

Nets,  
seines, etc.,  
prohibited.

636a. Any net, seine, drag-net, paranzella, or set-net used for taking or catching fish, which shall be used or maintained in any of the waters of this state in violation of any existing or hereafter enacted statutes or laws of this state for the protection of fish, is hereby declared to be a public nuisance, and it is the duty of every peace officer to seize and keep the same and report such seizure to the board of fish commissioners of the state. Thereupon said board must commence proceedings in the superior court of the county or city and county in which the same shall be seized, by filing a petition in said court, asking for a judgment forfeiting such net, seine, drag-net, paranzella, or set-net so seized, and ordering the destruction thereof. Upon the filing of such petition, it is the duty of the clerk of said court to fix a time for the hearing thereof and to cause notices to be posted for the space of fourteen days in at least three public places in the town, city, or city and county, where the court is held, setting forth the substance of such petition and the time and place fixed for its hearing, and if at the time fixed for such hearing, no person appears and claims such net, seine, drag-net, paranzella, or set-net, the court must proceed to hear and determine said proceeding according to law, and upon proof that the said net, seine, drag-net, paranzella, or set-net was used in violation of law, must order the same to be forfeited and destroyed.

SEC. 5. All acts, or parts of acts, in conflict with this act are hereby repealed.

SEC. 6. This act takes effect immediately.

## CHAPTER LI.

*An act for the regulation of the practice of medicine and surgery in the State of California, and for the appointment of a board of medical examiners in the matter of said regulation.*

[Became a law under constitutional provision without Governor's approval, February 27, 1901.]

*The people of the state of California, represented in senate and assembly, do enact as follows:*

Practice of  
medicine  
and  
surgery.

Board of  
medical  
examiners.

SECTION 1. *Appointment of Board, Quorum.* There shall be a board consisting of nine members, which shall be known as the board of medical examiners of the State of California. The members of said board shall be elected as follows: Five members thereof shall be elected by the Medical Society of the State of California, two members thereof by the California State Homoeopathic Medical Society, and two members thereof by the Eclectic Medical Society of the State of California. Said members shall be elected annually by said societies, respectively, according to such rules as each society may adopt for the election of the members to be elected by it, and the members so elected shall serve for one year, and until their successors shall

have been elected and qualified. Each of said societies respectively may also elect alternates who shall fill such vacancies as may occur in its representation on the board. It shall require the affirmative vote of six members of said board to carry any motion or resolution, to adopt any rule, to pass any measure, or to authorize the issuance of any certificate to practice medicine and surgery as in this act provided.

SEC. 2. *Oath.* Each member of said board shall, before entering upon the duties of his office, take the constitutional oath of office, and shall, in addition, make oath that he is a graduate in medicine, and a legally qualified practitioner of medicine in this state. Oath.

SEC. 3. *Organization, Meetings.* Said board shall organize by electing from its number a president, vice-president, secretary and treasurer, who shall hold their respective positions during the pleasure of the board. Said board shall hold its regular meetings in the city of San Francisco, on the first Tuesdays of April, August, and December of each year, for the consideration of applications for certificates, and for the transaction of such other business as may properly come before it, with power of adjournment from time to time until its business is concluded; *provided, however,* that examinations of applicants for certificates may, in the discretion of the board, be conducted in any part of the state designated by said board of examiners, under the supervision of any one member of said board, upon written questions previously prepared by said board; and when the examination is concluded the questions submitted, together with the answers and any other evidence or affidavits used or produced at said examination, shall be signed by said examiner and immediately returned to the board of examiners, who shall act upon said application for a certificate in the same manner as if the person had appeared personally before said board. Notice of each regular meeting of the board shall be given by publication twice a week, for each of the two weeks next preceding each meeting, in two daily papers published in the city of San Francisco, in one daily paper published in the city of Sacramento, and in one daily paper published in the city of Los Angeles. Special meetings of the board may be held at the call of the president, at such time and place as he shall direct, and the same notice thereof shall be given as in the case of regular meetings. Said board shall procure a seal, and shall receive through its secretary applications for the certificates provided to be issued under this act. Organiza-  
tion.  
  
Meetings.  
  
Examina-  
tion of  
applicants.  
  
Publica-  
tion of  
notice of  
meetings.

