

STATE BOARD OF HEALTH: Without authority to issue temporary or conditional license to practice medicine.

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713 RS MO 17-9
October 7, 1933

McLaughlin
The State Board of Health
Capitol Building
Jefferson City, Missouri

Attention: Dr. Herman S. Gove.

My Dear Dr. Gove:

I acknowledge receipt of your letter of October 2, 1933, requesting an opinion of this office which is as follows:

"We have your letter of September 29 and in reply we wish to reduce our request in writing as to an opinion of your department as to the State Board of Health of Missouri issuing temporary or conditional licenses to practice medicine in the State of Missouri."

In Section 9113 of Article 5, Chapter 33 R. S. Mo. 1929, we find that all applicants for licenses are required to appear before the Board for an examination as to their qualifications to practice medicine in this state. This section, among other things provides as follows:

"* * * All persons appearing for examination shall make application in writing to the secretary of the said board thirty days before the meeting. They shall furnish satisfactory evidence of their preliminary qualifications, to-wit, a certificate of graduation from an accredited high school, or its equivalent. They shall also furnish satisfactory evidence of having attended throughout at least four terms of thirty-two weeks of actual instruction in each term and of having received a diploma from some reputable medical college that enforces requirements of four terms of



thirty-two weeks of actual instruction in each term, including two years' experience in operative and hospital work at time of graduation.* * *

It is to be noted that the diploma referred to must be from a medical college requiring two years experience in operative and hospital work. The Board would therefore not be permitted or authorized by law to issue a license to any applicant who does not have this minimum requirement. In other words, the statute has set out the minimum requirements which must be met before the Board of Health is authorized to issue a license to the applicant. In the latter part of the section we find this:

* * *The board of health shall issue to such persons as they shall find upon examination to possess the requisite qualifications, a license to practice medicine and surgery in accordance with the provisions of this article,* * *

By virtue of this clause the Board of Health is authorized to issue a license if the requirements of the section have been met. Of course, the applicant must be of the required moral character and must make the minimum grades required by the statute. After having met all of these tests he is entitled to receive a license to practice medicine and surgery in this State. This license is not a conditional license nor is it a temporary license, nor is any other license provided for in the chapter. The law authorizes but one license and that is a full and unconditional license to practice, evidencing the applicant's qualifications as a physician and surgeon.

In Section 9118 of the Medical Practice Act we find that the law prescribes a penalty for those who practice medicine or surgery or attempt to treat the sick without a license. In this section it is provided that all who do so

"without a license from the State Board of Health as provided in this article"

shall be subject to prosecution. Accordingly, if the license issued by the Board of Health is not the license which is provided for in the Medical Practice Act, it would subject the applicant to prosecution for practicing medicine and surgery without a proper license.

The State Board of Health.

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It is therefore the opinion of this office that the State Board of Health is without statutory authority to issue any other than the license provided for in the statutes and there being no provision for a temporary or conditional license the Board is without authority to issue such.

Respectfully submitted,

HARRY G. WALTNER, JR.
Assistant Attorney General.

APPROVED:

Attorney General.

HGW:MM