prescribed by the university schools recognized by the board during four yearly sessions of the said schools.

3. The said time of study, including the necessary courses of lectures and clinics established by the board, shall be the same as for those who are not under indenture.

4. During such time the student shall follow such courses of lectures and clinics as may be prescribed by the board.

5. Every student who changes his patron must have his indentures transferred to his new patron by his old patron. Such transfer shall be made before a notary and be afterward registered by the secretary of the board. The said transfer shall be valid only from the date of the registration thereof, and shall confer upon the student all the privileges granted by law to a student of dentistry. The time between the day on which the student has left his former patron and the day on which the transfer has been registered shall not count in the term of study of such student.

6. In case of the refusal of the patron to transfer the indentures, the student may appeal to the board, who may make the transfer if they see fit.

7. In case of the death of the patron, the student must notify the fact to the secretary of the board immediately. The student shall have two months in which to find another patron, which two months shall not be deducted from the time of his indentureship. The secretary, upon receipt of the notice, shall make the transfer to the new patron.

8. No licentiate of dental surgery in the Province of Quebec shall have more than two students under indenture at one and the same time.

SECTION 5046. Instruction in dentistry may be given by the school of dental surgery of Laval University, and the school of dental surgery of McGill University, as well as by any university legally recognized in the Province.

The college and each of such schools may establish dental infirmaries and regulate the management thereof.

SECTION 5047. The schools mentioned in article 5046 are established for the purpose of giving to dental students the lectures and clinical instruction prescribed by their rules and

by-laws, which course is compulsory on all candidates who may present themselves for a license to practise dentistry in the Province.

SECTION 5048. The examinations for university degrees in dental surgery, shall be held in the presence of one or more assessors, members of the board of governors or licensed to practise dental surgery, appointed for that purpose by the board.

Such assessor or assessors shall not be chosen from among the teachers in the schools or universities giving instructions in dentistry.

The assessor or assessors for the examinations held in the city of Quebec shall be chosen from among the dentists practising in that city.

The assessors shall report to the board of governors upon the character of such examinations, and if the report is unfavorable to any of the candidates, the board of governors may refuse to grant the admission and license, mentioned in article 5051, to those candidates whose qualifications have so been deemed insufficient.

Each of the said schools and universities shall notify the secretary of the college of the time when and place where the examinations shall be held, at least one month previous to such examinations.

SECTION 5049. Every person desirous of being examined by the board of governors touching his qualifications for the practice of dentistry in this province, shall, at least one month before the regular meeting of the board in April, pay into the hands of the treasurer the required fee, and enclose and deliver to the secretary the treasurer's receipt for the same, together with a certificate establishing, to the satisfaction of the board, his integrity and good morals.

If the board is satisfied by the examination that such person is duly qualified to practise dentistry, and that he is a person of integrity and good morals, it shall, subject to the rules, regulations, and by-laws of the said college and board, grant him a license to practise dentistry in this province, and the title of "Licentiate of Dental Surgery."

SECTION 5050. 1. The examinations for admission to study shall be held twice in each year, on the first Wednesday of April and the second Wednesday of September, and for admission to practise on the first Wednesday of April of each year. Nevertheless, supplementary examinations for admission to practise may be held on the second Wednesday of September in each year, notwithstanding any by-law of the college in force on the twenty-ninth of May 1909.

2. The secretary shall give to each member of the board of governors notice of each meeting, by registered letter, through the post office, fifteen days at least before said meeting.

3. If the locality, date, and hour of such meeting have not been fixed, the said meeting shall be held at the place where it was held the last time, and at the corresponding day and hour.

4. Each member of the board shall be entitled, in addition to his travelling expenses, for each examination attended by him, to a fee to be fixed by the board, but which shall not exceed five dollars per sitting.

5. There shall be a vacancy in the case of the absence of a member from two sittings of the board which has met for the purpose of holding examinations.

SECTION 5051. Any person may, however, receive from the college, without any further examination as to his dental knowledge or skill, a license to practise dentistry in this Province and the title of Licentiate of Dental Surgery upon fulfilment of the following requirements:

1. He must have obtained at least the degree of Master of Dental Surgery from any school or university mentioned in article 5046 to which the board of governors has appointed one or more assessors, provided that such degree is obtained only after following a course of dentistry of four yearly sessions in one of the said universities, counting from the date of his having passed the examination required by the board of governors of the college, of candidates for admission to the study of dentistry, and according to the curriculum of study prescribed by the said board of governors.

2. He must at least one month before the regular meeting of the said board held in April as prescribed by Article 5049, have paid to the treasurer of the said college the fee required from candidates to be admitted to practise dentistry, and sent the receipt therefor to the secretary of the said college, together with a certificate attesting to the satisfaction of the said board, his integrity, and good character.

SECTION 5052. Every member of the college shall pay into the hands of the treasurer of the college, on or before the third day of September in every year, a contribution of five dollars.

SECTION 5053. Any member of the college neglecting to pay his contribution, after a sixty days' notice given to him by registered letter by the treasurer, shall be disqualified from voting, and shall *ipso facto* lose his right to practise as a dentist in the Province, so long as he has not paid the said contribution and all arrears, and may be sued for the recovery of the said contribution and arrears, before a court of competent jurisdiction.

SECTION 5054. The board of governors upon complaint in writing and under oath taken before the secretary of the board, may cause to appear before them a member of the said college charged with violation of the by-laws or with any act derogatory to the honor or the dignity of the profession, or with following or practising a trade or industry inconsistent with the said profession.

SECTION 5055. 1. The complaint shall state summarily the time, place, circumstances, and nature of the offence.

2. The secretary shall submit the said complaint immediately to the board, and the latter may, by registered letter, call before them, both the complainant and defendant for a certain fixed day.

3. On the day so fixed, the board may hear both parties or the party in attendance, and, if circumstances allow, may conciliate and reconcile the parties.

4. The board may grant or refuse permission to the complainant to proceed with his case, or to the defendant to file a counter-complaint if the complainant is a dentist legally practising his profession.

In each case the board may exact from the party authorized to prosecute, a deposit, the amount whereof shall be determined by them, and which shall be made with the treasurer as security for the adverse party's costs. The board may, according to circumstances, dispense with any deposit.

5. Upon the said permission to proceed being granted and the making of a deposit, if any be required, the accused shall be, by a notice signed by the secretary, called upon to appear before the board of governors at the place, time, and hour when the complaint will be heard and considered.

6. A true copy of the said notice and complaint, certified by the secretary, shall be served upon the accused by a bailiff of the superior court in the ordinary manner, fifteen days at least before that fixed upon for the hearing of the complaint, and another true copy of the complaint, also certified, shall be annexed to the original of the said notice, on the back whereof the bailiff shall make his return under his oath of office, to the said board in the ordinary manner.

7. A notice, informing the complainant of the place, date, and hour when the complaint will be heard, shall also be served upon the complainant, and a return of service made according to the delays and in the manner hereinabove prescribed.

8. The bailiff's fees shall be similar to those he would be entitled to in a cause before the Superior Court.

9. Any bailiff who, without a legitimate reason, refuses or neglects to make any service or return required by this section, shall be liable to a fine of not less than forty dollars nor more than one hundred dollars, recoverable with costs in the manner prescribed by article 5067.

SECTION 5056. 1. The accused shall be bound to appear in compliance with the notice, and to submit immediately, in reply to the complaint and without in any manner delaying the hearing thereof, a defence either in writing or verbally.

2. No written reply to the defence shall be admitted.

3. So soon as the accused has submitted his defence, the taking of evidence shall commence and shall be continued from day to day.

4. The evidence on both sides being completed, the parties shall be heard upon the merits of the complaint.

5. If the accused makes default to appear, or, if appearing, he fails to submit a defence, the complainant shall proceed to the proof of the facts alleged in his complaint.

In the latter case, the accused may cross-examine the complainant's witnesses, but shall not produce witnesses.

6. The evidence shall be taken down in writing by an enquete clerk, or a stenographer, at the discretion of the board of governors.

7. The accused may cross-examine the complainant on his complaint, and give, if he desires, his own testimony. Both in that case shall be sworn.

8. The accused and complainant may be summoned as witnesses and treated as such in all respects according to the provisions of this section. But neither of them nor any other witness shall be bound to answer questions, if he swears that his answer might expose him to a criminal prosecution.

9. The secretary shall summon to appear before the board, in the manner prescribed by the Code of Civil Procedure, any person indicated to him as a witness.

10. Every person, before being examined as a witness at the trial, shall be sworn before the secretary and shall be bound to answer all pertinent questions put to him.

Any person who without lawful excuse, refuses to be sworn or to answer such questions, shall incur, for each such refusal, a fine not exceeding forty dollars recoverable with costs in the manner prescribed by article 5067.

SECTION 5057. 1. After hearing the evidence on both sides, the board may dismiss the complaint or, according to the gravity of the offence, if the same is proved, may censure or reprimand the accused or deprive him of the privilege of attending and taking part in the meetings of the members of the college during a period not exceeding three years, or suspend him from the practice of the profession in this province for one year.

2. If judgment is not rendered at once, notice of the day when it will be rendered shall be given by the secretary to the parties concerned, two days at least beforehand.

3. The members of the board shall deliberate with closed doors, and in no case shall any difference of opinion between them be communicated to the public, under the penalties imposed by paragraph 1 of this article.

4. All decisions of the board shall be rendered by the majority of votes.

When the final decision on the complaint is to be given, the presence of all the members who have heard the evidence shall not be necessary. The decision may be given in the presence of the majority of the sitting members.

The final decision shall be registered in the minutes of the college.

SECTION 5058. The board may condemn the unsuccessful party to pay such costs as they think fit, or divide the costs, and may condemn him in addition to pay the successful party a stated sum as a compensation for all personal expenses incurred in connection with the complaint.

SECTION 5059. 1. Any party aggrieved by the final decision rendered by the board, may appeal to a general meeting of the members of the college or to the courts.

2. The said meeting shall be convened without delay by the secretary, immediately after the appeal has been filed and the appellant has deposited in the hands of the treasurer a sum of one hundred dollars to secure the payment of the expenses to be incurred by the holding of the said general meeting, and of the expenses of the respondent.

If judgment is obtained by the appellant for his costs, the expenses of the general meeting shall be included therein.

In lieu of such deposit, the board may accept security in such form and manner as they may think fit.

3. For the purposes of the appeal, the meeting shall elect a president and a secretary.

The president, in addition to his ordinary vote, shall have a casting vote.

4. Notice of the appeal before the meeting shall be given within the fifteen days following the decision of the board, and filed with the secretary within the thirty days following the decision.

The filing of the appeal, accompanied with the deposit or security, as the case may be, shall suspend the sentence of the board until the general meeting has decided upon the appeal.

5. Notice of the date, hour, and place of the holding of the said meeting shall be addressed by the secretary to the appellant, to the respondent, and to all members of the college qualified to attend the same.

The meeting shall not be held until after ten days following the mailing of the notice at the post-office.

6. The secretary shall transmit the record of the complaint to the general meeting.

7. The decisions of the general meeting shall be rendered by a majority of the votes, in the same form and manner as the decisions of the board of governors, if forty members at least are present at the same; and in case a smaller number of members attend, if twenty-five of them assent to the decision appealed from.

8. Neither the appellant nor the respondent shall attend the meeting.

9. No other evidence than the written depositions taken at the trial before the board of governors shall be admitted on the appeal; and no witnesses shall be examined.

10. The general meeting may either unconditionally confirm the decision of the board, or give the decision which the said board ought to have rendered, and adjudge, both as to the costs in the first instance and those of the appeal, in such manner as it may deem equitable.

11. The decision of the general meeting, as well on the merits of the appeal as upon the amount of costs adjudged as aforesaid, shall be final, and shall not be invalidated, annulled, or revised by any court of justice, not even by certiorari.

12. The decision of the general meeting, together with the record, shall immediately be transmitted by its secretary to the secretary of the board of governors.

In all cases, such decision shall be registered in the register of the board of governors and shall be executed as if it had been rendered by the board.

13. The secretary of the general meeting shall immediately transmit to the treasurer of the college, with the balance of the deposit, if any remains, a detailed memorandum certified by himself of the costs adjudged against any of the parties on the appeal; and out of the said balance so remaining the treasurer shall indemnify the person entitled to the same both by reason of the decision of the board and of the general meeting.

SECTION 5060. 1. If a party fails to pay the costs adjudged against him, within fifteen days from the date of the final decision of the board of governors if there has been no appeal, or of the general meeting if an appeal has been taken, the party to whom the said costs are due may obtain from the Superior Court of the district where the complaint has been made, an execution against the movable or immovable property of the person condemned to pay the same, by depositing in the office of the prothonotary of the court a detailed statement of such costs, duly certified by the secretary of the board, together with a copy, under the seal of the college and certified by the secretary, of the judgment condemning the party to pay the same.

No such execution shall issue against immovables unless the amount of the costs to be recovered exceeds forty dollars.

2. In addition to the execution last above mentioned to which he shall be liable, if the party in default to pay the costs or any other sum adjudged against him is a dentist, his name may be struck off the roll of members of the college, and he shall from that moment be deprived of the right to practise the profession in this Province.

He may have his name reinscribed and resume practice, by paying the sums adjudged against him and all costs incurred through his default.

SECTION 5061. Any dentist found guilty before any court of competent jurisdiction, of indecent practices in the exercise of his profession, or of any indictable offence under the criminal code, or who is a person civilly interdicted, or is deprived of any of his civil rights, shall lose *ipso facto* the right of practising as a dentist within this Province.

SECTION 5062. The board shall cause his name to be struck off the roll of the members of the college so soon as it is informed of his disqualification.

The board may, nevertheless, upon petition of any dentist whose name has been so struck, replace the said member's name upon the said roll, on such conditions as it may think proper.

SECTION 5063. Whosoever not being a licensed physician and surgeon, and not being a holder of a license as a dentist legally granted by the board of governors and whose name has not been registered as a member of the college:

(*a*) practises in the Province as a dentist;

(*b*) attempts to evade the law;

(*c*) falsely pretends that he is registered as a dentist, or that he is the holder of a license granted by virtue of the law, or who makes use falsely of a name, title, or quality, or places before or after his name letters or signs, of a description to induce the belief that he is duly authorized to practise as a dentist, or who makes use of a title of such a style as to induce the belief that he has obtained any diploma or degree from any college of dentistry, or who makes use of any sign, title, or indication whatsoever so as to induce the belief that he has obtained such degree or diploma;

(*d*) without being previously registered as a dentist and without a license granted as aforesaid, practises for a remuneration or in the hope of being rewarded, remunerated, or paid, directly or indirectly, under the name of a licensed dentist;

(*e*) without being registered and licensed, practises dentistry for a remuneration or with the hope of being directly or indirectly rewarded, in the office or under the patronage of a physician or surgeon of this province not duly authorized to practise as a dentist;

(*f*) after being suspended from the exercise of the dental profession by the board of governors, or after being struck off the roll of dentists by the said board without his name having been regularly replaced thereon, practises dentistry; shall be liable to a fine of not less than twenty-five dollars

nor more than one hundred dollars for the first offence, of not less than fifty dollars nor more than one hundred and seventy-five dollars for the second offence, and of not less than one hundred dollars nor more than three hundred dollars for each subsequent offence, to be recovered with costs of suit in the manner prescribed by article 5067.

SECTION 5064. No licentiate shall keep open more than one dental office, unless each additional office be under the direct control and attendance of a registered dental licentiate of this Province actually in practice.

SECTION 5065. It shall be unlawful for any student, or other than a dental licentiate of this Province actually in practice, to take charge of an office or act before the public in the capacity of a regular dentist, or for a licentiate to represent to the public that such person is qualified and entitled to so act: *Provided,* That this article shall not prevent any duly indentured and registered student of dentistry from receiving clinical instruction and practice under the supervision of a dental licentiate of this Province.

SECTION 5066. 1. Every licensed dentist may, in the one dental office which he may keep, have as an assistant under his actual supervision, a dentist holding a diploma from a dental college in good repute of this Province or elsewhere.

2. Such licensed dentist may also employ workmen in dentistry in the office which such dentist is authorized to keep.

3. Such assistant and workmen shall not personally receive any fees or remuneration, directly or indirectly, unless for the person employing them.

SECTIONS 5067 to 5071. Prosecutions; Procedure.

SECTION 5072. In all civil prosecutions, and in any prosecution under articles 5063, 5065, or 5066, it shall be incumbent on the defendant to prove that he had the right to practise as a surgeon-dentist in the Province, and that he had the right to assume the title, name, and quality, or to use the letters, signs, or indications which he is charged with illegally using and assuming.

SECTION 5073. When proof of registration or want of registration is required under this section, a copy or an extract

from the register, or the books of the college, under the seal of the same and the signature of the secretary, shall be sufficient evidence of the contents of the said copy or extract, without its being necessary to produce the original.

SECTION 5074. No person illegally following the profession of a dentist shall be entitled to recover, before any court of justice, any sum of money for his professional services, drugs, or articles so rendered, sold, and supplied.

SECTION 5075. 1. In default of immediate payment of the fine and costs imposed, the defendant shall be imprisoned, for not less than three months nor more than six months, in the common gaol of the district where the sentence has been rendered, unless such fine and costs be sooner paid.

2. The functionary or court by whom the judgment is pronounced may, however, instead of ordering the immediate imprisonment of the defendant, grant him a delay, or order the seizure and sale of his movable and immovable property for the discharge of the fine and costs aforesaid and of all subsequent costs.

3. If, at the expiration of the delay granted, the said fine and costs are not paid, or if the sale of the said property of the defendant has not been sufficient to pay the said fine and costs, the said defendant shall, in any of such cases, be imprisoned in the said gaol for not less than three months nor more than six months, unless the amount of the fine and costs, and all subsequent costs incurred through his default, be sooner paid.

SECTION 5076. Any person so imprisoned may, in any case, be set free upon payment of the fine and costs, and of all costs subsequent to his condemnation, including the expense of his removal to gaol, or, in case of the sale of his goods, upon payment of the balance remaining due.

The total sum to be paid for the discharge of the person so imprisoned, must, in all cases, be mentioned on the back of the writ of commitment.

SECTIONS 5077 and 5078. Application of fines.

SECTION 5079. Service upon corporation.

SECTION 5080. Certain schools of dental surgery declared to be corporations.

SECTION 5081. Saving the privileges conferred upon physicians and surgeons by the laws of this Province, no person shall carry on the profession of a dentist in the province without a license issued by the college of dental surgeons of the province of Quebec, under penalty of the fine enacted by article 5063, which shall be recoverable as mentioned in article 5067.

Saving the said privileges, any physician or surgeon legally holding a license in virtue of the laws of this Province and authorized as such therein, who desires to practise as a dentist and to make himself known publicly as such, must previously obtain a license from the board of governors of the college by passing an examination upon the mechanical and operative part of dental surgery, and pay the fee fixed by the regulations for the obtaining of the said license.

SECTION 5082. The privileges and exemptions conferred upon physicians and surgeons by the laws of this province are hereby granted to licensed dentists.