SEC. 4. *Rules.* Said board may from time to time adopt such rules as may be necessary to enable it to carry into effect the provisions of this act. Any member of said board may administer oaths in all matters pertaining to the duties of said board, and the board shall have the authority to take evidence as to any matter cognizable by it. Rules.

SEC. 5. *Requirements, Examination, Fee.* Every person before practicing medicine or surgery, or any of the depart- Require-  
ments,  
examina-  
tions, fee.

Diplomas  
and  
licenses.

ments of medicine or surgery in this state, must have the certificate herein provided for. In order to procure such certificate he must produce satisfactory testimonials of good moral character, and a diploma issued by some legally chartered medical school, the requirements of which medical school shall have been at the time of granting such diploma, in no particular less than those prescribed by the Association of American Medical Colleges for that year; or he must produce satisfactory evidence of having possessed such diploma, or a license from some legally constituted institution which grants medical and surgical licenses only upon actual examination, or satisfactory evidence of having possessed such license; and he must accompany said diploma or license with an affidavit stating that he is the lawful possessor of the same, that he is the person therein named, and that the diploma or license was procured in the regular course, either of instruction or examination, without fraud or misrepresentation of any kind. Such affidavit may be taken before any person authorized to administer oaths, and the same shall be attested under the hand and official seal of such officer, if he have a seal. In addition to such affidavit, said board may hear such further evidence as in its discretion, it may deem proper as to any of the matters embraced in said affidavit. If it should appear from such evidence that said affidavit is untrue in any particular, or if it should appear that the applicant is not of good moral character, the application must be rejected.

Examina-  
tion of  
applicants.

In addition to the requirements above set forth, each applicant for a certificate must be personally examined by said board as to his qualifications to practice medicine and surgery. The examination shall be conducted in the English language and shall be, in whole or in part, in writing, and shall be on the following subjects, to wit: Anatomy, physiology, bacteriology, pathology, chemistry and toxicology, surgery, obstetrics, materia medica and therapeutics, and theory and practice of medicine. When the applicant applies for examination in materia medica and therapeutics, and theory and practice of medicine, he shall designate in what school of medicine he desires to practice, and only the member or members of the board who belong to the school so designated shall participate in this part of the examination. Examinations shall be practical in character, and designed to discover the applicant's fitness to practice medicine and surgery.

Subjects.

Questions  
and meth-  
ods of ex-  
amination.

Examinations in each subject shall consist of not less than ten questions, answers to which shall be marked upon a scale of one to ten. If an applicant fail in his first examination he may, after not less than six months, be re-examined. If he fail in a second examination he shall not thereafter be entitled to another examination in less than one year after date of second examination, and shall be required to pay for such examinations the full fee. The examination papers shall form a part of the records of said board, and shall be kept on file by the secretary. In said examination the applicant shall be known and designated by number only, and the name attached

to the number shall be kept secret by the secretary until after the board has finally voted upon the application. The secretary of the board of medical examiners shall in no instance participate, as an examiner, in any examinations held by the board; nor shall he be entitled to vote upon the question of granting any certificate to practice medicine and surgery.

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 medical examining board of the District of Columbia, or of any state or territory of the United States; *provided, however,* that the legal requirements of such medical examining board shall have been, at the time of issuing such certificate, in no degree or particular less than those of California at the time when such certificate shall be presented for registration to the board created by this act; *and provided further,* that the provisions in this paragraph contained shall be held to apply only to such of said medical 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 the board a fee of twenty (20) dollars, which shall be paid to the treasurer of said board by said secretary.

Registration of applicants upon certificate.

Fee.

SEC. 6. *Certificate.* When any applicant has shown himself to be possessed of the qualifications herein required, and has successfully passed the said examination, a certificate must be issued to him by said board, authorizing him to practice medicine and surgery in this state. Said certificate shall be signed by the president and secretary of said board, and sealed with the seal of the board.

Certificate.

SEC. 7. *Record of Proceedings.* Said board shall keep an official record of all its proceedings, a part of which record shall consist of a register of all applicants for certificates under this act, with the result of each application. Said record shall be evidence of all the proceedings of said board which are set out therein.

Record.

