BY-LAWS

OF THE

MEDICAL SOCIETY OF THE COUNTY OF ERIE:

TOGETHER WITH THE

LAWS OF THE STATE OF NEW-YORK,

RELATIVE TO THE

MEDICAL PROFESSION,

AND A

SYSTEM OF MEDICAL ETHICS.

1042

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PUBLISHED FOR THE SOCIETY.

BUFFALO:

CHARLES FAXON, PRINTER.

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BY-LAWS

OF THE MEDICAL SOCIETY OF THE COUNTY OF ERIE.

Preamble. The Medical Society of the County of Erie, by virtue of the statute in such cases made and provided, do hereby make, ordain, and declare the following By-Laws, Rules and Regulations, for the better government of the members of the said Society, and for the purpose of carrying into execution the several purposes and objects of their incorporation; that is to say:

ARTICLE I.

Persons who may be Members.

Name of Society. Of whom it shall consist. This Society shall be known by the name of the Medical Society of the County of Erie. It shall consist of all legally authorized practicing Physicians and Surgeons who do now reside, or who may hereafter come to reside in the county of Erie, and who have been admitted, or who shall be hereafter admitted, members of said society, pursuant to the subsequent provisions of these by-laws, excepting such as shall be at any time expelled the said society, pursuant to said by-laws, and the statutes of this state.

ARTICLE II.

Officers.

Officers. How chosen. The Officers of the said society shall be a President, Vice President, Secretary, Treasurer, Librarian and five Censors. The said Officers shall be chosen by ballot at the anniversary meeting, and shall hold their offices one year, and until others shall be chosen.

Delegate to State medical Society. And the said society shall, once in four years, and as often as a vacancy shall occur, elect a delegate to the State Medical Society.

ARTICLE III.

Meetings.

Meetings. § 1. The Medical Society of the County of Erie shall hold two regular meetings in each year, in the City of Buffalo: The annual

When held. meeting on the second Tuesday of January, and the semi-annual
Extra Meetings. meeting on the second Tuesday of June. Extra meetings may be appointed by a resolution of the society, or called by the President, or in case of a vacancy in his office, by the Vice President, on application of five members.

Charges for misconduct. § 2. In case charges should be preferred against any member for misconduct in his profession, or of immoral conduct and habits, pursuant to the statute upon that subject, (Revised Statutes, part I. chap. 14. Title 7.) or for a violation of any of the laws regulating the practice of physic and surgery, the President, on such charges
Proceedings thereon. being presented to him, may call a special meeting without the application of five members, giving at least ten days previous notice in one or more of the newspapers printed in the county.

Quorum. § 3. Not less than five members shall constitute a quorum.

ARTICLE IV.

Order of Business.

When organized. § 1. As soon as the presiding officer shall have declared the meeting organized, the order of business shall be as follows :

Minutes of previous meeting. 1. Reading the minutes of the last meeting and correcting the same, if necessary, by a vote of the society.

2. Reception of members.

3. Communications from abroad.

4. Reports of officers and committees of this society.

5. Appointment of committees.

Order of business. 6. The Oration.

7. Miscellaneous business.

8. Appointment of succeeding orator.

9. Election of Officers.

10. Valedictory address, by the President.

11. Adjournment.

Special meeting. § 2. At all special meetings, the business for which the society
Rules of order. may be convened, shall be first considered.

Members to rise. § 3. Every member, previously to his speaking, shall rise from his seat, and address himself to the President.

§ 4. When two or more members rise at once, the President shall name the one who is to speak.

§ 5. No question on a motion shall be debated or put until the same be seconded. When a motion is seconded, it shall be stated by the President before debate, and every such motion shall be reduced to writing if any member desire it. Motions seconded.

§ 6. If a motion is stated by the President, it shall be deemed to be in the possession of the society, but it may be withdrawn at any time before amendment or decision. Motion when withdrawn.

§ 7. No member shall interrupt another while speaking, unless it be to call another to order, or to correct a mistake. No interruption.

§ 8. When a question is under debate, no motion shall be received unless Motions when received in debate.

1. To amend it.
2. To commit it.
3. To lay it on the table.
4. To postpone it.
5. To adjourn.

§ 9. A motion to lay on the table shall be decided without debate. To lay on the table.

§ 10. A second amendment shall not be received until the previous one is disposed of, except with the consent of the mover of the first amendment. Second amendment.

§ 11. If the question in debate contains several points, any member may have the same divided in voting concerning the same. Question, when divided.

§ 12. Every member shall vote upon a question put, unless excused by the society. Every member to vote.

§ 13. When a motion has been once put and decided, it shall be in order for any member who voted in the majority to move for a re-consideration thereof, but no motion for re-consideration shall be received more than once, except by unanimous consent. Reconsideration.

§ 14. A member called to order shall immediately sit down, unless permitted to explain, and the society if appealed to from the decision of the President shall decide on the call, but without debate. If there be no appeal, the decision of the President shall be submitted to. Calls to order decided.

§ 15. All motions shall be put in the order they are moved, except in filling blanks, when the longest time and largest sum shall be first put. Motions put in order.

Names entered. § 16. Upon a division, the names of those who vote for or against a question or motion, shall be entered on the minutes.

Reports. § 17. Whenever a report is received from any officer or officers of the society, or from any standing or select committees, if the report be accompanied with resolutions requiring the consideration of the society, the question, on accepting the report, shall be considered distinct from that on the resolutions.