SECTION 5083. Treasurer may act as secretary.

SECTION 5084. Interpretation.

SASKATCHEWAN

1909, Revised Statutes, Chap. 108, p. 1681.

SECTION 1. This act may be cited as "The Dental Profession Act."

SECTION 2. In and for the province there shall be a college of dental surgeons hereinafter called "the college," consisting of the members of the College of Dental Surgeons of the Northwest Territories and all persons who may hereafter become members of the college as herein provided, and the members of the college are hereby constituted a body corporate under the name of "The College of Dental Surgeons of Saskatchewan" and shall have perpetual succession and a common seal with power to sue and be sued and to acquire,

hold, and dispose of real and chattel property for the purposes of the college.

SECTION 3. The following persons shall upon payment of all fees required to be paid for that purpose be entitled to be registered as members of the college and to receive a certificate of license to practise dentistry and dental surgery in the Province which license shall be in form A in the schedule to this act:

(*a*) Any person who having been articled and employed as a student to a member of the college of dental surgeons of the Northwest Territories or who hereafter may become so articled or employed to and by a member of the college and who shall have served the term and shall have passed such examination as required by the council of the college;

(*b*) Any person who is a graduate of any school or college of dentistry of any of the provinces of Canada which said school or college, as the case may be, has authority by the provisions of any statute of the Parliament of Canada or of the legislature of any of said provinces to grant certificates of license or diplomas to practise dentistry and dental surgery and who having produced such evidence as the council may require of such qualifications as aforesaid and who has passed the final examinations prescribed by the council for registration under this act;

(*c*) Any person who is a member or graduate of any association, school, or college in the United Kingdom of Great Britain and Ireland which said association, school, or college is by the law of the said the United Kingdom of Great Britain and Ireland empowered to grant a license or diploma to practise dentistry and dental surgery and who shall satisfy the council of such qualifications and pass the final examinations prescribed by the council for registration under this act;

(*d*) Any person who is a graduate of any recognized school or college of dentistry in any state of the United States of America and who shall satisfy the council of such qualifications and pass the final examinations prescribed by the college for registration under this act;

(*e*) Any person who produces a certificate of qualification from the Dominion Dental Council to practise dentistry and dental surgery.

SECTION 4. No person shall be entitled to be registered under the provisions of this act unless and until such person satisfy the council that he is a person of good moral character.

SECTION 5. No person shall be registered under the provisions of this act unless such person be of the full age of twenty-one years.

SECTION 6. The business of the college shall be transacted and carried on by a council herein called "the council," consisting of five members of said college in good standing, who shall be resident in the Province at the time of their election and who shall except as hereinafter provided hold office for a period of two years from the date of their election or until their successors are elected.

SECTION 7. First election.
SECTION 8. Annual election.
SECTION 9. Who qualified to vote.
SECTION 10. Mode of voting.
SECTION 11. Counting ballots.
SECTION 12. Equality of votes.
SECTION 13. Spoiled ballots.
SECTION 14. Disposition of ballot papers.
SECTION 15. Objection to ballots.
SECTION 16. Resignation of members of council.
SECTION 17. Filling vacancies in council.
SECTION 18. Publication of notice of election of council.
SECTION 19. Protested election.
SECTION 20. Election of officers.
SECTION 21. Time of meeting.

SECTION 22. The council shall have power to conduct final or intermediate examinations of students and applicants for registration and to transact such other business in connection with the college as may properly be brought before them.

SECTION 23. Quorum.

SECTION 24. Subject to the provisions of this act the council shall have power to make such by-laws, rules, and

regulations as may be necessary for the better guidance, government, discipline, and regulation of the council and of the practice of dentistry and for the carrying out of the provisions of this act.

SECTION 25. The council shall have authority to make regulations respecting preliminary examination or the matriculation of all students entering upon the study of the profession of dentistry in the province and to accept in lieu of such matriculation or preliminary examination any other satisfactory examination and to fix and determine the period for which such students shall be articled to and employed under a member of the college and to prescribe the curriculum of such students, the intermediate and final examinations to be passed by such students to entitle them to registration under this act and to make all such regulations and rules as may be necessary for the conduct of such examinations:

Provided, always, however, That any person who at the time of the coming into force of this act is regularly articled to any member of the college of dental surgeons of the Northwest Territories in active practice shall upon the approval of the council be deemed to have matriculated or passed the preliminary examination.

SECTION 26. The matriculation or preliminary examination provided in the next preceding section shall be passed by all persons applying to be admitted as students of dentistry prior to becoming articled as any member of the college:

Provided, That a certificate from any university in the Dominion of Canada established by authority of any act of the Parliament of Canada or of the legislature of any province that the applicant has passed the matriculation examination prescribed by the curriculum of any such university shall be accepted in lieu of the preliminary examination or matriculation required by this act.

SECTION 27. The matriculation or preliminary examination for the admission of students shall be held at such times and places in each and every year as may be determined by the council, and all persons desiring to be so examined by

the council shall notify the secretary-treasurer of his desire to be examined and pay to the secretary-treasurer the fees required for such examination.

SECTION 28. The council shall also have power to examine candidates applying for a license under the provisions of Section 3 of this act and to make all regulations necessary for the conduct of such examinations and to appoint such times and places therefor as they may deem fit.

SECTION 29. Every person who is desirous of taking the final examination of the council shall notify the secretary-treasurer of the council and shall pay to the said secretary-treasurer the fee required for such examination and furnish such secretary-treasurer with evidence of his qualification as provided in Section 3 hereof.

SECTION 30. The council shall have also power and authority to appoint a board of examiners to examine all candidates for preliminary, intermediate, or final examinations which said board shall be governed by the regulations of the council and shall report the result of such examinations to the council.

SECTION 31. 1. The council may from time to time fix and determine the annual registration fee to be paid by the members of the college.

2. There shall be payable to the college by students and persons applying for a license the following fees and no others:

(*a*) For each matriculation or preliminary examination	$10.00
(*b*) For each intermediate examination	10.00
(*c*) For each final examination	25.00
(*d*) For registration of license	50.00

SECTION 32. Salaries of officers.

SECTION 33. The council shall cause to be kept by the secretary a register in the form B in the schedule to this act in which he shall enter the names of all members of the College of Dental Surgeons of the Northwest Territories on the twenty-sixth day of May, 1906, and from time to time the names of all persons who having complied with the provisions of this act and of the rules, regulations, and by-laws

made thereunder, are entitled to receive a license, and those persons only whose names are inscribed in such register shall receive the annual license as hereinafter provided, and such register shall be open to inspection at all times.

SECTION 34. Every person who applies to have his name entered in the register may appeal to the council of the college from any decision of the secretary and the council shall hear the appeal and determine the matters in question.

SECTION 35. Every person who becomes articled to any member of the college under and by virtue of the provisions of this act shall within one month after the entering into of such articles of indenture deposit with the secretary treasurer of the college a copy of said articles of indenture, and said secretary shall thereupon enter the name of such person as a student in dentistry in the register of students which shall be kept by the said secretary and shall be in form E in the schedule to this act; every student whose articles of indenture are assigned by one member of the college to another member thereof shall within one month after the date of such assignment deposit with the secretary a copy of such assignment and the secretary shall note in the register of students the date of such assignment and the name of the member of the college to whom such articles are so assigned.

SECTION 36. Every member of the college in active practice in the province shall on or before the fifteenth day of January in every year pay to the secretary-treasurer of the college the annual registration fee, and every person who subsequent to the fifteenth day of January receives a license to practise shall before entering upon active practice pay such registration fee.

SECTION 37. Upon receipt of the annual registration fee the secretary shall forthwith issue to the person from whom such fee is received a license to practise the profession of dentistry and dental surgery for the year in respect of which such fee is paid, which certificate shall be in form C in the schedule to this act and shall be sealed with the corporate seal of the college and signed by the president and secretary, thereof and such license shall be *prima facie* evidence in all

courts of the Province and in all proceedings of whatsoever kind or description that the person named therein is duly licensed to practise dentistry.

SECTION 38. It shall be the duty of the secretary of the college immediately after the fifteenth day of January in each and every year to prepare an annual register in form D in the schedule to this act, and such register shall contain the names and addresses of all members of the college who have paid the annual registration fee and shall cause the same to be printed, and a copy of such register shall be sent to each and every member of the college.

SECTION 39. Any person whose name is omitted from the annual register by the secretary may appeal from the decision of the secretary to the council, and the council may hear such evidence as may be adduced and give such decision as the nature of the case may require.

SECTION 40. If at any time it shall be proved to the satisfaction of the council that the name of any person has been improperly inserted in the annual register such name may be erased therefrom by the council.

SECTION 41. Any person who has applied for registration under the provisions of this act or for an annual certificate and whose application has been refused or whose name has been removed by the council from the annual register as in the next preceding section mentioned may at any time within six months from the date of the refusal of such application or such erasure appeal to a judge of the supreme court for such relief as the nature of the case may require; and such judge shall appoint a time and place for hearing said appeal and cause due notice thereof to be given to all parties interested, and such judge may hear any evidence which may be adduced and make such order as the nature of the case may require and such judge shall also have power to make such order as to payment of costs as shall be just.

SECTION 42. All persons who have received a license to practise under this act and who have paid the annual registration fee and no other shall be entitled to practise the profession of dentistry and dental surgery in this Province.

SECTION 43. No person shall be entitled to sue for or to recover in any court in the Province any fee or remuneration of any sort or description in respect of any professional services rendered or materials provided by such person in the exercise or practice of the profession of dentistry or dental surgery unless such person holds from the college a license to practise dentistry and dental surgery in the Province at the time such services are rendered or materials provided:

Provided, however, That nothing in this section shall prevent any person from suing for and recovering in the supreme court of Saskatchewan or in any court of the Province having jurisdiction any amount or amounts which he would be lawfully entitled to sue for and to recover for any professional services performed or rendered by him or materials provided by such person in the exercise or practice of the profession of dentistry or dental surgery prior to the coming into force of this act and which such person would be entitled to sue and recover under and by virtue of the provisions of any act.

SECTION 44. Every person who has been licensed as herein provided shall be entitled to demand, sue for, and recover in any court of the Province having jurisdiction with such costs as are by such court allowed the reasonable charges of such person for professional aid, advice, and visits and the cost of any medicine, material, or surgical appliances supplied while such person was so licensed.

SECTION 45. Any person licensed as herein provided who has made default in payment of the annual registration fee in any year or years and whose name has by reason of such non-payment been omitted from the annual register upon payment to the secretary-treasurer of the college of the annual registration fee for the then current year and for each and every year in which default has been made as aforesaid and upon such payment being made the secretary-treasurer shall issue to such person an annual license for the then current year.

SECTION 46. The council of the college shall have jurisdiction and authority to hear and determine any charge or complaint which any person or persons may make against

any member of the college in respect of the breach or violation by such member of any of the by-laws, rules, or regulations of the council for the government, regulation, and direction of the members of the college or in respect of malpractice by any member of the college and upon receipt by the council of any complaint as aforesaid, the council shall fix a time and place for the hearing of such complaint, of which time and place the member against whom such charge is made and the person or persons making such charge shall have due notice and at the time and place so fixed the council shall meet and hear such evidence as may be adduced, and if the said charge or complaint be found to be proved against such member the council may suspend such member from the practice of dentistry or dental surgery in the Province for such period as they may see fit or may cancel and annul the license of such member and erase his name from the register of the college:

Provided, however, That such member so suspended or whose license shall be cancelled as herein provided may be reinstated by the council and the said license and all rights and privileges thereunder fully renewed and restored by the council in such manner and upon such conditions and terms as the council shall see fit.

SECTION 47. The person against whom any such complaint is made together with the person or persons preferring the same or the council may obtain from the clerk of the supreme court of Saskatchewan a *subpœna ad testificandum* or a *subpœna duces tecum* requiring the attendance of any witness or witnesses before the council at the hearing of such complaint.

SECTION 48. Any person suspended from the practice of the profession of dentistry or whose license has been cancelled and whose name has been erased from the register of the college by the council as herein provided may at any time within six months after the date of the order of the council appeal to a judge of the supreme court for such relief as the nature of the case may require and the judge to whom such appeal has been taken shall after due notice to all parties concerned hear said appeal and may make such order as to the restoration of the name of the appellant or confirming

such erasure or for further inquiries into the facts of the case by the council and may also make such order as to costs as shall be just.

SECTION 49. Costs on frivolous or vexatious complaints.

SECTION 50. Any person not holding a license to practise dentistry and dental surgery in the Province and who has not paid the annual fees to be paid by such member in any year as hereinbefore provided, who shall within the Province practise the profession of dentistry or dental surgery either publicly or privately for hire, gain, or hope of reward, or who shall wilfully and falsely pretend and hold himself out to be duly qualified to practise dentistry in the Province and assume any title, addition, or description implying or calculated to imply or to lead the public to infer or believe the person so assuming or holding out to be duly qualified shall be liable upon summary conviction by a justice of the peace or police magistrate to a penalty not exceeding $200 and not less than $50 for a first offence and for each and every subsequent offence to a penalty of not more than $400 and not less than $100.

SECTION 51. Justice may award costs and order imprisonment.

SECTION 52. Fines to be transmitted to secretary.

SECTION 53. Any prosecution of any member of the college under and by virtue of the provisions of this act shall be commenced within six months after the date of the commission of the alleged offence.

SECTION 54. In any prosecution of any person under the provisions of this act for any of the offences set out in Section 50 thereof the onus of proof that the person against whom such charge is laid is duly entitled to practise dentistry and dental surgery in the Province and is duly registered under the provisions of this act shall be upon the person against whom the said charge is made.

SECTION 55. Rights of physicians and surgeons.

SECTION 56. Nothing in this act shall prevent any duly indentured and registered student of dentistry from receiving clinical instruction and practice under the personal supervision of a member of the college.

SECTION 57. Moneys to be paid to treasurer.

SECTION 58. All rules, regulations, and by-laws of the college of dental surgeons of the Northwest Territories existing on the twenty-sixth day of May, 1906, shall be the rules, regulations, and by-laws of the college subject to any amendments, alterations or repeal theretofore or hereafter made by the council.

SCHEDULE

FORM A (Section 3)

License to Practise Dentistry.

The College of Dental Surgeons of Saskatchewan by virtue of authority vested in it by the Legislature of Saskatchewan awards this certificate to . . . . . who has complied with all the requirements of the law regarding the practice of dentistry and after due examination or by application to the council has been adjudged qualified to practise dentistry in all its branches in Saskatchewan.

In witness whereof we the undersigned members of the council of the college have hereunto signed our names and attached the corporate seal of the college this . . . . . day of . . . . . one thousand nine hundred and . . . . .

. . . . . President.
. . . . . Vice-President.
. . . . . Secretary.

FORM B (Section 33)

Register.

Name.	Residence.	Qualification.
A. B.	....	Certificate of license, 15th March, 1895.
C. D.	....	Six months' practice prior to November 22, 1889.
E. F.	....	Member of (stating name of college or school and where situate).

FORM C (Section 37)

Certificate of Annual Registration.

I hereby certify that A. B., being the holder of a certificate of license to practise the profession of dentistry from the . . . . . was on the . . . . . day of . . . . . , 19 , duly registered as a member of the College of Dental Surgeons of Saskatchewan and is authorized to practise his profession up to the . . . . . , subject to the provisions of The Dental Profession Act.

(Signed) E. F.,
Secretary of The College of Dental Surgeons of Saskatchewan.

Corporate Seal of the College.

FORM D (Section 38)

Annual Register of Members of The College of Dental Surgeons of Saskatchewan.

Name.	Address.

FORM E (Section 35)

Register of Students of Dentistry of The College of Dental Surgeons of Saskatchewan.

No.	Name.	Address.	Date of matriculation.	To whom articled.	Date of articles.	Assignments.

NEW SOUTH WALES

Statutes 1900, p. 471.

SECTION 1. This act may be cited as the "Dentists' Act."

SECTION 2. In the construction of this act, unless the context otherwise indicates, the following terms shall have the respective meanings hereby assigned to them, that is to say:

(1) "Dental Board" or "board"—The dental board appointed under the provisions of this act.

(2) "Dentist"—A person registered as a dentist under this act.

(3) "Prescribed"—Prescribed by this act or by any regulation made thereunder.

SECTION 3. As soon as may be after the commencement of this act the Governor-in-Council shall appoint two duly qualified medical practitioners and four dentists, qualified for registration hereunder, and two persons not being either medical practitioners or dentists, to be members of the Dental Board of New South Wales, and shall also appoint one of such members to be president thereof. All such appointments shall be for a period of three years.

SECTION 4. If any vacancy occur in the office of member of the dental board during the period for which the first members of the said board are appointed, the Governor-in-Council may fill such vacancy, and the person so appointed shall hold office until the expiration of three years from the date of the appointment of the first members, and no longer.

SECTION 5. On the expiration of the period for which the first dental board shall have been appointed to hold office four dentists and two medical practitioners shall be eligible for election by the registered members under the dental board for periods of three years, and two lay members of the board shall be appointed by the governor-in-council for periods of three years.

SECTION 6. The board may from time to time appoint a registrar and such other officers as it may think fit for the purposes of this act.

SECTION 7. The registrar shall enter in a register, in the prescribed manner and on payment of the prescribed fee, the full names and addresses, date, and description of qualifications for which registration is granted, and all other prescribed particulars of all dentists, and shall transmit in the month of January in each year a certified copy of such register to the Colonial Secretary, who shall cause the same thereupon to be published in the Government *Gazette;* a copy

of such *Gazette* shall be *prima facie* evidence, in all legal proceedings, that the persons mentioned therein are registered according to the provisions of this act, and the omission of any name therefrom shall be prima facie evidence that such person is not so registered.

SECTION 8. The board shall cause to be removed from the register the names of deceased dentists.

SECTION 9. The board may refuse to register as a dentist or may remove from the register any person who

(*a*) has been convicted of any felony or misdemeanor, or of any offence which if committed within this colony would be a felony or misdemeanor; or

(*b*) has been guilty of infamous conduct in any professional respect:

Provided that in the case of a charge for infamous conduct as aforesaid the board shall make due inquiry, sitting as an open court, and the person charged shall be afforded an opportunity of defence, either in person or by counsel, and shall have the right of appeal to the supreme court, and such appeal shall be in the nature of a rehearing:

Provided, further, That any such person shall not be refused registration nor have his name removed from the register on account of a conviction for an offence which, though within the provisions of this section, does not, either from the trivial nature of the offence or from the circumstances under which it was committed, disqualify a person for practising dentistry, nor until he has been called upon to explain any objection raised against him.

SECTION 10. Where the board directs the removal from the register of the name of any person, the name of that person shall not be again entered on the register, except by direction of the board, or by order of a court of competent jurisdiction. The board may, if it thinks fit in any case, direct the registrar to restore to the register any name removed therefrom without fee, or on payment of such fee, not exceeding the registration fee, as the board may from time to time direct, and the registrar shall restore the same accordingly.

