

PHYSICIANS AND SURGEONS: Certificate of dean of reputable medical school that an applicant has met the requirements of said school and will be issued a diploma is sufficient to permit an applicant to take the examination for a license to practice medicine.

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May 19, 1936

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E. T. McGaugh, M. D.  
State Health Commissioner  
State Board of Health  
Jefferson City, Missouri

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Dear Dr. McGaugh:

This will acknowledge receipt of your letter requesting an opinion from this Department, which reads as follows:

"I am writing to know whether or not the Board could legally accept medical students for the State Board examination who have not received their medical diplomas and who have not presented their medical diplomas for verification before the examination, but can furnish a statement from the Dean of the Medical School that they have met all the requirements of a reputable medical school and would be graduated and receive their diplomas in a few days. The Board feels sure that these boys will be graduated and receive their diplomas, and the Dean will furnish a statement to that effect. In other words, will it be permissible to let these boys take the examination and verify their diplomas before issuing their license.

"The Statute reads that they shall 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.

"Kindly let us hear from you at your very earliest convenience in regard to the matter, in order that we may have time to change the dates if it is necessary. The examination is scheduled for the 4, 5 and 6 of June."

Section 9113, Revised Statutes Missouri 1929, provides, in part:

"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; \* \* \* "

From the above section, we think it plain that a person appearing for examination for a license to practice medicine in this state must have 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 the time of graduation. The question to be determined is, whether a certificate of the dean of such a medical school that a person desiring to take the examination has met all the requirements for graduation and will receive a diploma in a few days, is equivalent to a diploma within the meaning of Section 9113, supra, and will permit such an applicant to take the examination for a license to practice medicine within this state.

A similar question was passed on in the case of Levin v. Board of Medical Examiners of California 239 Pac. 410. The Court, at l. c. pages 411, 412, said:

"The sole question here presented, therefore, is whether or not petitioner in legal contemplation was possessed of a diploma from the medical college mentioned at the time he was permitted to take his examinations before the board of medical examiners of the state of Michigan.

"If the act of such board permitting him to take the examinations before his diploma could be actually made out and issued to him constituted the maintaining of a standard not equal to this state, then petitioner is not entitled to the relief sought. If, on the other hand, the possession by him of the certificate and the subsequent issuance to him of his diploma was to all legal intents and purposes the possession

by him of a diploma, then it is conceded petitioner is entitled to a license on reciprocity, and it should be issued to him. To state the question is to answer it. The certificate was to all intents and purposes the equivalent of a diploma. It certified that petitioner had passed his final examinations, and he was therefore entitled as a matter of right to a diploma. *Nelson v. Lincoln Medical College*, 81 Neb. 533, 116 N. W. 294, 17 L. R. A. (N.S.) 930. Moreover, the diploma was in fact issued to him before he was granted his license. To say that under such circumstances he was not possessed of a diploma entitling him to take his examinations would be to put a narrow construction upon our statute, which requires the filing of a diploma prior to the taking of examinations. The statute should receive a reasonable construction, and the spirit and reason should prevail over the letter."

#### CONCLUSION

In view of the above, it is the opinion of this Department that a certificate from a dean of a 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, that an applicant to take the examination for a license to practice medicine within this state has completed all the requirements of such school and will be graduated and receive his diploma in a short time, is sufficient to permit such an applicant to take the examination for a license to practice medicine within this state, and is

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a substantial compliance with the statute which requires an applicant at the time of taking the examination to have a diploma from a reputable medical school.

It is our further opinion, however, that such an applicant should not be issued a license by the State Board of Health to practice medicine within this State until he has actually received his diploma and satisfactory evidence of such fact has been furnished the State Board of Health.

Yours very truly,

J. E. TAYLOR  
Assistant Attorney General

APPROVED:

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JOHN W. HOFFMAN, Jr.  
(Acting) Attorney General

JET:LC