SEC. 8. *Registration.* Every person holding a certificate authorizing him to practice medicine or surgery, or both, in this state, must have it recorded in the office of the county clerk of the county in which the holder of said certificate is practicing his profession, and the fact of such recording shall be endorsed on the certificate by the county clerk recording the same. Every such person, on each change of residence, must have his certificate recorded in the county to which he shall have changed his residence. The absence of such record shall be prima facie evidence of the want of possession of such certificate. And any person holding a certificate who shall practice medicine or surgery, or attempt to practice medicine or surgery, without first having filed his certificate with the county clerk, as herein provided, shall be deemed guilty of a misdemeanor, and shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars, or by

Certificates to be recorded by county clerk.

imprisonment in the county jail for a period of not less than thirty days nor more than sixty days, or by both such fine and imprisonment.

County clerk to keep record.

SEC. 9. The county clerk shall keep in a book, provided for the purpose, a complete list of the certificates recorded by him with the date of the record; and said book shall be open to public inspection during his office hours.

Refusal to grant or revocation of certificate.

SEC. 10. *Refusal to Grant Certificate; Revocation of Certificate; Unprofessional Conduct.* Said board must refuse a certificate to any applicant guilty of unprofessional conduct; but before such refusal the applicant must be cited by citation signed by the secretary of the board, and sealed with its seal. No such citation shall be issued except upon a sworn complaint filed with the secretary of the board, charging the applicant with having been guilty of unprofessional conduct, and setting forth the particular acts constituting such unprofessional conduct. On the filing of such complaint the secretary must forthwith issue a citation, and make the same returnable at the next regular session of said board, occurring at least thirty days next after filing the complaint. Such citation shall notify the applicant of the time and place, when and where the matter of said unprofessional conduct shall be heard, the particular unprofessional conduct with which the applicant is charged, and that the applicant shall file his written answer, under oath, within twenty days next after the service on him of said citation, or default will be taken against him, and his application for a certificate refused. The attendance of witnesses at such hearing shall be compelled by subpoenas issued by the secretary of the board, under its seal; and said secretary shall in no case refuse to issue any such subpoena, upon a fee of twenty cents being paid him for each subpoena. Said citation and said subpoenas shall be served in accordance with the statutes of this state then in force as to the service of citations and subpoenas generally, and all the provisions of the statutes of this state then in force relating to subpoenas are hereby made applicable to the subpoenas provided for herein.

Filing complaint and procedure.

Issuance of subpoenas.

Refusal to obey subpoena.

If any person refuse to obey a subpoena served upon him in accordance with the statutes of this state then in force providing for the manner of serving subpoenas, the fact of such refusal shall be certified by the secretary of said board, under the seal thereof, to the superior court of the county in which the service was had, and said court shall thereupon proceed to hear said matter, in accordance with the statutes of this state then in force as to contempts for disobedience of process of the court; and should said court find that the subpoena had been legally served, and that the party so served had willfully disobeyed the same, it shall proceed to impose such penalty as provided in cases of contempt of court. In all cases of alleged unprofessional conduct arising under this act, depositions of witnesses may be taken, the same as in civil cases, and all the provisions of the statutes of this state then in force as to the taking of depositions are hereby made applicable to the taking of depositions under this act. If the applicant shall

Depositions.

fail to file with the secretary of said board his answer, under oath, to the charges made against him, within twenty days after service on him of said citation, or within such further time as the board may give him, and the charges on their face be deemed sufficient by the board, default shall be entered against him, and his application refused. If the charges on their face be deemed sufficient by the board, and issue be joined thereon by answer, the board shall proceed to determine the matter, and to that end shall hear such evidence as may be adduced before it; and if it appear to the satisfaction of the board that the applicant is guilty as charged, no certificate shall be issued to him. No certificate shall be refused on the ground of unprofessional conduct unless the applicant has been guilty of such conduct subsequently to the passage of this act, and unless he has been guilty of such conduct within two years next preceding his application. Whenever any holder of the certificate herein provided for is guilty of unprofessional conduct, as the same is defined in this act, and the said unprofessional conduct has been brought to the attention of the board granting said certificate, in the manner hereinafter pointed out, it shall be their duty to, and they must, revoke the same at once, and the holder of said certificate shall not thereafter be permitted to practice medicine or surgery, or any of the departments of medicine or surgery, in this state. But no such revocation shall be made unless said holder is cited to appear, and the same proceedings are had as is hereinbefore provided in this section in case of refusal to issue certificates. The accused party, at the time he presents his answer for filing, shall deposit with the secretary his certificate, and unless he do so, the secretary must not file his answer, and default shall be thereupon entered against him, and his certificate revoked if the charges on their face be deemed sufficient by the board. When the certificate is revoked, the secretary of the board, if said certificate has been deposited with him, shall write across the face thereof, in red ink, the fact of such revocation, and shall file said certificate, so revoked, among the archives of his office, and shall also certify the fact of such revocation, under the seal of the board, to the county clerk of the counties in which the certificate of the person whose certificate has been revoked is recorded; and said clerk must thereupon write upon the margin or across the face of his register of the certificate of such person, the following:

"This certificate was revoked on the \_\_\_\_\_ day of \_\_\_\_\_," giving the day, month and year of such revocation, in accordance with said certification to him by said secretary. The record of such revocation so made by said county clerk shall be prima facie evidence of the fact thereof, and of the regularity of all the proceedings of said board in the matter of said revocation. If said board shall decide against revocation, the certificate shall be returned to the holder thereof. No certificate shall be revoked for unprofessional conduct unless the accused has been guilty thereof subsequently to the passage of this act, and unless he has been guilty thereof within two years next preceding the time of filing the complaint charging him

Revoca-  
tion of  
certificate.

Register to  
show revo-  
cation.

with such unprofessional conduct. From the time of the revocation of a certificate the holder thereof shall be disqualified from practicing medicine or surgery in this state.

Unprofessional conduct defined.

The words "unprofessional conduct," as used in this act, are hereby declared to mean:

First—The procuring or aiding or abetting in procuring a criminal abortion.

Second—The obtaining of any fee on the assurance that a manifestly incurable disease can be permanently cured.

Third—The willfully betraying a professional secret.

Fourth—All advertising of medical business in which grossly improbable statements are made.

Fifth—All advertising of any medicines, or of any means, whereby the monthly periods of women can be regulated, or the menses re-established if suppressed.

Sixth—Conviction of any offense involving moral turpitude.

Seventh—Habitual intemperance.

Salaries, expenses, etc.

SEC. 11. *Expenditures of the Board.* Said board shall have the power to employ legal counsel and clerical assistance, and to fix the salaries of the same, and to incur such other expenses as may be deemed necessary to carry into effect the provisions of this act. It shall also fix the salary of the secretary, not to exceed the sum of twenty-four hundred dollars per annum, and the sum to be paid to other members of said board, not to exceed ten dollars per diem each, for each and every day of actual service in the discharge of official duties; and said board may, in its discretion, add to said sums necessary traveling expenses. All money in excess of the actual expenses of the board shall be paid annually into the treasuries of the respective state medical societies, and shall be pro rated according to the number of representatives of each school among the applicants examined.

Illegal practice.

SEC. 12. *Illegal Practice.* Any person practicing medicine or surgery in this state, without having, at the time of so practicing, a valid, unrevoked certificate, as provided in this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than one hundred dollars, nor more than five hundred dollars, or by imprisonment for a term of not less than sixty days, nor more than one hundred and eighty days, or by both such fine and imprisonment. In each such conviction one-half of the fine shall be paid, when collected, to the prosecuting witness, or witnesses, and the other half shall be paid into the school fund of the county, or city and county, in which such conviction is had.

Penalty for false registration.

SEC. 13. *Unauthorized Registration.* Every person filing for record, or attempting to file for record, the certificate issued to another, falsely claiming himself to be the person named in such certificate, or falsely claiming himself to be the person entitled to the same, shall be guilty of felony, and, upon conviction thereof, shall be subject to such penalties as are provided by the laws of this state for the crime of forgery.

False representation.

SEC. 14. *False Representation.* Any person assuming to

act as a member of a state board of medical examiners, or who shall sign, or subscribe, or issue or cause to be issued, or seal or cause to be sealed, a certificate authorizing any person to practice medicine or surgery in this state, except the person so acting and doing shall have been elected a member of said board of medical examiners as in this act provided, shall be guilty of a misdemeanor, and shall be punished by a fine of not less than one hundred dollars, nor more than five hundred dollars, or by imprisonment in the county jail for a term of not less than sixty nor more than one hundred and eighty days, or by both such fine and imprisonment.