SECTION 11. Any person who

(*a*) holds some recognized certificate as hereinafter defined, and who proves to the satisfaction of the board that he is of good character;

(*b*) has for a period of two years before the commencement of this act been bona fide engaged in New South Wales in the practice of dentistry, either separately or in conjunction with the practice of medicine, surgery, or pharmacy, and who has made application for registration to the board within one year from the commencement of this act; or

(*c*) has attained the age of twenty-one years and has been engaged during a period of not less than four years in the acquirement of professional knowledge in dentistry, and has passed an examination before the board, according to the prescribed regulations; or

(*d*) has attained the age of twenty-one years, and shall have been a pupil or apprentice for a period of not less than two years to a dental practitioner entitled to be registered under this act: Provided that such pupilage or apprenticeship shall have been commenced at least six months before the commencement of this act, and shall have expired before he shall be entitled to be so registered; or

(*e*) has obtained a diploma or degree in dentistry from a university in Australia;

shall be entitled to be registered as a dentist under this act.

SECTION 12. Any person who has practised dentistry for not less than twelve months elsewhere than in New South Wales, and who holds some recognized certificate as hereinafter defined, and who proves to the satisfaction of the board that he is of good character, shall be entitled upon the payment of the prescribed registration fees and without examination, to be registered as a dentist under this act.

The term "recognized certificate" means a certificate, diploma, membership, degree, license, letters, testimonial, or other title, status, or document granted by some university, college, or other public institution in a British possession or foreign country, and which is recognized by the board as entitling the holder thereof to practise dentistry in such possession or country, and as furnishing sufficient guarantee

of the possession of the requisite knowledge and skill for the efficient practice of dentistry.

SECTION 13. From and after the first day of January, one thousand nine hundred and one, no person other than a duly qualified medical practitioner shall be entitled to take or use the name or title of "dentist," or of "dental practitioner" or of "dental surgeon," or any name, initials, title, addition, or description implying that he is registered under this act, unless he is registered hereunder. And any person who after the first day of January, one thousand nine hundred and one, not being a duly qualified medical practitioner or a dentist so registered, takes or uses any such name, initials, title, addition, or description as aforesaid shall be liable on conviction to a penalty not exceeding twenty pounds.

SECTION 14. A copy of the register kept in pursuance of this act, signed by the president of the dental board, shall, in any proceedings under this act, be prima facie evidence that the persons whose names are herein contained and no others were, up to and including the time when the said copy of the register was so signed, legally qualified dentists.

SECTION 15. The board may, with the approval of the governor, make, alter, and repeal regulations for carrying this act into full effect, for the nomination and election of members of the board (after the first nominated board), and for regulating the proceedings of the board, fixing quorums, the removal of members of the board, regulating the duties of its officers, prescribing what certificates, diplomas, membership, degrees, license, letters, testimonials, or other title, status, or documents will be recognized by the board under section twelve, and for holding examinations and prescribing the subjects and fees therefor. All such regulations shall, upon being published in the government *Gazette*, be good and valid in law, provided that a copy of all such regulations be laid before both Houses of Parliament within fourteen days from the publishing thereof, if Parliament be then in session, or otherwise within fourteen days after the commencement of the next ensuing session.

SECTION 16. Any registrar or other person who wilfully makes or causes to be made any false entry in or falsification

of the register, and any person who wilfully procures or attempts to procure himself or any other person to be registered under this act by making or producing, or causing to be made or produced, any false or fraudulent representation or declaration, either verbally or in writing, and any person aiding or assisting therein, shall be guilty of a misdemeanor, and shall on conviction be liable to be imprisoned, with or without hard labor, for any term not exceeding twelve months.

SECTION 17. The board may examine any person upon oath, or take a solemn declaration from any person for the purposes of this act; and if any person wilfully makes any false statement upon such examination or in such declaration, or utters or attempts to utter or put off as true before the board any false, forged or counterfeit certificate, diploma, license, letter, testimonial, or other document or writing, he shall be guilty of a misdemeanor and shall on conviction be liable to be imprisoned for any period not exceeding twelve months.

SECTION 18. All informations for offences against this act shall be laid by the registrar, or some other person appointed by the board for that purpose, and all penalties when recovered shall be paid to the dental board for the purposes of this act. All such penalties may be recovered before any stipendiary or police magistrate or two justices of the peace sitting in petty sessions.

SECTION 19. The fees mentioned in the Schedule to this act shall be payable by persons applying to be registered, or obtaining certificates of registration under this act, or inspecting the register respectively, to the registrar, and shall be applied by the board in defraying the expenses and carrying out the provisions of this act.

SCHEDULE

	£.	s.	d.
On application until January, 1901	2	2	0
On application after that date	5	5	0
Certificate of registra ion	0	5	0
Inspection of register	0	5	0
Alteration of register	0	5	0

QUEENSLAND

Statutes, Vol. IX, p. 8254.

SECTION 1. This act may be cited as "The Dental Act of 1902," and shall commence and take effect on the first day of January, one thousand nine hundred and three.

SECTION 2. Interpretations.

SECTIONS 3 and 4. Constitution of the board.

SECTION 5. Meetings of the board.

SECTION 6. Proceedings of the board validated.

SECTION 7. The board may from time to time appoint a registrar and such examiners and other officers as the board thinks necessary for giving effect to this act and the by-laws, and may pay to such officers such salary and allowances as the board thinks fit.

All such persons shall hold office during the pleasure of the board.

Nothing in this act contained shall be construed to prevent the board from appointing one or more of its members to be an examiner or examiners, or from paying to him or them such fees in that behalf as may be prescribed.

SECTION 8. Every person, whether male or female, shall be entitled to be registered under this act upon making application in that behalf in the prescribed form, and upon proving to the satisfaction of the board that such person—

(i) Has attained the age of twenty-one years, and is a person of good fame and character; and

(ii) Is registered in the United Kingdom in accordance with the laws for the time being in force therein as a dentist or medical practitioner, and is still entitled to practise his profession in that country; or

(iii) Has previous to the commencement of this act been for a period of at least two years *bona fide* engaged in Queensland in the practice of dentistry, either separately or in conjunction with the practice of medicine, surgery, or pharmacy, as a duly qualified medical practitioner or as a duly registered pharmaceutical chemist; or

(iv) Has obtained the prescribed certificate of fitness after the prescribed examination; or

(v) Has before the commencement of this act, begun a course of study in dentistry as a pupil or apprentice of a person or persons who would, if this act had been passed, have been entitled to be registered thereunder, and has since continuously pursued such course of study during a period of at least three years as a pupil or apprentice of such person or persons or of a dentist or dentists registered under this act; or

(vi) Holds a recognized certificate:

Provided that no application for registration in pursuance of subsection (iii) hereof shall be received after the first day of January, one thousand nine hundred and four:

Provided, further, That no application for registration in pursuance of subsection (v) hereof shall be received after the first day of January, one thousand nine hundred and seven:

Provided, further, That the Minister may dispense with such of the certificates, examinations, or other conditions for registration required by this act or the by-laws as to him may seem just in favor of any person who has commenced his apprenticeship or professional education in dentistry or has been engaged in the practice of dentistry in Queensland or elsewhere before the commencement of this act.

SECTION 9. (1) The board may require the attendance of any person who applies for registration, and of any other person, and may examine or question any such persons or any witnesses who may attend before the board, upon oath, affirmation, or otherwise, and for any such purposes the chairman may administer an oath or affirmation.

(2) Every summons issued by the board requiring the attendance of any person or the production of any documents, and signed by the registrar, shall have the same effect as a subpena issued by the supreme court in a civil action; and the obedience thereto, or non-observance thereof may be enforced and punished by a judge of the said court sitting in chambers in the same manner as in the case of the dis-

obedience or non-observance of a subpena issued by the said court.

SECTION 10. If the board refuses to register any person as a dentist, the board shall, if required by him, state in writing the reason for such refusal; and such person may thereupon appeal to the Minister, and the Minister may, after hearing such person and the board, dismiss the appeal or order the board to register such person.

SECTION 11. (1) The board shall from time to time hold examinations of persons desirous of qualifying themselves to be registered as dentists, and shall grant certificates of fitness to persons who have passed all the examinations and fulfilled all the conditions prescribed.

(2) No person shall be admitted to the final qualifying examination unless he has attained the age of twenty-one years and has fulfilled all the conditions prescribed.

(3) The board, instead of requiring any person to pass an examination in all the prescribed subjects, may accept in substitution for the whole or any part thereof a certificate of examination in any subject or subjects granted by any university established within the Commonwealth of Australia, or any college of pharmacy, or school of mines, or other public educational institution now or hereafter to be established in Queensland.

Such certificate of examination shall have the like force and effect as if such examination had been held by the board.

SECTION 12. (1) A register shall be kept by the registrar, and shall contain the names, addresses, and qualifications of all dentists registered under this act and the respective dates on which they are so registered.

(2) The register shall at all times be open to inspection by any person on payment of the prescribed fee.

(3) As soon as may be after registration the registrar shall cause particulars as aforesaid of the registration of every dentist to be published in the *Gazette*.

(4) Every dentist shall be entitled to obtain from the registrar a certificate of his registration in the prescribed form.

SECTION 13. Every dentist who obtains any higher degree, diploma, or status, or any qualification other than the qualification in respect of which he is registered, shall be entitled to have such higher degree, diploma, status, or additional qualification inserted in the register on payment of the prescribed fee.

SECTION 14. A copy of the register shall, in the month of January in each year, be published by the board in the *Gazette*.

A copy of the register purporting to be certified as a true copy by the registrar, shall in all proceedings whatsoever be *prima facie* evidence that the persons therein named are dentists and possess the qualifications therein mentioned; and the absence of the name or the qualification of any person from such copy shall be *prima facie* evidence that such person is not registered or qualified.

SECTION 15. (1) The board shall from time to time erase any entry in the register which is proved to the satisfaction of the board to have been fraudulently or incorrectly made.

(2) Every dentist on changing his place of business shall forthwith give notice of the fact by post to the registrar. Every district registrar of death in Queensland on registering the death of any dentist shall forthwith transmit notice thereof to the registrar.

(3) The registrar shall from time to time erase the names of all dentists who have died, and shall make such alterations and amendments in the register as the board may from time to time direct, for the purpose of making the same an accurate record of the names, addresses and qualifications of the dentists for the time being.

For the purposes aforesaid he may post a notice to any dentist, addressed to him according to his address on the register, inquiring whether he has changed his address or residence; and if no answer is returned to such notice within six months after the posting thereof, the registrar shall erase the name of such person from the register.

(4) Any name erased from the register under this section may be restored by the board.

SECTION 16. (1) The name of any person registered under this act who, after he is registered—

(i) Is convicted in any part of His Majesty's dominions or elsewhere of any indictable offence, or of any other offence which, in the opinion of the board, renders him unfit to practise; or

(ii) Is, after due inquiry, adjudged by the board to have been guilty of infamous conduct in a professional respect, shall be erased from the register:

Provided, That in the case of a charge of infamous conduct as aforesaid the board in making the due inquiry shall, if so required by the person charged, sit as an open court, and the person shall be afforded an opportunity of defence either in person or by counsel, and shall, if he does not exercise his right of appeal to the Minister have the right of appeal to the supreme court, and such an appeal shall be in the nature of a rehearing.

The expression "infamous conduct in a professional respect" does not include any conduct which either from its trivial nature or from the surrounding circumstances does not in the public interest disqualify a person practising dentistry.

(2) Any name erased from the register under this section may be restored by the board.

SECTION 17. If the board causes the name of any person to be erased from the register under this act, the board shall, if required by such person, state in writing the reason for such erasure; and such person may, unless he has appealed to the supreme court under the provisions of subsection (1) of the last preceding section, appeal to the Minister, who may, after hearing such person and the board dismiss the appeal, or order the board to restore the name to the register, and such order shall be final and conclusive, and shall be obeyed.

SECTION 18. Any appeal to the supreme court under this act shall be brought and the proceedings shall be had in such manner as may be prescribed by rules of court.

The appeal shall be heard and determined by a single judge. An appeal shall lie to the full court from any decision of a judge upon a point of law.

SECTION 19. Every dentist and every medical practitioner shall be entitled to practise dentistry in any part of Queensland, and to sue in any court of competent jurisdiction for the recovery of his fees or other remuneration for professional services in dentistry, or in the performance of any dental operation, or for dental attendance or advice.

SECTION 20. From and after the first day of January, one thousand nine hundred and four, no person other than a medical practitioner or other than a person registered under this act, and no company (other than a company carrying on the business of pharmaceutical chemists and duly registered before the first day of January one thousand nine hundred and two, under "The Companies Act 1863") or association other than an association consisting wholly of registered dentists, shall take or use or by inference adopt the name, title, word, letters, addition, or description of dentist, or dental practitioner, or dental surgeon, or surgeon dentist, or use or have attached to or exhibited at his or its place of business or residence, either alone or in combination with any other word or words or letters, the words, "dental company" or "dental college" or "college or school of dentistry" or "mechanical dentist," or any name, title, letters, addition, or description implying or tending to the belief that he or such company or association is registered under this act, or is qualified to practise dentistry, or is carrying on the practice of dentistry, or is entitled to or to use such name, title, word, letters, addition, or description.

Any person, company, or association guilty of a contravention of this section shall be liable to a penalty not exceeding twenty pounds, and to a further penalty not exceeding five pounds for every day during which such contravention is continued after conviction.

SECTION 21. From and after the first day of January, one thousand nine hundred and four, no person other than a medical practitioner or a dentist shall be entitled to recover any fee or charge for the performance of any dental operation, or for any dental attendance or advice, or shall hold any appointment as a dentist or dental practitioner or dental

surgeon in any hospital, infirmary, dispensary, or lying-in hospital, or in any lunatic asylum, gaol, penitentiary, or other public institution:

Provided that a person who practises as an extractor of teeth only shall not be deemed to be performing dental operations within the meaning of this section.

Section 22. Every dentist who has an apprentice or pupil shall permit such apprentice or pupil a reasonable time for the purpose of attending any lectures or gaining any practice which may be prescribed as part of the course of study of persons desirous of being registered as dentists.

The provisions of this section shall be deemed to be included in all contracts or articles of apprenticeship or pupilage, and any failure or refusal to conform therewith shall be a breach of such contract or articles.

Section 23. The board may sue.

Section 24. All penalties for offences against this act or the by-laws, and all fees payable may be recovered by complaint by or on behalf of the board before any two justices.

All penalties and fees recovered by the board under this act or the by-laws shall be paid to the board.

Section 25. Application of funds.

Section 26. (1) The board with the approval of the Governor-in-Council may from time to time make by-laws for all or any of the following purposes, namely:

(i) Regulating the mode of the election of the elected members of the board;

(ii) Regulating the meetings and proceedings of the board and the conduct of the business thereof; the election of a member to perform the duties of the president and act as deputy president during the illness or absence of the president;

(iii) Prescribing the duties of the registrar and other officers of the board;

(iv) Regulating the manner of keeping and the form of the register;

(v) Prescribing forms to be used for the purposes of this act or the by-laws;

(vi) Determining the evidence to be produced and conditions to be fulfilled by any person applying for registration under this act;

(vii) Prescribing the course of study, professional practice, conditions of service, and training and examination of persons desirous of obtaining certificates of fitness entitling them to be registered as dentists; prescribing the fees payable to examiners;

(viii) Regulating the granting of certificates of fitness, and prescribing the form thereof;

(ix) Prescribing what certificates of examinations will be recognized by the board as a substitute for the examinations of the board;

(x) Prescribing what certificates, diplomas, memberships, degrees, licenses, letters testimonial, or other titles, status, or documents, will be recognized by the board as qualifying persons holding them or any of them to be registered as dentists;

(xi) Prescribing a scale of fees to be charged and paid in respect of any applications, examination, registration, certificate, inspection, or other proceeding, act, or thing provided or required under this act or the by-laws;

(xii) Requiring and regulating the registration in the office of the registrar of all contracts and articles of apprenticeship or pupilage under which apprentices or pupils in dentistry are serving;

(xiii) Regulating the conduct of proceedings in connection with complaints or charges against dentists alleged to be guilty of infamous conduct in a professional respect;

(xiv) Generally for carrying into effect the objects of this act.

(2) A by-law may impose a penalty for any breach thereof, and may also impose different penalties in case of successive breaches. But no such penalty shall exceed twenty pounds.

(3) All such by-laws upon being so approved shall be published in the *Gazette*, and shall thereupon have the same effect as if they were a part of this act. The production of a

copy of the *Gazette* containing a notification of the approval thereof by the Governor-in-Council shall, in all proceedings, be sufficient evidence of such by-laws.

TASMANIA

1884, Statutes 48 Victoria, No. 31. Page 797.

SECTION 1. The Short Title of this act is "The Dentists Act, 1884."

SECTION 2. In this act if not inconsistent with the context

"Dentist" means a person registered under this act.

"Registration" and "registered" respectively mean registration under this act, and registered under this act:

"The said act" means the act of the Imperial Parliament to amend the law relating to dental practitioners, and cited as the Dentists Act, 1878:

"Registrar" means the registrar of births, deaths, and marriages.

SECTION 3. From and after the first day of January, one thousand eight hundred and eighty-five, a person other than a legally qualified medical practitioner shall not be entitled to take or use the name or title of dentist (either alone or in combination with other words), or of dental surgeon, surgeon dentist, dental practitioner, or any name, title, addition, or description implying that he is registered under this act, or that he is a person specially qualified to practise dentistry and dental surgery, unless he is registered under this act.

A person registered under this act shall be entitled to practise dentistry or dental surgery in any part of Tasmania, and from and after the first day of January, one thousand eight hundred and eighty-five, no person shall be entitled to take or receive any fee or charge for the performance of any dental operation, or for any dental attendance, prescription, or advice, unless he is registered under this act, or is registered under the said act, or is a legally qualified medical practitioner.

SECTION 4. Any person who, after the first day of January, one thousand eight hundred and eighty-five, not being

registered under this act, takes or uses any such name, title, addition, or description as aforesaid, or takes or receives any fee or charge for the performance of any dental operation, attendance, prescription, or advice, shall be liable to a penalty not exceeding fifty pounds, to be recovered in a summary way before any two justices of the peace in the mode prescribed by The Magistrates Summary Procedure Act: Provided that nothing in this section shall apply to any legally qualified medical practitioner.

SECTION 5. Any person who

(*a*) Is registered under the said act;

(*b*) Is entitled to be registered under the said act;

(*c*) Is at the passing of this act bona fide engaged in any part of Tasmania in the practice of dentistry or dental surgery, either on his own behalf or as assistant to some person engaged in the practice of dentistry or dental surgery, either separately or in conjunction with the practice of medicine, surgery, or pharmacy;

(*d*) Holds any recognized certificate, hereinafter defined, granted in any British possession or foreign country; or,

(*e*) (As repealed and reënacted by 54 Vict. No. 28, p. 801). Has been for at least four consecutive years the apprentice or pupil of a person registered under this act, or the said act or entitled to be registered under this act or the said act, or of one or more such persons successively, and has been continuously and actually engaged during that period in the practice of dentistry, and has attended a course of lectures and hospital practice at the dental department of the Hobart or Launceston General Hospital, or at any hospital recognized for the purpose by the Dental Board of Examiners, during a period of at least two years, upon such days and during such hours as the Dental Board of Examiners, with the approval of the Governor-in-Council, may from time to time by regulations direct, and shall have obtained a license under the fourteenth and fifteenth sections of this act; and such reasonable fee shall be paid for attendance upon lectures and hospital practice as the Governor-in-Council may approve; shall be entitled to be registered under this act.

SECTION 6. The certificate granted in a British possession or in any foreign country, which is to be deemed such a recognized certificate, as is required for the purposes of this act, shall be such certificate, diploma, membership, degree, license, letters testimonial, or other title, status, or document as may be recognized by the board of examiners as furnishing a sufficient guarantee of the possession of the requisite knowledge and skill for the efficient practice of dentistry or dental surgery.

SECTION 7. Any person who has been articled as a pupil to a dental practitioner entitled to be registered under this act, in consideration of receiving from such practitioner a complete dental education, shall, if his articles expire before the first day of January one thousand eight hundred and eighty-five, be entitled to be registered under this act as though he had been in bona fide practice before the passing of this act. Moreover, it shall be lawful for the Governor-in-Council by special order, to dispense with such of the certificates, examinations, or other conditions for registration in the dentists' register required under the provisions of this act, or under any regulations made by its authority, as to him may seem fit, in favor of any dental students or apprentices who have commenced their professional education or apprenticeship before the commencement of this act.

SECTION 8. If any person is refused registration the board of examiners shall, if required by him, state in writing the reason for such refusal; and if such reason be that the certificate held or obtained by him is not such a recognized certificate as before defined, such person may appeal to the Governor-in-Council, and the Governor-in-Council may, after hearing the board of examiners, order the said board to recognize such certificate or otherwise, and such order shall be duly obeyed.

SECTION 9. When a person entitled to be registered under this act produces or sends to the registrar the document conferring or evidencing his qualification, with a statement of his name and address and other particulars, if any, required for registration, and pays the registration fee, he

shall be registered in the dentists' register: *Provided*, That a person shall not be registered under this act as having been at the passing thereof engaged in the practice of dentistry or dental surgery unless he produces or transmits to the registrar before the first day of June one thousand eight hundred and eighty-five information of his name and address and a declaration signed by him in the form of the Schedule to this act.

SECTION 10. The registrar shall refer any doubtful application for registration under this act to the board of examiners, who may decline to register such person or otherwise as they may think fit.

SECTION 11. Any person who wilfully procures or attempts to procure himself or any other person to be registered under this act by making or producing, or causing to be made or produced, any false or fraudulent representation or declaration, either verbally or in writing shall be deemed guilty of a misdemeanor, and shall on conviction be liable to be imprisoned for any term not exceeding twelve months.

SECTION 12. The board of examiners shall cause to be erased from the dentists' register any entry which has been incorrectly or fraudulently made. And any person registered in the dentists' register who has, either before or after the passing of this act, and either before or after he is so registered been convicted, either in Her Majesty's dominions or elsewhere, of any felony or misdemeanor, or been guilty of any infamous or disgraceful conduct in a professional respect, the name of such person shall be erased from the register, and such erasure shall be notified by the registrar in the *Hobart Gazette*.

SECTION 13. If the registrar wilfully makes or causes to be made any falsification in any matter relating to any register under this act, he shall be liable to be imprisoned for any term not exceeding twelve months.

SECTION 14. The Governor-in-Council shall from time to time, upon the written recommendation of the court of medical examiners, appoint a board or boards of examiners for the purposes of conducting the examinations and granting certificates and licenses under this act. Each of such boards

shall be called boards of examiners in dental surgery and dentistry, and shall consist of not less than four members, one-half of whom at least shall be persons registered under this act.

SECTION 15. The persons appointed by the Governor-in-Council shall continue in office for such period, and shall conduct examinations in such manner, and shall grant certificates and licenses in such form as the Governor-in-Council may from time to time by regulations direct.

SECTION 16. A casual vacancy in any such board of examiners may be filled by the Governor in Council upon such written recommendation as aforesaid; but the person so appointed shall be qualified as the person in whose stead he is appointed, and shall hold office for such time only as the person in whose stead he is appointed would have held office.

SECTION 17. Such reasonable fees shall be paid for the certificates or licenses to be granted under this act by the board of examiners as the Governor-in-Council may from time to time by regulations direct.

SECTION 18. A register shall be kept by the registrar, to be styled the dentists' register, and shall contain in one alphabetical list the names of all persons registered under this act, together with their qualifications and places of residence.

SECTION 19. On application made to him at any time for that purpose by any registered dentist, the registrar shall issue to such applicant a certificate of registration.

SECTION 20. The dentists' register as aforesaid shall be open to inspection by the public.

SECTION 21. The registrar shall from time to time erase the names of all registered persons who shall have died; and shall from time to time make the necessary alterations in the addresses of the persons registered under this act.

SECTION 22. A true copy of the register aforesaid, certified by the registrar-general to be a true copy, shall, in the month of December in each year, be sent to the Chief Secretary, and shall by him be published in the *Hobart Gazette;*

and any copy of the register so published shall be evidence in all civil and criminal proceedings whatsoever.

SECTION 23. The registrar shall take and receive the undermentioned fees:

	£.	s.	d.
On application	1	0	0
Certificate of registration	0	5	0
Any alteration of register	0	5	0
Inspection of register	0	2	6

SECTION 24. All fees accruing under this act shall be paid into the treasury and form part of the Consolidated Revenue Fund of the colony.

SCHEDULE

Declaration required to be made by a person who claims to be registered on the ground that he was bona fide engaged in the practice of dentistry at the time of the passing of "The Dentists Act, 1884."

I . . . . . residing at . . . . . hereby declare that I was bona fide engaged in the practice of dentistry or dental surgery at . . . . . at the date of the passing of "The Dentists' Act, 1884."

(Signed)

Witness:

Dated this . . . . . day of . . . . ., 18

NOTE.—Any person who wilfully procures or attempts to procure himself or any other person to be registered under this act by making or producing, or causing to be made or produced, any false or fraudulent representation or declaration, either verbally or in writing, is liable under "The Dentists' Act, 1884," to imprisonment for a period not exceeding twelve months.

VICTORIA

Medical Act, 1890, No. 1118

Part II—Dentists

Section 38. In the construction and for the purposes of this part of this act the following terms shall, if not inconsistent with the context, have the respective meanings hereby assigned to them (that is to say):

"Dental Board" shall mean the dental board appointed under the provisions of "The Dentists' Act, 1887," or of this part of this act.

"Dentist" shall mean a person registered under "The Dentists' Act, 1887," or under this part of this act.

"Minister" shall mean the responsible Minister of the Crown for the time being administering this part of this act.

"Register" shall mean the dentists' register for qualified dentists to be kept in pursuance of the provisions of this part of this act.

"Registrar" shall mean the registrar appointed under the provisions of "The Dentists' Act, 1887," or of this part of this act.

Division I—Dental Board and Officers

Sections 39 to 45. Appointment of dental board, term of office, etc.

Division 2—Register

Section 46. A register shall be kept by the registrar, to be called the "dentists' register," and the said register shall contain in one alphabetical list, according to surnames, the names of all dentists who are registered under this part of this act, and shall state the full names and addresses of the registered persons, the description and date of the qualifications in respect of which they are registered, and subject to the provisions of this part of this act shall contain such particulars and be in such form as the Governor-in-Council

from time to time directs, and the said register shall be open to inspection by the public on payment of the fees prescribed in the fourth schedule hereto.

SECTION 47. Repealed by section 6, Dentists' Act, post.

SECTION 48. Any entry in the register which appears to the registrar to have been irregularly or fraudulently made may be by him erased if the Minister so direct. If any person registered under this part of this act has either before or after the passing thereof and either before or after he is so registered been convicted either in Her Majesty's dominions or elsewhere of an offence which if committed in Victoria would be a felony or a misdemeanor, such person shall be liable to have his name erased from the register.

The dental board may cause inquiry to be made into the case of a person alleged to be liable to have his name erased under this section, and on proof of such conviction shall make representation of the same to the Governor-in-Council, who may thereupon direct the registrar to erase the name of such person from the register.

Provided, That the name of a person shall not be erased under this section on account of a conviction for a political offence out of Her Majesty's dominions.

SECTION 49. Any person who wilfully makes or causes to be made any falsification in any matter relating to the register shall be deemed guilty of a misdemeanor, and shall on conviction thereof be liable to be imprisoned for any term not exceeding twelve months.

SECTION 50. A true copy of the register aforesaid certified by the registrar to be a true copy shall in the month of January in each and every year be sent to the Minister and shall by him be published in the Government *Gazette*, and shall be published and sold by the dental board, and any printed documents purporting to be a copy of such register shall be *prima facie* evidence in all courts of law in all legal proceedings whatsoever and before all justices and others that the persons therein specified are registered according to the provisions of this part of this act, and the absence of the name of any person from the latest of such printed copies for the

time being shall be *prima facie* evidence until the contrary be made to appear that such person is not so registered. *Provided,* That in the case of any person whose name does not appear in such copy a certificate under the hand of the registrar to the effect that such person is registered under this part of this act shall be evidence that such person is registered under this part of this act.

SECTION 51. On application made to him at any time for that purpose the registrar shall, if so directed by the dental board, issue to any applicant a certificate to the effect that he is registered under this part of this act.

DIVISION 3—REGISTRATION

SECTION 52. Repealed by section 7 of the Dentists' Act, post.

SECTION 53. Every person registered under "The Dentists' Act, 1887," or under this part of this act and every legally qualified medical practitioner shall be entitled to practise dental surgery and dentistry in any part of Victoria, and sue in any court of law in Victoria to the extent of the jurisdiction of such court for the recovery of his fees or other remuneration for his professional services in dentistry or in the performance of any dental operation or for any dental attendance or advice, and it shall be sufficient to state in the particulars of demand the words "for dental services," which shall include every demand for any dental operation attendance and advice and for any articles supplied by the plaintiff to the defendant for dental purposes. From and after the coming into operation of this act no person shall be entitled to recover any fee or charge in any court of law for the performance of any dental operation or for any dental attendance or advice, or shall hold any appointment as a dentist or dental practitioner or dental surgeon in any hospital, infirmary, dispensary or lying-in hospital or in any lunatic asylum, gaol, penitentiary or other public institution, unless he is registered under "The Dentists' Act, 1887," or under this part of this act or is a legally qualified medical practitioner.

SECTION 54. (Repealed by act 1598–1898.)

SECTION 55. (Repealed by act 1598–1898.)

SECTION 56. Any person who either is not domiciled in Victoria or has practised dental surgery or dentistry for more than ten years elsewhere than in Victoria, showing that he holds some recognized certificate as hereinafter defined granted in some portion of the British possessions other than the United Kingdom and that he is of good character, shall upon the payment of the registration fees, be entitled without examination to be registered as a dentist under this part of this act.

SECTION 57. (Repealed by act 1598–1898.)

SECTION 58. The certificate granted in a British possession or in a foreign country which is to be deemed such a recognized certificate as is required for the purposes of this part of this act shall be such certificate, diploma, membership, degree, license, letters testimonial or other title, status or document as may be recognized by the dental board as entitling the holder thereof to practise dental surgery or dentistry in such possession or country, and as furnishing sufficient guarantee of the possession of the requisite knowledge and skill for the efficient practice of dental surgery or dentistry.

SECTION 59. If any person is refused registration under this part of this act as a dentist, the dental board shall if required by him state in writing the reason for such refusal; and if such reason be that the certificate held or obtained by him is not such a recognized certificate as above defined, such person may appeal to the Governor-in-Council, and the Governor-in-Council may after hearing the said board dismiss the appeal or order the said board to recognize such certificate and such order shall be duly obeyed.

SECTION 60. The dental board may from time to time subject to the approval of the Governor-in-Council make, alter, and repeal regulations specifying what certificates, diplomas, memberships, degrees, licenses, letters testimonial or other titles, status or documents granted in a British possession other than the United Kingdom or granted in a foreign

country will be recognized by the said board as qualifying persons holding them or any of them to be registered under this part of this act as dentists.

SECTION 61. The dental board may when any person makes application to be registered in respect of any certificate, diploma, membership, degree, license, letter, testimonial or other title, status or document not specified in such regulations entertain such application and deal with it specially, and may, if they think fit, give to such applicant a certificate of recognition setting forth that he is the holder of a recognized certificate, and the registrar shall take such certificate of recognition as an authority to register such applicant.

SECTION 62. When a person entitled to be registered under this part of this act produces or sends to the registrar the certificate, diploma, license, letters testimonial or other document or writing conferring or evidencing his qualification, with a statement of his name and address and all other particulars (if any) required for registration under this part of this act, and pays the registration fees, he shall be registered, and such registration shall consist in the entry by or on behalf of the registrar in the register of such name, address and other particulars.

A person registered in Victoria shall not be disqualified for being registered by reason only that he is not a British subject.

DIVISION 4—EXAMINATIONS

SECTION 63. (Repealed by Act 1595–1898.)

SECTION 64. Such reasonable fees shall be paid for the certificate to be granted under this part of this act by the dental board and for examination by the said board as the Governor-in-Council from time to time by regulation directs.

SECTION 65. If it appears to the Governor-in-Council that an attempt has been made by the dental board to impose on any candidate offering himself for examination an obligation

to adopt or refrain from adopting the practice of any particular theory of dental surgery or dentistry as a test or condition of admitting him to examination or granting him a certificate of fitness under this part of this act, the Governor-in-Council may thereupon issue an injunction to the said board directing them to desist from such practice.

Division 5—Miscellaneous

Section 66. Any person who wilfully procures, or attempts to procure himself, or any other person to be registered under this part of this act, by making or producing or causing to be made or produced, any false or fraudulent representation or declaration, either verbally or in writing, shall be deemed guilty of a misdemeanor, and shall on conviction thereof be liable to be imprisoned for any term not exceeding twelve months.

Section 67. (Repealed by Act 1595–1898.)

Section 68. All offences under this part of this act shall be heard and determined and all penalties imposed by this part of this act shall be recovered in a summary manner before two justices of the peace in petty sessions, and all penalties when recovered shall be paid to the dental board to be applied toward the expenses of carrying this part of this act into effect.

Section 69. (Repealed by Act 1595–1898.)

Section 70. The fees mentioned in the fourth schedule to this act shall be payable by persons applying to be registered, or obtaining certificates of registration under this part of this act, or inspecting the register respectively, and shall be applied by the dental board in such manner as they think fit in defraying the expenses and carrying out the provisions of this part of this act.

Section 71. All persons registered under "The Dentists' Act, 1887," or under this part of this act shall be exempt from serving in the militia.

Dentists' Act, No. 1595, December 20, 1898

SECTION 1.—This act may be cited as the Dentists' Act, 1898, and shall be read and construed as one with Part II of the Medical Act of 1890 (hereinafter called the Principal Act).

SECTION 2. Repeal of schedule.

SECTION 3. Reduction of members of dental board.

SECTION 4. Appointment of members of board, vacancies, qualifications, mode of election, etc.

SECTION 5. (Repealing section 44 of the Medical Act, supra.) (1) Examinations for the purposes of this and the Principal Act shall be conducted by such examiners as the dental board from time to time appoints for the purpose.

(2) The dental board shall grant certificates of fitness or diplomas in such form as may be prescribed by regulations under this act.

(3) The dental board instead of requiring any person to pass an examination conducted as aforesaid may accept in substitution therefor a certificate of examination in any particular subject by the University of Melbourne, the College of Pharmacy, or any school of mines or any public educational institution as may be prescribed in the regulations. Such certificate of examination shall be deemed to have the like force and effect as if such examination had been held before the dental board or examiners appointed by such board.

SECTION 6. (Repealing section 47 of the Medical Act, supra.) (1) The registrar shall from time to time, upon being directed by the dental board so to do, insert in the register any alteration which comes to the knowledge of the dental board in the name, address, or qualifications of any person registered therein.

(2) The dental board may from time to time cause to be written to any dentist a registered letter addressed to him at his last known address to inquire whether he has changed such address and stating that if no answer be returned to such letter within a period of six months from the date of the

posting thereof the dental board may cause the name of such person to be removed from the register and the board may remove the said name accordingly. Upon the personal application of such dentist and the production of his certificate or satisfactory proof of his former registration the said board shall cause his name to be restored to the register.

(3) Every dentist changing his address shall notify the dental board of his new address.

(4) and (5) Duty of registrar of births.

SECTION 7. (Repealing section 52 of the Medical Act, supra.) (1) No person other than a legally qualified medical practitioner or other than a person registered under "The Dentists' Act, 1887," or under this or the Principal Act, shall, nor shall any company (other than an association consisting wholly of registered dentists), take or use or by inference adopt the name, title, words, letters, additions, or description of "dentist," or "dental practitioner," or "dental surgeon," or "surgeon dentist," or use or have attached to or exhibited at his or its place of business or residence (either alone or in combination with any other word or words or letters) the word "dental company," or "dental institute," or "dental hospital," or "dental college," or "college or school of dentistry," or "mechanical dentist," or any name, title, word, letters, addition, or description implying or tending to the belief that he or such company is registered under "The Dentists' Act, 1887," or under this or the Principal Act, or that he or such company is qualified to practise dentistry, or is carrying on the practice of dentistry, or is entitled to or to use such name, title, word, letters, addition, or description.

(2) Any person or company guilty of a contravention of this section shall on conviction be liable to a penalty not exceeding twenty pounds for every such offence, and after any conviction for any offence shall be liable to a penalty of five pounds for every day during which such contravention is continued.

SECTION 8. (Repealing section 54 of the Medical Act, supra.) Any person who has attained the age of twenty-one years and who:

(*a*) is registered or is entitled to be registered in the United Kingdom in accordance with the law for the time being in force therein as a dentist or medical practitioner; or

(*b*) is entitled pursuant to the express provisions of this or the Principal Act to be registered as a dentist; or

(*c*) has gone through such course of study and professional practice and training and passed such examinations before the dental board or examiners appointed by the dental board and has obtained from the dental board such certificate of fitness or diploma to practise dental surgery or dentistry as the said board by regulations approved by the Governor-in-Council has prescribed, shall be entitled to be registered as a dentist.

SECTION 9. (Repealing section 57 of the Medical Act, supra.) Any person who upon proof to the satisfaction of the dental board that he holds some recognized certificate as defined in the Principal Act granted in a foreign country, or that he has held such certificate and has not been deprived thereof for any cause which disqualifies him from being registered under this or the Principal Act and that he is of good moral character upon payment of the registration fees be entitled without examination to be registered as a dentist.