SEC. 15. *Previous Registration.* Any person who holds a certificate from one of the boards of examiners heretofore existing under the provisions of "An act to regulate the practice of medicine in the State of California," approved April third, eighteen hundred and seventy-six, or an act supplemental and amendatory to said act, which became a law April first, eighteen hundred and seventy-eight, shall be entitled to practice medicine and surgery in this state, the same as if it had been issued under this act; but all such certificates may be revoked for unprofessional conduct, in the same manner and upon the same grounds as if they had been issued under this act.

SEC. 16. *Definition.* The following persons shall be deemed as practicing medicine or surgery within the meaning of this act:

1. Those who profess to be, or hold themselves out as being, engaged as doctors, physicians or surgeons in the treatment of disease, injury, or deformity of human beings.
2. Those who, for pecuniary or valuable consideration, shall prescribe medicine, magnetism, or electricity, in the treatment of disease, injury, or deformity of human beings.
3. Those who, for pecuniary or valuable consideration, shall employ surgical or medical means or appliances for the treatment of disease, injury, or deformity of human beings, except dealers in surgical, dental and optical appliances.
4. Those who, for a pecuniary or valuable consideration, prescribe or use any drug or medicine, appliance, or medical or surgical treatment, or perform any operation for the relief or cure of any bodily injury or disease.

The doing of any of the acts in this section mentioned shall be taken to be prima facie evidence of an intent on the part of the person doing any of said acts to represent himself as engaged in the practice of medicine or surgery, or both; but nothing in this act shall be so construed as to inhibit service in the case of emergency, or the domestic administration of family remedies; nor shall this act apply to any commissioned medical officer in the United States army, navy, or marine hospital service, in the discharge of his professional duties, nor to any legally qualified dentist when engaged exclusively in the practice of dentistry, nor to any physician or surgeon from another state or territory, when in actual consultation with a legal practitioner of this state, if such physician or surgeon is, at the time of such consultation, a legal practitioner of medicine

Previous  
registration.

Practitioners of  
medicine  
and  
surgery  
defined.

Exceptions to  
provisions  
of this act.

or surgery in the state or territory in which he resides; nor any physician or surgeon residing on the border of a neighboring state and duly authorized under the laws thereof to practice medicine or surgery therein, whose practice extends within the limits of this state; *provided*, that such practitioner shall not open an office or appoint a place to meet patients or receive calls within the limits of this state.

Repeal.

SEC. 17. *Repeal.* An act entitled "An act to regulate the practice of medicine in the State of California," approved April third, eighteen hundred and seventy-six; and an act entitled "An act supplemental to and amendatory of an act entitled 'An act to regulate the practice of medicine in the State of California,' April third, eighteen hundred and seventy-six," which became a law April first, eighteen hundred and seventy-eight, and all acts, and parts of acts, in conflict with this act are hereby repealed.

In effect.

SEC. 18. This act shall take effect from and after the first day of August, nineteen hundred and one.

## CHAPTER LII.

*An act to amend sections twenty-five hundred and sixty-eight (2568), twenty-five hundred and seventy (2570), and twenty-five hundred and seventy-one (2571) of the Political Code, and to repeal section twenty-five hundred and sixty-nine (2569) of the Political Code, all relating to the harbor commissioners for the port of Eureka, and to add two (2) new sections to the Political Code, to be known as sections twenty-five hundred and sixty-nine (2569) and twenty-five hundred and sixty-nine and one half (2569½), also relating to the harbor commissioners for the port of Eureka.*

[Became a law under constitutional provision without Governor's approval. February 28, 1901.]

*The people of the state of California, represented in senate and assembly, do enact as follows:*

SECTION 1. Section twenty-five hundred and sixty-eight (2568) of the Political Code of California is hereby amended to read as follows:

Board of  
harbor  
commissioners  
of the port  
of Eureka.

2568. The board of harbor commissioners of the port of Eureka are authorized and empowered to make such rules and regulations and take such action as may be necessary or proper for the protection of navigation in Humboldt bay or in any slough or creek emptying into the same so far as the tide ebbs and flows.

Powers of  
board.

The board may regulate the erection and extension of wharves and piers and prescribe the plans and dimensions thereof and regulate the tolls, wharfage or dockage to be charged thereon. They may regulate the manner of constructing booms and limit their extension into the waters of the bay.

The board may regulate the laying of submarine cables in