SECTION 10. Notwithstanding anything contained in this or the Principal Act any person who makes application to the dental board to be examined and registered, as in this section provided, and satisfies the dental board that at the time of the commencement of this act he either

(*a*) was a bona fide pupil or apprentice of or to a dentist or a dental college in Victoria for the acquirement of professional knowledge of dentistry, or

(*b*) had within one year previously been a bona fide pupil or apprentice of or to a dentist or a dental college in Victoria for four consecutive years for the acquirement of professional knowledge of dentistry, shall be entitled to be granted a certificate of fitness and registered as a dentist upon passing such examinations and fulfilling such other conditions as would, if this act had not been passed, have entitled him to such certificate and to be so registered.

SECTION 11. Provision for continuing business after death of dentist.

SECTION 12. (Repealing section 63 of the Medical Act, supra.) (1) The dental board shall from time to time hold or cause to be held examinations of persons desirous of qualifying themselves to practise dental surgery or dentistry and shall grant certificates of fitness or diplomas to practise dental surgery or dentistry to persons who passed all the examinations and fulfilled all the conditions prescribed by regulations.

(2) The dental board shall admit to such examinations any person desiring to be examined who has paid the fee and fulfilled the conditions prescribed.

SECTION 13. (Amending section 64 of the Medical Act, supra.) In section sixty-four of the Principal Act for the words "Governor-in-Council from time to time by regulation directs" there shall be substituted the words "said board from time to time by regulation approved by the Governor-in-Council directs."

SECTION 14. It shall be the duty of every dentist who has an apprentice to allow such apprentice a reasonable time for the purpose of attending any lectures and gaining any hospital practice which may be prescribed as part of the course of study of persons desiring to be registered as dentists, and such duty shall be deemed to be a condition of the contract of such apprenticeship and the failure or refusal to allow such reasonable time shall be a breach of such contract or apprenticeship.

SECTION 15. (Repealing section 67 of the Medical Act, supra.) (1) The dental board shall for the purpose of conducting any investigation or inquiry deemed necessary in the administration of this or the Principal Act have all the powers conferred upon a board appointed by the Governor-in-Council under sections twelve and thirteen of the Evidence Act, 1890.

(2) If any person wilfully, knowingly, or corruptly utters or attempts to utter or put off as true before the dental board any false, forged, or counterfeit certificate, diploma, license, letters testimonial, document, or writing, he shall be guilty of

a misdemeanor, and being convicted thereof shall be liable to be imprisoned for any period not exceeding one year for every such offence.

SECTION 16. (Repealing section 69 of the Medical Act, supra.) (1) The dental board may, with the consent and approval of the Governor-in-Council, make such regulations as the said board thinks fit with respect to

(*a*) the course of study, professional practice, and training and examination of persons desiring to obtain certificates of fitness or diplomas entitling them to practise dental surgery or dentistry;

(*b*) the granting by the board of certificates of fitness or diplomas to practise dental surgery or dentistry and the form of such certificates or diplomas;

(*c*) the keeping of the register;

(*d*) the registration in the register;

(*e*) the payment of fees in respect of certificates and diplomas granted by the dental board and in respect of examinations held by the dental board or examiners appointed by the said board;

(*f*) prescribing what examinations the dental board will recognize as a substitute for examinations by such board;

(*g*) prescribing the mode in which the election of members of the dental board by dentists shall be conducted; and

(*h*) generally for carrying this and the Principal Act into effect.

(2) All regulations made pursuant to this or the Principal Act shall be published in the Government *Gazette*, and when so published shall have the force of law and shall be judicially noticed, and shall be laid before both Houses of Parliament within fourteen days after the same shall have been made if Parliament be then sitting, and if not then within ten days after the next meeting of Parliament.

WESTERN AUSTRALIA.

1894, Volume III, Statutes 1893–1895, p. 450.

Be it enacted by the Queen's Most Excellent Majesty, by

and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:

SECTION 1. This act may be cited as "The Dentists Act, 1894," and is divided into parts as follows:

Part I. Dental board, ss. 3 to 8.

Part II. Registration, ss. 9 to 13.

Part III. Miscellaneous, ss. 14 to 19.

SECTION 2. In this act unless the context otherwise requires:

"Board" shall mean the dental board as hereinafter constituted.

"Dentist" shall mean a dentist registered under this act.

"Minister" shall mean the responsible Minister of the Crown for the time being administering this act.

"Register" shall mean the register of dentists hereinafter mentioned, and "Registrar" shall mean the registrar appointed under the provisions of this act.

"Rules" shall mean the rules for the time being made and prescribed by the board under this act.

"Medical Practitioner" shall mean a legally qualified practitioner under "The Medical Ordinance, 1869," or any act hereinafter amending the same.

PART I

DENTAL BOARD

SECTION 3. (1) For the purposes of this act there shall be a board, to be called the "Dental Board," and such board shall consist of three medical practitioners and (except in the first instance) three dentists.

(2) Any three members of the board shall form a quorum, and the board may act notwithstanding any vacancy or vacancies, provided the number of the board be not reduced to less than four.

(3) The members of the board shall appoint one of their number to be president, who shall be *ex officio* chairman of the board. In the absence of the president, the members present at any meeting may elect a chairman for such meeting. Each member, including the chairman, shall have one vote, and the chairman shall, in addition to his ordinary vote, have a casting vote in the case of an equality of votes. All questions at any meeting shall be determined by a majority of the votes of the members present.

(4) The members shall hold office three years: Provided that any member elected or nominated to fill any vacancy caused by the death, resignation, or otherwise of a member, shall hold office so long only as his predecessor would have done.

SECTION 4. The Governor-in-Council may nominate the first board, and fill any vacancy occuring in such board. The first board shall consist of three medical practitioners and three persons who appear to be entitled to be registered under this act.

SECTION 5. At the end of the first three years, and at the end of every succeeding three years thereafter, the board shall be elected by the medical practitioners and dentists, at such times and in such manner as may be prescribed by rules. Any vacancy occurring after the first three years shall be filled by election in the same manner. In default of any election to fill any vacancy, or if five members be not elected at any election, the Governor-in-Council may nominate a sufficient number to complete the board.

SECTION 6. (1) The board may with the approval of the Governor-in-Council from time to time make and prescribe, amend, repeal, and add to all such rules as to the board may seem meet:

(*a*) For fixing the time and regulating the election of members of the board.

(*b*) For the examination of persons claiming to be registered as dentists, and for determining the qualifications to be held and the evidence to be produced by any such persons.

(*c*) For requiring and regulating the registration of all articles of apprenticeship, under which apprentices or students to dentists are now or may hereafter be serving.

(*d*) For regulating the meetings and proceedings of the board, and the conduct of their business.

(*e*) For generally carrying into effect the objects of this act.

(2) By any such rules the board may impose and provide for the recovery of fines and penalties from any person or persons subject thereto, and prescribe a scale of fees to be charged and paid in respect of any proceedings or registration under this act or the rules.

(3) All such rules as aforesaid shall, where the nature of the case permits, state some maximum fine or penalty for any neglect or breach thereof respectively, provided that no such fine or penalty shall exceed ten pounds.

SECTION 7. The board shall have power to appoint and pay, and to dismiss, an examiner or examiners, and a registrar, and such other officers as the board may deem necessary for carrying out this act and the rules, and all such persons shall hold office subject to the rules.

SECTION 8. The board may, in its own name, by its registrar or any person thereunto authorized in writing under the hand of the chairman, commence, carry, prosecute, and defend any action, complaint, information, or proceeding whatsoever, both civil and criminal.

PART II

REGISTRATION

SECTION 9. A register shall be kept by the registrar, and shall contain the names, addresses, and descriptions of all dentists for the time being registered under this act.

The register shall be kept in such manner and form and contain such particulars as prescribed by the rules, and shall

at all times be open to inspection by any person on payment of a fee not exceeding two shillings and sixpence.

Such alterations and amendments may be made in the register as the board may from time to time direct, for the purpose of making the same an accurate record of the names and addresses and descriptions from time to time of the registered dentists for the time being.

SECTION 10. Every person above the age of twenty-one years, and of good character, shall be entitled to be registered as a dentist under this act, who having observed the rules, shall prove to the satisfaction of the board:

(*a*) That he is registered as a dentist in any part of the United Kingdom, in accordance with the law for the time in force therein; or

(*b*) That he is at the passing of this act engaged in any part of Western Australia in the practice of dentistry or dental surgery, and is duly registered within twelve months from the passing of this act; or

(*c*) That he has been continuously engaged during a period of not less than four years as an apprentice or student to a dentist, and has passed such examinations as may be prescribed by the rule; or

(*d*) That he has for not less than four years practised dentistry or dental surgery in some part of Her Majesty's dominions or in the United States of America, and holds such certificate, diploma, or degree, and has passed such examinations as may be prescribed by the rules. (As amended by Amendment Act of 1899, No. 23.)

SECTION 11. Repealed by section 3 of the act of 1899, No. 23.

SECTION 12. The name of any dentist registered under this act who, either before or after the passing hereof, and either before or after he is so registered, shall be convicted in any part of Her Majesty's dominions or elsewhere of a felony or misdemeanor (not being a political offence) shall be erased from the register.

SECTION 13. A copy of the register purporting to be certified as a true copy by the registrar shall, in the courts of law,

be *prima facie* evidence that the person or persons therein specified are registered dentists, and the absence of the name of any person from such copy shall be *prima facie* evidence that such person is not so registered.

PART III

Miscellaneous

Section 14. Any person who

(1) Wilfully makes or causes to be made any falsification in any matter relating to the register; or

(2) Knowingly presents or causes to be presented to the board any forged, false, or counterfeit certificate, diploma, degree, license, or other document; or

(3) Personates or wrongfully represents himself as being the person referred to in any such certificate, diploma, degree, license, or other document; or

(4) Wilfully procures or attempts to procure himself or any other person to be registered under this act by making or producing or causing to be made or produced, any false or fraudulent declaration, or representation, either verbally or in writing; or

(5) Wilfully makes any false statement in any declaration required by the board under this act, or the rules; or

(6) Wilfully makes any false statement upon any examination by the board as hereinafter mentioned, shall be guilty of a misdemeanor and shall, on conviction thereof, be liable to be imprisoned for a term not exceeding two years.

Section 15. From and after the passing of this act, no person other than a registered dentist for the time being, or medical practitioner, shall be entitled

(1) To take or use the name or title of "Dentist" or "Dental Surgeon," or any other name, words, title, or description, either alone or in conjunction with any other word or words implying or tending to the belief that he is entitled to practise dentistry or dental surgery; or

(2) To practise dentistry or dental surgery, or perform any dental operation or service; and every person who takes or uses any such name, title, word, or description, or practises dentistry or dental surgery or performs any dental operation or service contrary to this section, shall be liable for each and every such offence, upon conviction, to a penalty not exceeding twenty pounds;

Provided, That this section shall not apply to any person entitled to be registered under section ten, subsection (*b*) and who is duly registered within twelve months from the passing of this act; nor to any person who may extract teeth at any place more than ten miles from the place of business of the nearest practising dentist.

SECTION 16. No person other than a registered dentist for the time being, or a medical practitioner shall be entitled to sue or proceed in any court of law for the recovery of, or be allowed to counterclaim for, or set off, any fees or remuneration for the performance of any dental operation, service, work, or attendance.

SECTION 17. The board may require the attendance of any person who applies for registration, and may examine or question any such person, or any witness who may be produced before the board, upon oath or affirmation; and for any such purposes the chairman of the board may administer any oath or affirmation.

SECTION 18. All offences, penalties, fines, or fees under this act or the rules may be tried and determined, enforced and recovered summarily, before any two or more Justices of the Peace in petty sessions. All penalties recovered under this act or the rules shall, as to one-half thereof, be paid to the Crown and as to the other half thereof to the board.

SECTION 19. Sections A, C, F, G, and H of "The Shortening Ordinance, 1853," shall be incorporated with and taken to form part of this act to all intents and purposes, and in as full and complete a manner as if the said sections had been introduced and fully set forth in this act.

Dentists' Act, 1899, Amending Act, 1894

SECTION 1. This act may be cited as the Dentists' Act, Amendment Act, 1899, and shall be construed as one with the Dentists' Act, 1894, hereinafter called the Principal Act.

SECTION 2. Amendment of paragraph (*d*) of section ten of the Principal Act.

SECTION 3. Repeal of section eleven of the Principal Act.

SECTION 4. (1) A written certificate, purporting to be signed by the registrar, and stating that, at a date named therein, a person was or was not registered, shall be received as *prima facie* evidence of the truth of such statement.

(2) Every registered dentist shall, on payment of a fee of five shillings, be entitled to a certificate that he is registered.

(3) When any person is charged under section fifteen of the Principal Act with any act which is unlawful, except for a registered dentist or medical practitioner, the burden of proving that the accused person is such dentist or practitioner shall rest on the accused person.

(4) In a prosecution under section fifteen of the Principal Act it shall not be necessary to prove

(*a*) That the accused person received any remuneration or reward in connection with the act, matter, or thing complained of; or

(*b*) The election and constitution of the board, the election of any person purporting to act or sign as chairman, or the appointment of any person purporting to act as president or registrar.

(5) Upon the conviction of any person for the second offence under section fifteen of the Principal Act, he shall be liable to a fine not exceeding fifty pounds.

SECTION 5. The seal of the board shall be judicially noticed by all courts and persons by the law authorized to receive evidence upon oath.

SECTION 6. Every registered dentist may withdraw his name from the register by writing under his hand addressed

to the president, chairman, or registrar of the board, and shall thereupon cease to be a registered dentist.

SECTION 7. During the month of January next following the passing of this act, and thenceforth in the month of January in every year, every registered dentist shall pay to the board an annual license fee of two guineas, and on failing to make such payment shall cease to be a registered dentist; but the board may at any time restore to the Register the name of any dentist failing to make such payment on receiving all arrears, and on payment of such fines as may be prescribed by the rules.

SECTION 8. All penalties recovered under the Principal Act or this act or the rules shall be paid to the board.

CAPE OF GOOD HOPE

1891, Statutes 1652–1905, Vol. II, p. 2909.

SECTION 1. This act may be cited as the "Medical and Pharmacy Act, 1891."

SECTION 2. This act shall take effect on such day as the Governor shall appoint by Proclamation in the *Gazette*, but the eighth section hereof shall take effect forthwith after the passing of this act.

SECTION 3. "Dentist" means every person duly licensed and bona fide engaged on or before the 1st of June, 1891, in the practice of dentistry or dental surgery in this colony, either separately or in addition to his practice as a physician, surgeon, accoucheur, apothecary, or chemist and druggist, and also every person duly qualified by license and registration under this act to practise as a dentist within this colony.

"Council" means the Colonial Medical Council established under this act;

"Board" means the Colonial Pharmacy Board established under this act.

SECTION 4. Repeal of enactments.

SECTION 5. On the day of taking effect of this act the Colonial Medical Committee now established shall cease to

exist, and on and after the said day there shall be established in this colony

(*a*) a body to be styled the Colonial Medical Council, and

(*b*) a body to be styled the Colonial Pharmacy Board.

SECTION 6. The council shall consist of seven medical practitioners and one dentist, of whom three medical practitioners and the dentist shall be nominated by the Governor; and four medical practitioners shall be elected by the medical practitioners of the colony, in manner hereafter provided.

SECTION 7. The board to consist of one member of council and five chemists and druggists.

SECTION 8. Mode of election.

SECTION 9. Term of office.

SECTION 10. Governor to fix day of first meeting.

SECTION 11. The dentist appointed as a member of the council as aforesaid shall be entitled to be present at all meetings of the council, but unless such dentist be also a qualified medical practitioner, shall not be entitled to take part in the discussion of or to vote upon any question or matter brought before the council unless it be by resolution of the majority determined to be a question or matter relating to dentistry or dental surgery; provided that such dentist shall, however, be qualified to vote for the election of some other member as president of the council.

SECTION 12. Council and board to make rules and regulations.

SECTION 13. Proceedings of meetings of council or board.

SECTION 14. The council or board shall have power to appoint an executive committee out of their own body of which the quorum shall not be less than three, and to delegate to such committee such powers and duties vested in the council or board as the council or board shall think fit.

SECTION 15. The council or board may respectively from time to time appoint a secretary at a reasonable salary, and may by resolution remove such secretary from his office.

SECTION 16. Future elections to be regulated by section 8.

SECTION 17. Every person who, on the day before the taking effect of this act, shall be in this colony

(*a*) duly admitted and lawfully qualified to practise as physician, surgeon, or accoucheur, or

(*b*) duly licensed as an apothecary, or chemist and druggist, and

(*c*) every person whosoever on or before June 1st, 1891, shall have been in this colony duly licensed as a dentist and bona fide engaged in the practice of dentistry or dental surgery, either separately or in addition to his practice as a physician, surgeon, accoucheur, apothecary, or chemist and druggist,

shall notwithstanding the passing of this act, be entitled to continue to practise or carry on his calling as aforesaid without obtaining the license referred to in the eighteenth and twenty-third sections, as the case may be, provided that

(1) The names, addresses, and qualifications of all such persons shall as soon as may be, after the day appointed as aforesaid, be entered in the register referred to in this act.

(2) Every such person shall on and after the said day be amenable to all the provisions of this act or of any law relating to physicians, doctors, surgeons, dentists, apothecaries, or chemists and druggists, as the case may be;

(3) Every such dentist as aforesaid shall be placed upon the aforesaid register, upon production to the secretary of the council within two months after the aforesaid day of a declaration in the form in Schedule A to this act, signed by him and setting forth his name and address, and his qualification, if any, for the practice of dentistry or dental surgery;

(4) No omission of or mistake in any entry which should be made in the aforesaid register in accordance with paragraph (1) of this section shall be deemed to prejudice the right of the person, in respect of whose name, address, or qualifications such omission or mistake has occurred, to practise as aforesaid if duly licensed and lawfully entitled.

SECTION 18. On and after the day on which this act takes effect, no person shall be admitted to practise or be registered as a medical practitioner, or dentist, unless he has obtained a license signed by the Colonial Secretary, on the recommendation of the council; and previously to obtaining such license,

such person shall submit his diploma or other certificate of his being duly qualified to practise as a physician and surgeon, or as a dentist, as the case may be, for the examination and approval of the council, who may require by sworn declaration before a justice of the peace or by other evidence such proof of identity and good character of such person, of the authenticity of such diploma or certificate, and of the right of the holder to practise elsewhere under such diploma or certificate, as they shall deem fit, and any person wilfully making a false statement in such declaration shall be liable to the penalties by law provided for the crime of perjury: *Provided*, That the Governor may at any time within three months from the date of the taking effect of this act, anything in this act or any other law to the contrary notwithstanding, grant a license to be admitted as a medical or dental practitioner to any person with whose qualification and experience he is satisfied, and who in the case of a medical practitioner before the said date, shall for a period of twenty years, and in the case of a dentist for a period of three years and upwards have been continuously practising as a physician, surgeon, accoucheur or dentist in this Colony, and the names of such persons shall thereupon be entered in the register referred to in this act.

SECTION 19. Where the council have refused to approve of the diploma or certificate submitted in terms of the last preceding section by any persons desirous of being registered as a medical practitioner or dentist, the Supreme Court, on application made to them by such person, may after communicating with the council, order that a license be issued to the applicant, in case the Supreme Court shall be of opinion that the council have not adhered to the regulations in the next section mentioned, and the name of such applicant shall thereupon be entered in the register referred to in this act.

SECTION 20. The council shall by regulations approved by the governor and published as in this act is provided from time to time prescribe and define what diplomas or certificates will be entertained by the council in any application

by any person to obtain a license as a medical practitioner or dentist under this act, and no diploma or certificate shall be included by the council in such regulations which does not furnish in the opinion of the council a sufficient guarantee of the possession by the holder of the requisite knowledge and skill for efficient practice as a medical practitioner or dentist, as the case may be.

SECTION 21. Military or naval medical officers may exercise their profession without license.

SECTION 22. (Repealed by Act 7, 1899, section 7, which reads as follows:) Every medical practitioner registered under the said act shall be entitled to practise as an accoucheur and dentist and may compound and dispense medicines prescribed by himself or any other medical practitioner with whom he is in partnership or with whom he is professionally associated, either as principal or assistant, upon payment to the government of an annual license fee of two pounds ten shillings sterling: *Provided,* That no medical practitioner shall be required to pay any annual license fee for merely compounding or dispensing any medicines prescribed by him for and on behalf of the government: and provided further that the partner, principal, or assistant of any medical practitioner who has paid the license fee as aforesaid shall be entitled without payment of any license fee to compound and dispense in the dispensary of the said medical practitioner medicines prescribed by himself or the said medical practitioner, as the case may be.

SECTION 23. Who may obtain license to practise as chemist or druggist.

SECTION 24. Candidate must satisfy board.

SECTIONS 25 to 32. Chemists, druggists, midwives, nurses.

SECTION 33. No person shall be deemed to be disqualified to be duly admitted, licensed, and registered to practise as a medical practitioner, dentist, or chemist and druggist, merely by reason that such person is a female.

SECTION 34. Any person who shall wilfully procure or attempt to procure himself or any other person to be licensed and registered under this act, by making or producing or

causing to be made or produced any false or fraudulent representation, either verbally or in writing, not amounting to the crime of perjury, and every person aiding and assisting him therein, shall on conviction thereof, be liable to be imprisoned with or without hard labor for any term not exceeding twelve months.

SECTION 35. Any person who shall wilfully and falsely pretend to be or take or use the name or title of a physician, doctor of medicine, licentiate in medicine or surgery, bachelor of medicine, surgeon, general practitioner, or apothecary, or dentist, or chemist and druggist, or any name, title, addition, or description implying that he is licensed or registered under this act or that he is duly qualified to practise as a physician, or surgeon, or licentiate in medicine and surgery, or a practitioner in medicine, or an apothecary, or a dentist, or a chemist and druggist, and any person who shall practise as a medical practitioner, dentist or chemist and druggist, without such license as aforesaid, shall be liable to a fine of not exceeding one hundred pounds for each offence, and in default of payment, he shall be liable to be imprisoned with or without hard labor for a period not exceeding six months, unless such fine be sooner paid.

And no person who is charged with a contravention of this section for practising as a dentist or a chemist and druggist without a license shall be acquitted, by reason of the fact that he is in the employ of, or is agent for, a person duly licensed to practise as aforesaid, unless he is under the actual personal supervision and control of some duly licensed dentist, or chemist and druggist, as the case may be.

SECTION 36. There shall be kept in the office of the Colonial Secretary a correct register of the names, addresses, date of admission, license or certificate, and qualifications of all

(1) Medical practitioners,

(2) Dentists,

(3) Chemists and druggists,

(4) Certified midwives, and

(5) Trained nurses in this Colony; which register shall be kept in five corresponding parts,

and the person appointed by the Colonial Secretary to keep such register shall make entries therein in accordance with information to be from time to time supplied by the secretary of the council in respect of medical practitioners, dentists, certified midwives and trained nurses, and by the secretary of the board in respect of chemists and druggists, and shall from time to time erase the names of all registered persons reported to him by the secretary of the council of the board, known to him to have died, and shall from time to time make necessary alterations in the addresses or statements of qualification of the persons registered under this act: and to enable the register to be properly kept, it shall be lawful for the secretary to the council or board to write and forward a duly registered letter to any registered person addressed to him according to his address on the register, to inquire whether he has ceased to practise or has changed his residence, and if no answer shall be returned to such letter within the period of six months from the sending of the letter, it shall be lawful to erase the name of such person from the register: *Provided, always,* That the same may be restored at the request of the council or board, as the case may be, and that the erasure of his name under this section shall not be deemed to disqualify any person duly licensed or certified from practising the profession or carrying on the calling in respect of which such person is duly licensed or certified.

SECTION 37. Every person registered under this act, who may have obtained any degree or qualification other than the degree or qualification in respect of which he may be registered, may have such other degree or qualification inserted in the register in substitution for or in addition to the degree or qualification already registered at the request of the council or board, as the case may be, and on payment of such fee as may be prescribed by the regulations made by the council or board, as the case may be and approved of and published as in this act is provided.

SECTION 38. No degree or qualification shall be entered on the register, either on the first registration or by way of

addition to a registered name or as in the last section mentioned, unless the council or board, as the case may be, be satisfied by the proper evidence that the person claiming is entitled to it, and any entry which shall be proved to the satisfaction of the council or board, to have been fraudulently or incorrectly made may be erased from the register: *Provided*, That a record of the reason for every such erasure shall be signed by the Under Colonial Secretary and kept in the office of the Colonial Secretary.

SECTION 39. The Colonial Secretary shall at the request of the council or board, as the case may be, cause to be erased from the register the name of any person who either before or after the passing of this act may have been declared disqualified for practice or whose name may have been struck off the roll, register, or record of the hospital, university, college, or other body in this colony or elsewhere from which such person received any diploma, degree, certificate, or other instrument upon the faith of which such person was admitted to practise or obtain a license in this colony, and thereupon such person shall no longer be deemed to be a medical practitioner, dentist, or chemist and druggist as the case may be: *Provided*, That the Colonial Secretary, before causing the name of such person to be erased, shall be satisfied that such person has, if possible, had an opportunity of showing cause before the council or board, as the case may be, why his name should not be erased from such register.

SECTION 40. (Repealed by Act 7, 1899, section 13, which reads as follows:) If any person licensed or certified under this act shall, after due inquiry, at which such person shall have an opportunity of being heard, be judged by the council or board, as the case may be, to have been guilty of improper or unprofessional conduct, the council or board, as the case may be, may reprimand or caution in writing, under the hand of the president or chairman, as the case may be, such person, and if such improper or unprofessional conduct be persisted in by such person after due receipt of such reprimand or caution, or if the council or board, as the case may be, shall judge such person after such inquiry to have been guilty of

infamous or disgraceful conduct in any professional or other respect, the Governor may, if he sees fit, direct that the name of such person be erased from the register, and that his license be withdrawn and cancelled, and the council or board, as the case may be, shall make such inquiry upon bona fide information or complaint laid by any member of the public or by the minister in control of the administration of the law protecting public health: *Provided,* That the name of such person may be restored thereafter to the register on the request of the council or board, as the case may be, and provided that no person whose name shall be erased from the register under this and the last preceding section shall be deemed, merely by reason that such person shall remain in possession of a license or certificate, to be qualified, licensed, or certified to practise the profession or carry on the calling to which such license or certificate relates.

SECTION 41. Any license or certificate obtained either before or after the taking effect of this act by means of any false or fraudulent representation or personation, shall be void, and any person holding or practising by virtue of any such license or certificate shall be liable to the penalties provided by the thirty-fourth section of this act, for practising without a license.

SECTIONS 42 to 54. Keeping and sale of poisons.

SECTION 55. It shall be lawful for the secretary of the council or board, as the case may be, or any person duly authorized in writing under the hand of the president, to take and institute any proceedings, civil and criminal, on behalf of the council or board, but nothing herein contained shall be deemed to deprive any person of any right which but for this section, he would have to institute any proceedings, civil or criminal, against any other person.

SECTION 56. If in any proceedings, civil or criminal, it shall be material to determine whether any person be or be not in any capacity duly licensed or certified under this act, a certificate, under the hand of the under Colonial Secretary, to the effect that such person is or is not, as the case may be, duly licensed and registered in such capacity, shall be deemed

and taken to be sufficient *prima facie* proof of the fact alleged in such certificate.

SECTION 57. The council shall be deemed to be concerned with and interested in matters arising out of or in connection with so much of this act as deals with medical practitioners and dentists, and the board shall be deemed to be concerned with and interested in matters arising out of and in connection with so much of this act as deals with apothecaries and chemists and druggists.

SECTION 58. All rules or regulations by this act authorized to be made by the council or the board shall be of legal validity only when approved of, and published by the Governor by notice in the *Gazette*, and by such regulations penalties for the breach thereof may be prescribed not exceeding in any case a fine of ten pounds sterling.

SECTION 59. For the purposes of any inquiry by the council or board authorized by this act, it shall be lawful for the president for the time being of the council or board to administer an oath to any person testifying before the council or board, and any person who shall wilfully give false testimony on oath as to any matter material to any such inquiry, shall be guilty of a contravention of this section, and be liable to the punishments by law provided for the crime of perjury.

SECTION 60. No person shall be entitled to recover any charge in any court of law for any medical or surgical advice, or attendance, or for the performance of any operation as a medical practitioner or dentist, or commonly performed only by a medical practitioner or dentist, or for any medicine which he shall have prescribed or supplied, unless he shall prove upon the trial that he is licensed under this act.

SECTION 61. No person shall hold any appointment as a physician, surgeon, or other medical officer, or dentist, or as an apothecary or compounder of medicines in any hospital, or in any lunatic asylum, convict station, house of correction, or other public establishment, or institution, or to any friendly or other society for affording mutual relief in sickness, infirmity, or old age, or as a medical officer of health, unless

he be licensed and registered under this act as a medical practitioner or dentist, or as a chemist and druggist, as the case may be. (Printed as amended by Act 7, 1899, sec. 6.)

Schedule A

I, ... residing at . . . . . , and holding the qualifications of . . . . . , hereby declare that I was bona fide engaged in the practice of dentistry at . . . . . at the date of taking effect of the "Medical and Pharmacy Act, 1891."

Dated at . . . . . this . . . . . day 18

(Signed)

(Witness)

	£	s.	d.
License for admission to practise as a dentist	2	10	0

Section 11, Act 7, 1899. Notwithstanding anything to the contrary contained in the thirty-fifth section of the said Act, it shall be no defence to a person charged with a contravention of the said section that at the time of the offence charged he was under the actual personal supervision and control of some duly licensed dentist.

Section 14, Act 7, 1899. If any person licensed or certified under the said act shall, after due inquiry in manner provided by the last preceding section of this act, be found to have counselled or knowingly been a party to the performance of any act in respect of which any other person shall have been convicted of a contravention of section thirty-five of the said act, such first mentioned person shall be dealt with under the last preceding section as a person guilty of improper or unprofessional conduct, or of infamous or disgraceful conduct, as such council or board shall determine: *Provided*, That the provisions of this section shall not be deemed to exempt any person from prosecution for any contravention of the said section 35, to which he may be liable.

NATAL

1896, Statutes 1845–1899, Act No. 30.

SECTION 1. This act may be cited as the "Dentists' Act, 1896."

SECTION 2. This act shall take effect on such day as the Governor shall appoint by proclamation in the *Natal Government Gazette*.

SECTION 3. In this act "Dentist" means every person "bona fide" engaged in the practice of dentistry or dental surgery in this colony on or before the first day of May, 1896, either separately or in addition to his practice as a physician, surgeon, accoucheur, and also every person duly qualified by license and registration under this act to practise as a dentist within this colony.

SECTION 4. For the purposes of this act, the "Medical Council" means the Medical Board or Council as at present established, or any board, council, or the like that may hereafter be substituted for the existing board, or any Medical Board or Council which may be created by virtue of any act to be hereafter passed, with the dental member added in terms hereafter described in this act.

SECTION 5. To the medical board as already constituted by law or to a medical council which may hereafter be constituted, a dentist registered under this act shall be appointed by the Governor, and such dentist shall be consulted upon all business relating to dentists, and shall be deemed to be a member of the board or council, as the case may be, for the purposes of this act only. The dental member shall be subject to the rules under which other members, who are, or who may be nominated by the Governor, sit or shall sit.

SECTION 6. Every person who on the first day of May, 1896, shall have been "bona fide" engaged in the practice of dentistry or dental surgery in this colony, either separately or in addition to his practice as a physician, surgeon, or accoucheur, and also every person duly qualified by license and registration under this act to practise as a dentist in this colony, shall be entitled to be registered under this act.

SECTION 2, Act 21, 1899. The date of the taking effect of this act shall be substituted for the 1st day of May, 1896, in the sixth section of the "Dentists' Act, 1896."

SECTION 7. It shall be competent for the Medical Council, after examination, to admit to practise as a dentist any person who, not being within the provisions of Section 6 of this act, may yet be actually engaged in practice as a dentist in this colony at the date of the coming into force of this act, and such examination shall be conducted in terms of such rules as may be drawn up by the Medical Council, under Section 9 of this act.

SECTION 8. Persons engaged as mechanical assistants to dentists in this Colony on the first day of May, 1896, and pupils at the same date, whose articles expire on or before the first day of January, 1898, may register as students under this act, and during the five years next ensuing, namely, until the first day of May, 1901, may present themselves for examination under rules to be drawn up by the Medical Council, and, if approved of after such examination, the Medical Council shall have power to grant registration to such persons under this act.

SECTION 9. The Medical Council shall from time to time draw up rules and regulations to be observed by dentists, and for the examinations provided for in the two preceding clauses of this act, and shall prescribe and define what diplomas or certificates shall be by the council considered sufficient qualification as a dentist. Such rules shall have the force of law upon receiving the Governor's sanction and being published in the *Natal Government Gazette*.

SECTION 3, Act 21, 1899. Save as otherwise provided by Sections 6, 7, and 8 of the Dentists' Act, 1896, as amended by this act, no person shall be registered as a dentist unless he shall produce to the Medical Council the diplomas or certificates prescribed and defined under the provisions of Section 9 of the said Dentists' Act.

SECTION 10. This act shall "*mutatis mutandis*" be read and construed with Law No. 37, 1884, or with any act that may be hereafter passed repealing the same, as one act.

SECTION 11. There shall be kept in the office of the Colonial Secretary a correct register of the names, addresses, date of admission and qualifications of all dentists practising in the colony.

SECTION 8, Act 21, 1899.

SECTION 27 of the "Medical and Pharmacy Act, 1896," shall apply to the Register of Dentists, and to the Register of Veterinary Surgeons hereinafter provided for.

SECTION 27, Act 35, 1896, as amended by Act 21, 1899.

There shall be kept in the office of the Colonial Secretary a correct register of the names, addresses, date of admission, license or certificate, and qualifications of all

(1) Medical practitioners,

(2) Chemists and druggists,

(this section also applies to the Register of Dentists and the Register of Veterinary Surgeons) and the person appointed by the Colonial Secretary to keep such register shall make entries therein in accordance with information to be from time to time supplied by the secretary of the council in respect of medical practitioners and by the secretary of the board in respect of chemists and druggists, and shall from time to time erase the names of all registered persons reported to him by the secretary to the council or board as dead, or known to him to have died, and shall from time to time make necessary alterations in the addresses or statements of qualification of the persons registered under this act. To enable the register to be properly kept, the secretary to the council or board may write and forward a duly registered letter to any registered person addressed to him according to his address on the register, to inquire whether he has ceased to practise or has changed his residence, and if no answer shall be returned to such letter within six months from the sending of the letter, it shall be lawful to erase the name of such person from the register, and if the address on the register be insufficient or the address be unknown, a notice published four times in the *Natal Government Gazette* calling upon the medical practitioner, chemist and druggist, dentist or veterinary surgeon named therein

to furnish his address to the secretary within six months from the date of the first publication, and that in default his name may be erased from the register, shall, for all purposes, take the place of and be as good and valid as if the registered letter hereinbefore provided for had been forwarded to such person. *Provided, always,* That the same may be restored at the request of the council or board, as the case may be, and that the erasure of his name under this section shall not be deemed to disqualify any person duly licensed or certified from practising the profession or carrying on the calling in respect of which such person is duly licensed or certified.

SECTION 12. The covering of an unlicensed person, unless such unlicensed person shall be under the actual personal supervision of a dentist licensed under this act, shall subject the coverer upon conviction to a penalty not exceeding ten pounds sterling.

SECTION 13. The extraction of teeth by unlicensed persons shall not be deemed a contravention of this act, but such extraction of teeth shall not constitute a claim to registration under this act.

SECTION 14. The council shall cause to be erased from the Dentists' Register any entry which has been incorrectly or fraudulently made. When a person registered in the Dentists' Register has, either before or after the passing of this act, and either before or after he is so registered, been convicted, either in Her Majesty's dominions or elsewhere, of an offence which, if committed in England, would be a felony or misdemeanor, or been guilty of any infamous or disgraceful conduct in a professional respect, that person shall be liable to have his name erased from the register by the Governor-in-Council. The council may cause inquiry to be made into the case of a person alleged to be liable to have his name erased under this section, and on proof of such conviction or of such infamous or disgraceful conduct, the Governor-in-Council may cause the name of such person to be erased from the register: *Provided,* That the name of a person shall not be erased under this section on account of his adopting, or refraining from adopting, the practice of any particular

theory of dentistry or dental surgery, nor on account of a conviction for a political offence out of Her Majesty's dominions, nor on account of a conviction for an offence, which though within the provisions of this section, does not either from the trivial nature of the offence or from the circumstances under which it was committed, disqualify a person from practising dentistry.

SECTION 15. All moneys arising from fees paid under this act shall be received by the Medical Council, and shall be applied, in accordance with such regulations as may from time to time be made by the council, in defraying the expenses of such regulations and the other expenses connected with the execution of this act.

SECTION 16. It shall be lawful for the secretary of the council, or any person duly authorized in writing under the hand of the president, to take and institute any civil proceedings on behalf of the council.

SECTION 17. If in any proceedings, civil or criminal, it shall be material to determine whether any person be or be not in any capacity licensed or certified under this act, a certificate, under the hand of the Colonial Secretary, to the effect that such person is or is not, as the case may be, duly licensed and registered in such capacity, shall be deemed and taken to be sufficient "*prima facie*" proof of the fact alleged in such certificate.

SECTION 18. All the penalties imposed by this act shall be recoverable before the magistrate of the county or division within which the offence has been committed, and shall be paid into the colonial treasury: *Provided*, That the Governor may in any case award the whole or any portion of any penalty imposed and recovered to any person upon whose information the offender was convicted.

SECTION 5. (Act 21, 1899, p. 15.) Every person shall be guilty of a contravention of the "Dentists' Act, 1896," who, not having been registered and licensed under the said act

(*a*) Practises as a dentist;

(*b*) Falsely pretends to be, or takes and uses the name or title or exercises the functions of a dentist, or any name, title,

addition, or description implying that he is licensed or registered under the "Dentists' Act, 1896," or that he is qualified to practise as a dentist .

SECTION 6. (Act 21, 1899.) All contraventions of the "Medical and Pharmacy Act, 1896," or of the "Dentists' Act, 1896," which are enumerated in this act shall be cognizable in the Supreme Court or a circuit thereof, or in the court of a magistrate. Every such offence, if prosecuted in the Supreme Court or a circuit court, shall be punishable by a fine not exceeding £100, and in default of payment, by imprisonment with or without hard labor for any term not exceeding six months, and if prosecuted in the court of a magistrate, shall be punishable by a fine not exceeding £20, and in default of payment, by imprisonment with or without hard labor for any term not exceeding three months.

SECTION 26. (Act 21, 1899.) No person shall be entitled to recover any charge in any court of law for any advice or attendance as a dentist or veterinary surgeon, or for the performance of any operation as a dentist or veterinary surgeon, or for an operation commonly performed only by a dentist or veterinary surgeon, or for any medicine or drugs which he shall have prescribed or supplied, unless he is licensed under this act: *Provided,* That nothing in this section contained shall apply to licensed native doctors.

SECTION 1. (Act 37, 1904.) Every person who on the first day of January, 1904, shall have been bona fide engaged in the practice of dentistry or dental surgery, in the Province of Zululand, either separately or in addition to his practice as a physician, surgeon, or accoucheur, shall be entitled to be registered under the Dentists' Act, 1896: *Provided, however,* That such person shall, unless otherwise specially qualified, be restricted to carry on such practice in the Province of Zululand.

NORTHERN NIGERIA

1910, Part X, Chap. XXXV, p. 481.

SECTION 1. This Proclamation may be cited as the Registration of Medical Practitioners and Dentists Proclamation.

SECTION 2. A register of medical practitioners and dentists shall be kept in the form in the schedule hereto, and a fee of one pound shall be charged for each registration.

SECTION 3. The Principal Medical Officer shall be the registrar of medical practitioners and dentists, and shall once in every year, as soon as conveniently may be after the 1st day of January, make and publish in the *Gazette* a list containing the names and qualifications of all registered medical practitioners and dentists.

SECTION 4. The publication of such list shall be *prima facie* evidence that the persons named therein are registered under this proclamation, and the absence of the name of any person from such list shall be *prima facie* evidence that such person is not so registered.

SECTION 5. Persons entitled to be registered as medical practitioners.

SECTION 6. The following persons shall be entitled to registration under this proclamation as dentists:

(*a*) Any person who possesses a license or degree in dental surgery or dentistry of any of the bodies and universities who elect members of the general council of medical education and registration in the United Kingdom.

(*b*) Any person who at the time of the coming into operation of this proclamation is bona fide engaged in the practice of dentistry or dental surgery, either separately or in conjunction with the practice of medicine, surgery, or pharmacy.

SECTION 7. Every person registered under this proclamation, who may have obtained any higher degree or qualification other than the qualification in respect of which he may have been registered, shall be entitled to have such higher degree or additional qualifications inserted in the register in substitution for or addition to the qualifications previously registered, without payment of any further fee.

SECTION 8. Every medical practitioner registered under this proclamation shall be entitled to practise medicine, surgery, and midwifery, and every dentist registered under this proclamation, shall be entitled to practise dentistry, and to

demand, sue for, and recover, in any court with full cost of suit reasonable charges for professional aid, advice, and visits, and the value of any medicine or any medical or surgical appliances rendered or supplied by him to his patients.

SECTION 9. No person shall be entitled to recover any charge in any court for any medical or surgical advice or attendance or for the performance of any operation as a medical practitioner or dentist, or for any medicine which he shall have prescribed and supplied within the Protectorate, unless he was at the time registered under this proclamation.

SECTION 10. Certificate cannot be signed unless person signing is registered.

SECTION 11. Construction of terms.

SECTION 12. Medical army officers registered free.

SECTION 13. If any medical practitioner or dentist registered under this proclamation shall be convicted of any heinous offence, or shall, after due inquiry by the medical registrar, be deemed by him to have been guilty of infamous conduct in any professional respect, the medical registrar may strike out the name of such person from the register. Upon any such inquiry the person against whom such offence or misconduct is alleged shall be entitled to appear and be heard, and any person whose name may have been struck out from the register may appeal to the Supreme Court and may be represented upon such appeal by counsel.

SECTION 14. Any person who after the coming into force of this proclamation wilfully and falsely takes or uses any name, title, or addition, implying a qualification to practise medicine or surgery or midwifery or dentistry, or, not being registered under this proclamation or exempted from registration under Section 12 of this proclamation practises or professes to practise or publishes his name as practising medicine or surgery or midwifery or dentistry, shall be liable on summary conviction before a court to a penalty not exceeding one hundred pounds for each offence, or in default of payment to imprisonment for a term not exceeding twelve months.

SECTION 15. Nothing contained in this proclamation shall be construed to prohibit or prevent the practice of native systems of therapeutics by such persons as are recognized by natives of the Protectorate to be duly trained in such practice.

Provided, That nothing in this section shall be construed to authorize the performance of any act on the part of any person practising any native system which is dangerous to life.

SECTION 16. Definition of medical practitioner.

SOUTHERN NIGERIA

1908, Vol. 11, Part XI, page 925.

SECTION 1. This ordinance may be cited as "The Registration of Medical Practitioners and Dentists Ordinance."

SECTION 2. A register of medical practitioners and dentists shall be kept in the form in the schedule hereto, and a fee of £1 shall be charged for each registration under section 5 (*a*), and a fee of £5 for each registration under section 5 (*b*).

SECTION 3. Same as section 3 of the act of Northern Nigeria.

SECTION 4. (1) The publication of such list shall be *prima facie* evidence that the persons named therein are registered under this ordinance, and the absence of the name of any person from such list shall be *prima facie* evidence that such person is not so registered.

(2) All register books and all copies thereof or extracts therefrom certified under the hand of the registrar shall be receivable in evidence in all courts of justice in the Colony.

(3) The registrar shall produce or cause to be produced any register book in his office on subpena or order of any court without payment for so doing, unless the court or tribunal shall otherwise direct.

SECTION 5. Persons entitled to be registered as medical practitioners.

SECTION 6. Same as section 6 of the act of Northern Nigeria.

SECTION 7. Same as section 7 of the act of Northern Nigeria.

SECTION 8. Same as section 8 of the act of Northern Nigeria.

SECTION 9. No person shall be entitled to recover any charge in any court of law for any medical or surgical advice or attendance, or for the performance of any operation as a medical practitioner or dentist, or for any medicine which he shall have prescribed and supplied within the colony after the coming into force of this ordinance, unless he was at the time registered under this ordinance; but all registration effected within two months after the coming into force of this ordinance shall be deemed to relate back to the time of such coming into force.

SECTION 10. Certificates cannot be signed unless the person signing is registered.

SECTION 11. Construction of terms.

SECTION 12. All medical officers in the public service of the colony and all medical officers of His Majesty's Army and Navy respectively residing in the colony while on full pay, and all ship's surgeons while in discharge of their duties shall be entitled to the privileges of persons registered under this ordinance, and may be registered free of charge.

SECTION 13. If any medical practitioner or dentist registered under this ordinance shall be convicted of any heinous offence, or shall after due inquiry by the medical registrar be deemed by the Governor-in-Council to have been guilty of infamous conduct in any professional respect, the Governor-in-Council may order the medical registrar to strike out the name of such person from the register. Upon any such inquiry the person against whom such offence or conduct is alleged shall be entitled to appear and be heard by counsel, and any person whose name may have been struck out from the register may appeal to the Supreme Court.

SECTION 14. Any person who, after the coming into force of this ordinance, wilfully and falsely takes or uses any name, title, or addition implying a qualification to practise medicine or surgery or midwifery or dentistry, or not being registered

under this ordinance or exempted from registration under section 12 of this ordinance practises or professes to practise or publishes his name as practising medicine or surgery or midwifery or dentistry or receives any payment as practising medicine or surgery or midwifery or dentistry, shall be liable on summary conviction before a police magistrate or district commissioner, to a penalty not exceeding £100 for each offence, and to a further penalty of £10 a day during the continuance of such offence or in default of payment to imprisonment for a term not exceeding twelve months; and every police magistrate and district commissioner shall have jurisdiction to inflict such penalty accordingly. (Amended.)

SECTION 15. Nothing contained in this ordinance shall be construed to prohibit or prevent the practice of native systems of therapeutics by such persons as are recognized by native authorities of the colony to be duly trained in such practice.

Provided, That nothing in this section shall be construed to authorize the performance of any act on the part of any person practising any native system which is dangerous to life.

SECTION 16. Definition of medical practitioner.

THE SCHEDULE ABOVE RFFERRED TO.

Form of Medical Registers.

No.	Full Name.	Address.	Qualification.	Date of Qualification.	Date of Local Registration.	Fee.	Remarks.

ORANGE RIVER COLONY

1900–1906, Act 1904, page 886.

SECTION 1. In this ordinance the following terms shall bear the following meanings:

"Dentist" means every person duly admitted prior to the taking effect of this ordinance to practise dentistry or dental surgery in this colony, and also every person duly qualified by registration under this ordinance to practise as a dentist within this colony.

SECTION 2. On and after the day of the taking effect of this ordinance there shall be established in this colony a body to be styled the Medical and Pharmacy Council of the Orange River Colony, which shall meet in Bloemfontein.

SECTION 3. The council shall consist of seven medical practitioners, one dentist, and three chemists and druggists, of whom three medical practitioners, the dentist, and two chemists and druggists shall be nominated by the Lieutenant-Governor; and four medical practitioners, one chemist and druggist shall be elected by the medical practitioners and chemists and druggists respectively of the colony in the manner hereinafter provided.

SECTION 4. Manner of election of members.

SECTION 5. Term of office of council.

SECTION 6. First meeting of council; election of president.

SECTION 7. The dentist and chemists and druggists nominated or elected, as the case may be, as members of the council aforesaid shall be entitled to be present at all meetings of the council, but shall not be entitled to take part in the discussion of or to vote upon any question or matter brought before the council unless it be by resolution of the majority determined to be a question or matter affecting their respective interests: *Provided*, That it shall be competent for the dentist or any chemist and druggist to propose, discuss, and vote on any motion to the effect that any such question or matter brought before the council affects their respective interests as aforesaid.

SECTION 8. Vice-president.

SECTION 9. The council shall have power to appoint an executive committee out of their own body, consisting of three members, of whom two shall form a quorum, and to delegate to such committee such powers and duties as the council shall think fit.

SECTION 10. The council may from time to time appoint, subject to the approval of the Lieutenant-Governor, at a salary to be fixed by the Legislative Council, a registrar, who shall act as secretary of the council, and may, by resolution, subject to such approval as aforesaid, remove such registrar from his office.

SECTION 11. The council may from time to time, subject to the approval of the Lieutenant-Governor, frame, amend, and repeal regulations for all or any part of the following purposes, namely:

(*a*) Regulating the times and places of meeting of the council and the conduct of the business thereof;

(*b*) Prescribing and defining what diplomas or certificates will be entertained by the council in any application by any person for registration under this ordinance;

(*c*) Prescribing the fees to be paid by registered persons desirous of having additional degrees or qualifications inserted in the registrar.

(*d*), (*e*), (*f*), (*g*) Regulations for chemists, druggists, trained nurses, and midwives, and regulation of sale of poison.

(*h*) Generally for carrying into effect the objects of this ordinance.

And such regulations when published in the *Gazette* shall have the full force of law; and by such regulations the council may impose for the contravention thereof penalties not exceeding in any case a fine of twenty pounds and in default of payment imprisonment for a period not exceeding three months unless such fine is sooner paid.

SECTION 12. Every person in this colony who on the day before the taking effect of this ordinance shall have obtained a certificate of registration in terms of Proclamation 10 of 1902,

as a medical practitioner, dentist or chemist and druggist, or who shall be entitled to obtain such certificate by virtue of admission under Chapters XCVI or XCVII of the Law Book, or Law 6 of 1899, shall, notwithstanding the passing of this ordinance be entitled to continue to practise or carry on his calling as aforesaid without obtaining the certificate referred to in the thirteenth, eighteenth, and nineteenth sections of this ordinance, as the case may be: *Provided*, That,

(*a*) The names, addresses, and qualifications of all such persons shall as soon as may be after the day appointed as aforesaid be entered in the register referred to in this ordinance;

(*b*) Every such person shall on and after the said day be amenable to all the provisions of this ordinance or of any law relating to physicians, doctors, surgeons, dentists, apothecaries or chemists and druggists as the case may be;

(*c*) No omission of or mistake in any entry which should be made in the aforesaid register in accordance with subsection (*a*) of this section shall be deemed to prejudice the right of the person, in respect of whose name, address, or qualification such omission or mistake has occurred, to practise as aforesaid.

SECTION 13. (1) On and after the day on which this ordinance takes effect no person shall be entitled to practise as a medical practitioner or dentist unless he has obtained a certificate of registration signed by the registrar of the council.

(2) Previously to obtaining such certificate such person shall submit his diploma or other certificate of his being duly qualified to practise as a physician and surgeon or as a dentist as the case may be for the examination and approval of the council, who may require by sworn declaration before a justice of the peace or by other evidence such proof of identity and good character of such person, of the authenticity of such diploma or certificate, and of the right of the holder to practise under such diploma or certificate throughout the country in which it was granted, as they shall deem fit.

(3) Any person wilfully making a false statement in such declaration shall be liable to the penalties by law provided for the crime of perjury.

SECTION 14. No such certificate as aforesaid shall be granted to any applicant to practise as a medical practitioner or dentist on the degree, diploma, or certificate of any university or medical school in any colony, state, or dependency of the British Empire unless it be proved to the satisfaction of the council that

(*a*) Such degree, diploma, or certificate is registrable and entitles the holder thereof to practise his profession in Great Britain and Ireland, or

(*b*) That the curriculum and standard of proficiency of examination required for such degree, diploma, or certificate are not lower than those prescribed by the general council of medical education and registration of the United Kingdom.

SECTION 15. The certificate of registration shall not be granted to any applicant on the degree, diploma, or certificate of any foreign university, medical school, or government unless it be proved to the satisfaction of the council that

(*a*) Such degree, diploma, or certificate entitles the holder thereof to practise as a physician, surgeon, or dentist as the case may be, throughout the country in which such degree, diploma, or certificate was conferred;

(*b*) The curriculum and standard of proficiency of examination required for such degree, diploma, or certificate are not lower than those prescribed by the general council of medical education and registration of the United Kingdom;

(*c*) By the laws of the country in which such degree, diploma, or certificate was conferred, British subjects legally qualified to practise as physicians and surgeons or dentists in Great Britain and Ireland are afforded privileges equivalent to those granted by registration under this ordinance.

SECTION 16. When the council have refused to approve of the diploma or certificate submitted by any person desirous of being registered as a medical practitioner or dentist the

high court on application made to them by such person may, after communicating with the council, order that a certificate of registration be issued to the applicant in case the said high court shall be of the opinion that the council have not adhered to the terms of this ordinance or any regulations thereunder.

SECTION 17. Officers in Her Majesty's service require to be registered.

SECTION 18. Chemists holding certificates in British Empire entitled to registration.

SECTION 19. Admission as chemists' apprentices.

SECTION 20. Persons admissible as nurses and midwives.

SECTION 21. Any person who shall wilfully procure or attempt to procure himself or any other person to be registered under this ordinance by making or producing or causing to be made or produced any false or fraudulent representation either verbally or in writing not amounting to the crime of perjury, and every person aiding and assisting him therein, shall on conviction thereof be liable to be imprisoned with or without hard labor for any term not exceeding twelve months.

SECTION 22. Any person who shall falsely pretend to be or take or use the name or title of a physician, doctor of medicine, licentiate in medicine or surgery, bachelor of medicine, doctor, surgeon, general medical practitioner, apothecary, or surgeon apothecary, or accoucheur, or dentist, dental surgeon, surgeon dentist, dental practitioner, or mechanical dentist, or any name, title, addition, or description implying or calculated to lead people to infer that he is registered or that he is duly qualified to practise as a physician, doctor of medicine, licentiate in medicine or surgery, bachelor of medicine, doctor, surgeon, general medical practitioner, apothecary or surgeon apothecary, or accoucheur, or dentist, dental surgeon, surgeon dentist, dental practitioner, or mechanical dentist, and any person who, without such certificate of registration as aforesaid, shall practise or in any manner or by any means whatsoever profess to practise as a medical practitioner or dentist for gain, hire, or hope of

reward, or shall advertise in any manner or by any means whatsoever to give advice in medicine, surgery, midwifery, or dentistry or dental surgery shall be liable to a fine not exceeding one hundred pounds for any and every such offence, and in default of payment thereof to be imprisoned with or without hard labor for a period not exceeding six months, unless such fine be sooner paid.

SECTION 23. The provisions of the last preceding section shall apply to any company, association, or other plurality of persons practising dentistry or dental surgery, unless such company or other association consists wholly of dentists registered under this ordinance.

SECTION 24. Penalty for fraudulent representation or practising without a certificate as a chemist.

SECTION 25. Companies may not dispense poisons unless directors are registered.

SECTION 26. Penalty for false representation as a nurse.

SECTION 27. (1) The registrar shall keep a correct register of the names, addresses, dates of certificates of registration, and qualifications of all (*a*) medical practitioners, (*b*) dentists, (*c*) chemists and druggists, (*d*) trained nurses, (*e*) certified midwives, and (*f*) trained nurses or attendants of the insane, and shall erase the name of any registered person known to him to have died, and shall from time to time make necessary alterations in the addresses or statements of qualification of the persons registered;

(2) And to enable the register to be properly kept, the registrar may write and forward a duly registered letter to any registered person, addressed to him according to his address in the register, to inquire whether he has ceased to practise or has changed his residence, and if no answer shall be returned to such letter within the period of six months from the sending of the letter it shall be lawful to erase the name of such person from the register: *Provided, always,* That the same may be restored by direction of the council, and that the erasure of his name under this section shall not be deemed to disqualify any person holding a certificate of registration from practising the profession or carrying on the calling in respect of which such certificate was granted.

SECTION 28. Every person registered under this ordinance who may have obtained any degree or qualification other than the degree or qualification in respect of which he may be registered may have such other degree or qualification inserted in the register in substitution for or in addition to the degree or qualification already registered, by direction of the council and on payment of such fee as may be prescribed by the regulations aforesaid.

SECTION 29. No degree or qualification shall be entered on the register either on the first registration or by way of addition to a registered name as in the last preceding section mentioned, unless the council be satisfied by proper evidence that the person claiming is entitled to it, and any entry which shall be proved to the satisfaction of the council to have been fraudulently or incorrectly made may be erased from the register.

SECTION 30. All certificates of registration granted under this ordinance shall be signed by the registrar of the council.

SECTION 31. (1) The registrar shall under the direction of the council cause to be printed and published in January of each year a correct copy of the register, containing the names of all persons registered in alphabetical order according to the surnames;

(2) And a copy of such register for the time being, purporting to be so printed and published as aforesaid, shall be *prima facie* evidence in all courts and before all justices of the peace, that the persons therein specified are registered according to the provisions of this ordinance, and the absence of the name of any person from such copy shall be *prima facie* evidence that such person is not registered according to the provisions of this ordinance: *Provided*, That when the name of any person does not appear in such copy a certified copy under the hand of the registrar of the entry of the name of such person on the register shall be evidence that such person is registered under the provisions of this ordinance.

SECTION 32. (1) The registrar shall by direction of the council erase from the register the name of any person who either before or after the taking effect of this ordinance may

have been declared disqualified for practise by, or whose name may have been struck off the roll, register, or record of the hospital, university, college, or other body from which such person received any diploma, degree, or certificate or other instrument upon the faith of which such person was registered in this colony.

(2) And thereupon such person shall no longer be deemed to be a medical practitioner, dentist, chemist and druggist, registered trained nurse, certified midwife, or registered trained nurse or attendant of the insane, as the case may be: *Provided,* That such person shall if possible have been granted an opportunity of showing cause before the council why his name should not be erased from such register.

SECTION 33. (1) If any person registered under this ordinance shall after due inquiry, at which such person shall have an opportunity of being heard in person or by counsel, be judged by the council to have been guilty of improper or unprofessional conduct the council may in writing under the hand of the president reprimand or caution such person;

(2) And if such improper or unprofessional conduct be persisted in by such person after due receipt of such reprimand or caution, or if the council after the inquiry as aforesaid shall judge such person to have been guilty of infamous or disgraceful conduct in any professional or other respect, the Lieutenant-Governor may direct the name of such person to be erased from the register: *Provided,* That the name of any person shall not be erased because of his conviction out of His Majesty's dominions of a political offence or because of his conviction of any offence which though coming within the provisions of this section is, in the opinion of the council, either from the trivial nature of the offence or from the circumstances in which it was committed insufficient to disqualify a person from being registered under this ordinance.

SECTION 34. If any person registered under this ordinance shall, after due inquiry in manner provided, be found to have counselled or knowingly been a party to the performance of any act in respect of which any other person shall have been convicted of a contravention of section twenty-one, twenty-

two, and twenty-four of this ordinance, such person shall be dealt with under the last preceding section as a person guilty of improper or unprofessional conduct, or of infamous or disgraceful conduct as the council shall determine: *Provided*, That the provisions of this section shall not be deemed to exempt any person from prosecution for any contravention of the said sections twenty-one, twenty-two, and twenty-four to which he may be liable.

SECTION 35. President may administer oath.

SECTION 36. No medical practitioner, dentist, or chemist and druggist whose name shall be erased from the Register under sections thirty-two, thirty-three, and thirty-four shall be deemed by reason that such medical practitioner, dentist, or chemist and druggist shall remain in possession of a certificate of registration to be entitled to practise the profession or carry on the calling to which such certificate relates.

SECTION 37. Council may remove from register any nurse upon proof of incompetence or misconduct.

SECTION 38. Medical practitioner may practise as accoucheur.

SECTION 39. Certificate to be signed by registered person.

SECTION 40. Medicines to be dispensed according to the *British Pharmacopeia*.

SECTION 41. Shop to be conducted under the personal supervision of chemist.

SECTION 42. Executor of chemist may carry on his business.

SECTION 43. No person shall hold any appointment as a physician, surgeon, or other medical officer, or as a dentist or as a dispenser or compounder of medicines in any hospital, lunatic asylum, convict station, or other public establishment or institution, or to any friendly or other society for affording mutual relief in sickness, infirmity, or old age, or as a medical officer of health, unless he be registered under this ordinance as a medical practitioner, dentist, or chemist and druggist as the case may be.

SECTION 44. No person shall be entitled to recover any charge in any court of law for any medical or surgical advice

or attendance, or for the performance of any operation as a medical practitioner or dentist, or commonly performed only by a medical practitioner or dentist, or for any medicine which he shall have prescribed or supplied, unless he shall prove upon trial that he is registered under this ordinance.

SECTION 45. Fines payable to treasury.

SECTION 46 to 57. Poisons.

SECTION 58. Repeal of laws.

SECTION 59. This ordinance shall take effect on such day as the Lieutenant-Governor shall appoint by proclamation in the *Gazette*, but the fourth section thereof shall take effect at an earlier date, to be likewise appointed by the Lieutenant-Governor by proclamation in the *Gazette*.

SECTION 60. This ordinance may be cited as the "Medical and Pharmacy Ordinance, 1904."

TRANSVAAL

Medical, Dental, and Pharmacy Ordinance of the Transvaal, No. 29, of 1904.

1. This ordinance may be cited as the Medical Dental and Pharmacy Ordinance, 1904.

3. In this ordinance unless inconsistent with the context:

"Dentist" shall mean every person lawfully entitled to practise as a dentist or dental surgeon in this colony either separately or in addition to his practice as a medical practitioner or chemist and druggist on the day before the taking effect of this ordinance, and also every person duly qualified by registration under this ordinance to practise as a dentist within this colony. . . .

PART II

Constitution and general powers of the Transvaal Medical Council and the Transvaal Pharmacy Board.

5. On the day of the taking effect of this ordinance there shall be established in this colony:

(*a*) A body to be styled the Transvaal Medical Council; and

(*b*) A body to be styled the Transvaal Pharmacy Board.

6. The council shall consist of eight medical practitioners and two dentists; of the medical practitioners two shall be nominated by the Lieutenant-Governor, the medical officer of health of the colony being one of them, and of the dentists one shall be so nominated; six medical practitioners and one dentist shall be elected by the medical practitioners and dentists of the colony respectively in manner hereinafter provided. Not more than three of the elected medical practitioners shall be resident in one district.

8. Method of election of council and board.

11. The dentists appointed as members of the council as aforesaid shall be entitled to be present at all meetings of the council, but unless such dentists be also qualified medical practitioners they shall not be entitled to vote upon any question or matter brought before the council unless by resolution of the majority of the members thereof, such question or matter has been decided to relate to dentistry or dental surgery; *Provided, however,* That such dentists shall be qualified to vote in any election of a president of the council should such post from any cause become vacant.

17. Every person who on the day before taking effect of this ordinance shall be in this colony:

(*b*) Lawfully entitled to practise as a dentist;

shall, notwithstanding the passing of this ordinance, be entitled to continue to practise or carry on his calling as aforesaid, and shall be entitled without charge to the registration certificate referred to in sections *eighteen* and *twenty-three* as the case may be: *Provided,* That,

(1) The names, addresses, and qualifications of all such persons shall as soon as may be after the taking effect of this ordinance be entered in the register referred to in this ordinance;

(2) Every such person shall on and after the said date be amenable to all the provisions of this ordinance or of any law relating to medical practitioners, dentists, or chemists and druggists, as the case may be.

(3) Every such dentist as aforesaid shall be placed upon the aforesaid register upon production to the secretary of the council within two months after the aforesaid date of a declaration in the form of the second schedule to this ordinance, signed by him, and setting forth his name and address and his qualification for the practice of dental surgery;

(4) No omission of or mistake in any entry which should be made in the aforesaid register in accordance with subsection (1) of this section shall be deemed to prejudice the right of the person in respect of whose name, address, or qualification such omission or mistake has occurred to practise as aforesaid if lawfully entitled to do so.

18. On and after the day on which this ordinance takes effect no person (save and except such person as is referred to in the last preceding section) shall be entitled to practise as a medical practitioner or dentist unless he has obtained a registration certificate signed by the Colonial Secretary on the recommendation of the council on payment of a fee of ten pounds; previously to obtaining such registration certificate such person shall submit his diploma or other certificate of his being duly qualified to practise as a medical practitioner or dentist, as the case may be, for the examination and approval of the council, who may require by sworn declaration before a justice of the peace or by other evidence such proof of identity and good character of such person and of the authenticity and present validity of such diploma or certificate as it shall deem fit, and any person wilfully making a false statement in such declaration shall be liable to the penalties provided by law for the crime of perjury: *Provided, always,* That the Colonial Secretary shall if the council be satisfied with the proof of his identity and good character grant a certificate to every applicant whose name appears in the British Medical Register or who is entitled to be registered in Great Britain and Ireland: *Provided, further,* That the Lieutenant-Governor may at any time within six months from the date of the taking effect of this ordinance, anything in this ordinance or any other law to the contrary notwithstanding, grant a license to be admitted as a medical

practitioner to any person with whose qualification and experience he is satisfied, and who shall for a period of twelve years prior to the taking effect of the proclamation (Transvaal) No. 1 of 1902, have been continuously practising as a physician, surgeon, or accoucheur in this colony, and the name of such person shall thereupon be entered in the register referred to in this ordinance.

19. No such registration certificate as aforesaid shall be granted to any applicant to practise as a medical practitioner or dentist by virtue of the degree, diploma, or certificate of a foreign or colonial university or medical school, unless it be proved to the satisfaction of the council that:

(1) The said degree or diploma entitled the holder to practise as a medical practitioner or dentist, as the case may be, in the country or state in which it was granted;

(2) By the laws of the country in which such degree or diploma was conferred, British subjects legally qualified to practise as medical practitioners or dentists in Great Britain and Ireland are afforded privileges equivalent to those granted by registration under this ordinance;

(3) The curriculum and standard of proficiency of examination required for such degree, diploma, or certificate are not lower than those prescribed by the general council of medical education of the United Kingdom;

Provided, always, That anything to the contrary notwithstanding in this or any other section of this ordinance contained, any person who shall have been in actual practice as a dentist in the Transvaal prior to the date of the taking effect of proclamation (Transvaal) No. 1, of 1902, and who was qualified to practise as such dentist under the laws in force prior to such date as aforesaid shall be entitled to a certificate of registration, and to have his name entered on the register referred to in this ordinance.

20. Where the council has refused to approve of the diploma or certificate submitted in terms of section *eighteen* or *nineteen* by any person desirous of being registered as a medical practitioner or dentist the Supreme Court, on application made to it, by such person, may, after notice of such

application has been given to the council, order that a registration certificate be issued to the applicant in case it shall be of opinion that the council has not acted in accordance with the provisions of the said sections, and the name of such applicant shall thereupon be entered in the register referred to in this ordinance.

27. Persons who have served an apprenticeship of not less than three years to a dentist entitled to be registered under this ordinance, and who are bona fide engaged as mechanical assistants to dentists in this colony at the date of the passing of this ordinance may register as students within two months thereof, and during the next two years may present themselves for examination under rules to be drawn up by the council, and if approved of after such examination by the council the Colonial Secretary shall grant certificates of registration to such persons under this ordinance to practise as dentists.

35. The council shall in the month of January in each year publish in the *Gazette* a list containing the names of all holders on the thirty-first of December last preceding of registration certificates as

(*a*) Medical practitioners;
(*b*) Dentists;
(*c*) Chemists and druggists;
(*d*) Midwives;
(*e*) Nurses;

and such list shall wherever possible state the addresses of such holders.

36. No person shall be deemed to be disqualified to be duly registered and lawfully entitled to practise as a medical practitioner, dentist, or chemist and druggist merely by reason that such person is a female.

38. Any person who shall wilfully procure or attempt to procure himself or any other person to be registered under this ordinance by making or producing or causing to be made or produced any false or fraudulent representation either, verbally or in writing, not amounting to the crime of perjury, and every person aiding or assisting him therein shall on

conviction thereof be liable to be imprisoned with or without hard labor for a period not exceeding twelve months.

39. Any person who shall wilfully and falsely pretend to be or take or use the name or title of a physician, doctor of medicine, licentiate in medicine or surgery, bachelor of medicine, doctor surgeon, general medical practitioner, or apothecary, or dentist or chemist, or druggist, or any name, title, addition or description implying or calculated to lead people to infer that he is registered under this ordinance, or that he is duly qualified to practise as a physician, doctor of medicine, or surgeon, or licentiate in medicine and surgery, bachelor of medicine, doctor, general medical practitioner, or an apothecary, or a dentist, or a chemist and druggist, and any person who shall practise or shall do anything or perform such acts as specially belong to the calling of a medical practitioner, dentist, or chemist and druggist respectively without such registration as aforesaid shall be liable to a fine not exceeding one hundred pounds for each offence, and in default of payment he shall be liable to imprisonment with or without hard labor for a period not exceeding six months unless such fine be sooner paid.

40. (1) There shall be kept in the office of the Colonial Secretary a correct register of the names, addresses, dates of registration and qualifications of all . . .

(*b*) Dentists;

which register shall be kept in five corresponding parts, and the person appointed by the Colonial Secretary to keep such Register shall make entries therein in accordance with information from time to time supplied by the secretary of the council in respect of medical practitioners, dentists, certificated midwives, and trained nurses, and by the secretary of the board in respect of chemists and druggists, and shall from time to time erase the names of all registered persons reported to him by the secretary of the council or board or known to him to have died, and shall from time to time make necessary alterations in the addresses or statements of qualification of the persons registered under this ordinance.

(2) To enable the register to be properly kept the secretary of the council or board may write and forward a duly registered letter to any registered person addressed to him according to his address on the register, and inquire of him whether he has ceased to practise or has changed his residence, and if no answer shall be returned to such letter within the period of six months from the posting thereof it shall be lawful to erase the name of such person from the Register: *Provided, always,* That the same may be restored at the request of the council or board, as the case may be. *Provided, further,* That the erasure of such person's name shall not in itself disqualify him from practising the profession or carrying on the calling in respect of which he is duly certified.

41. Every person registered under this ordinance who may have obtained any degree or qualification other than the degree or qualification in respect of which he may be registered, may with the consent in writing of the council or board, as the case may be, have such other degree or qualification inserted in the Register in substitution for or in addition to the degree or qualification already registered, on payment of such fee as may be prescribed by regulations made by the council or board, as the case may be, and approved of and published as in the ordinance is provided.

42. No degree or qualification shall be entered on the register either on the first registration or by way of addition to a registered name, or as in the last section mentioned, unless the council or board, as the case may be, be satisfied by the proper evidence that the person claiming it is entitled to it; and any entry which shall be proved to the satisfaction of the council or board to have been fraudulently or incorrectly made may be erased from the register: *Provided,* That a record of the reason for every such erasure shall be signed by or on behalf of the Colonial Secretary and kept in his office.

43. The Colonial Secretary shall, at the request of the council or board as the case may be, cause to be erased from the register the name of any person who either before or after the passing of this ordinance may have been declared disqualified for practice or whose name may have been struck

off the roll, register, or record of the hospital, university, college, or other body in this colony or elsewhere from which such person received any diploma, degree, certificate, or any other instrument upon the faith of which such person was permitted to practise in this colony, and thereupon such person shall no longer be deemed to be a medical practitioner, dentist, or chemist and druggist, nurse, or midwife, as the case may be: *Provided*, That the Colonial Secretary, before causing the name of such person to be erased, shall be satisfied that such person has if possible had an opportunity of showing cause before the council or board, as the case may be, why his name should not be erased from such register.

44. If any person, registered or certificated under this ordinance shall after due inquiry at which such person shall have an opportunity for being heard, be judged by the council or board, as the case may be, to have been guilty of improper or unprofessional conduct, the council or board, as the case may be, may reprimand and caution such person in writing under the hand of its president, and if such improper or unprofessional conduct be persisted in by such person after due receipt of such reprimand or caution, or if the council or board, as the case may be, shall judge such person after such inquiry to have been guilty of infamous or disgraceful conduct in any professional or other respect the Colonial Secretary may, on the advice of the council or board, direct that the name of such person be erased from the register and that his certificate be withdrawn and cancelled. The council or board, as the case may be, shall make such inquiry upon *bona fide* information or complaint made by any member of the public or by the medical officer of health for the Transvaal: *Provided*, That the name of such person may be restored thereafter to the register on the request of the council or board, as the case may be: *Provided, further*, That no person whose name shall be erased from the register under this section shall be qualified to practise the profession or carry on the calling in respect of which he was registered until his name shall have been restored as aforesaid.

45. If any person registered or certificated under this ordinance shall after due inquiry in manner provided by the last preceding section of this ordinance be found to have counselled or knowingly been a party to the performance of any act in respect of which any other person shall have been convicted of a contravention of section *thirty-eight* of this ordinance, such first mentioned person shall be dealt with under the last preceding section as a person guilty of improper or unprofessional conduct or of infamous or disgraceful conduct, as such council or board shall determine: *Provided,* That the provision of this section shall not be deemed to exempt any person from prosecution for any contravention of the said section *thirty-eight* to which he may be liable.

46. Any license or certificate obtained either before or after the taking effect of this ordinance by means of any false or fraudulent representation or by personation shall be void, and any person holding or practising by virtue of any such license or certificate shall be liable to the penalties provided by sections *thirty-three* and *thirty-nine* of this ordinance for practising without a registration certificate.

59. It shall be lawful for the secretary of the council or board, as the case may be, or any person duly authorized in writing under the hand of the president to take and institute any proceedings civil and criminal on behalf of the council or board, but nothing herein contained shall be deemed to deprive any person of any right which but for this section he would have to institute any proceedings, civil or criminal, against any other person.

60. The *Gazette* containing the list mentioned in section *thirty-five* of this ordinance shall be evidence in all proceedings civil or criminal that the persons whose names appear on such list are registered according to the provisions of this ordinance; and the absence of the name of any person from such list shall be evidence until the contrary be made to appear that such person is not registered according to the provisions of this ordinance: *Provided, always,* That in the case of any person whose name does not appear on such list a certificate under the hand of the Colonial Secretary that the

name of such person is entered on the register shall be evidence that such person is registered under the provisions of this ordinance.

63. The council shall be deemed to be concerned with and interested in matters arising out of and in connection with so much of this ordinance as deals with medical practitioners, dentists, midwives, and nurses, and the board shall be deemed to be concerned with and interested in matters arising out of and in connection with so much of this ordinance as deals with chemists and druggists.

64. All rules and regulations by this ordinance authorized to be made by the council or board shall be of legal validity only when approved of and published by the Lieutenant-Governor by notice in the *Gazette*, and by such regulations penalties for the breach thereof may be prescribed not exceeding in any case a fine of ten pounds.

66. No person shall be entitled to recover any charge in any court of law for any medical or surgical advice or attendance, or for the performance of any operation as a medical practitioner or dentist, or commonly performed only by a medical practitioner or dentist, or for any medicine which he shall have prescribed or dispensed unless he shall prove upon the trial that he is registered under this ordinance.

67. No person shall hold any appointment as a physician, surgeon, or any other medical officer or dentist or dispenser of any medicines in any hospital or in any lunatic asylum, convict station, prison, house of correction, or other public establishment or institution, or to any friendly or other society for affording mutual relief in sickness, infirmity, or old age, or as a medical officer of health unless he be registered under this ordinance as a medical practitioner, dentist, or chemist and druggist, as the case may be.

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