Committees, how appointed. § 18. All committees shall be appointed by the presiding officer unless specially otherwise directed by the society, in which case they shall be appointed by ballot, and a plurality of votes shall prevail.

President pro tempore. § 19. In case of the absence of the President and Vice President, the society shall appoint a president pro tempore.

Select Committee to report in writing. § 20. Select committees to whom references are made, shall in all cases report in writing, together with their opinions, signed by the Chairman.

§ 21. A committee shall be appointed at each regular meeting of the society, whose duty it shall be to select some member who is present at the said meeting, to deliver an address at the next regular meeting of the society; and such selection shall be forthwith made public, and be entered on the book of the Secretary. And if any member so selected shall fail to deliver an appropriate written address at the next regular meeting of the society, he shall forfeit and pay to the Treasurer the sum of five dollars. Provided always that in case of disability to read the same, the manuscript shall be delivered in due time to the society.

Orator, how & when chosen.

Penalty.

ARTICLE V.

Admission of Members.

Who may be admitted and how. § 1. Every Physician or Surgeon residing in the county of Erie, of temperate habits, good moral character, and legally authorized to practice phyisic or surgery in this state, who may hereafter wish to become a member of this society, may be admitted by a vote of two thirds of the members present at a regular meeting.

Duties of members in regard to applicants. § 2. It shall be the duty of each and every member to give all the information in his possession concerning the character and standing of every candidate proposed for membership.

§ 3. No candidate shall be present until the question of his admission be determined by the society. Candidate not to be present.

§ 4. Every member when admitted shall pay the Treasurer five dollars, sign the by-laws and then be entitled to a certificate of membership. Requisites of membership. Certificate.

ARTICLE VI.

Duties of Officers—President.

§ 1. The President shall preside at all meetings, maintain order and decorum, decide all questions of order subject to an appeal to the society, and shall appoint all committees, unless otherwise directed by the society. Duties of President.

On all motions made and seconded, he shall state the question, and take the sense of the society, and shall have the privilege of speaking thereon; and in case of a tie, shall be entitled to give a casting vote. Motion.

The President shall at the annual meeting and at the end of each year after his election to office, deliver to the society a dissertation on some appropriate subject, and in case of default in delivering the same, he shall forfeit and pay to the society the sum of ten dollars. Provided always, that if the President shall duly cause to be presented to the society a copy of his anniversary dissertation, he may, if the society deem proper, be excused from delivering the same; but he shall not be exonerated from the fine of ten dollars, for not composing and presenting such dissertation; and a copy of such dissertation so presented shall be read by the Vice President or President pro tempore. President to deliver an address or pay ten dollars. Proviso.

The President on receiving a certificate of approval from the Censors in favor of any candidate for a diploma, shall endorse on said certificate that such diploma has been granted by him, and shall hand the same to the Secretary, to be by him filed and kept as part of the records of the society; and for every diploma thus granted, the President shall exact the sum of five dollars from such candidate, which he shall forthwith pay to the Treasurer of the society. President to grant diplomas.

The President shall give the notice in writing, required by statute, to Physicians and surgeons residing in the county, who have not become members of the society. Notice to be given by the President.

V. President to preside. In the absence of the President, the Vice President shall preside and exercise the like powers.

President pro tempore. In the absence of the President and Vice President, the society may appoint a President pro tempore.

SECRETARY.

§ 2. The Secretary shall record the proceedings, and have

Duties of the Secretary. charge of all the papers of the society. He shall read all letters and communications, shall keep the cabinet, attest all writings, notify all meetings by the authority of the society or the President, and deliver to the Chairman of all committees, a list of the members composing the same, stating the object of the committee—shall note members absent and present at each meeting, and report the names of the absent, at the annual meeting, to the Treasurer.

Report to S. Med. Society. He shall likewise transmit annually to the State Medical Society, a copy of such proceedings as may be required by that body. He

Record the names of members. shall also record the name of every member and the time of his admission; and shall deliver all books and papers belonging to the society to his successor in office, and do such other duties as it shall deem proper to direct.

Books & Records. He shall not permit any paper, book or record to be removed from the archives of the society, but shall allow the same to be examined by every member.

TREASURER.

§ 3. The Treasurer of this society shall receive and account for

Duties of Treasurer. all moneys that shall come into his hands by virtue of any of the by-laws of this society, and, also, for all moneys that shall come into the hands of the President for the admission of members or licensing of students; which moneys the President is hereby required forthwith to pay over to the said Treasurer, who shall ac-

Payment of moneys. count therefor, at their annual meetings: No moneys shall be drawn from the Treasury, unless such sums and for such purposes as shall be agreed upon by a majority of the society at their annual meeting, and by a warrant for that purpose signed by the President, or in case of his absence or death by the Vice President.

To collect all debts. And it is furthermore made the duty of the Treasurer, to collect, by prosecution or otherwise, all debts, dues and demands belong-

ing to this society and which shall have been due more than three months. He shall also give security to be approved and retained by the President conditioned for the faithful management of the funds of the society, and that he will account for and pay over, when lawfully required, all sums of money which may remain in his hands. Give bonds

And the Treasurer is furthermore required to deliver over to his successor in office, all moneys, books and other property belonging to the society.

LIBRARIAN.

§ 4. The Librarian shall have charge of the library, apparatus and other property belonging to the society; he shall make an alphabetical catalogue of the same, designating the name of the donor of all such books or other property as may have been presented to the society, and the value, whether received as a donation or purchased. Duties of the Librarian.

The Librarian or his deputy shall deliver to and receive from any member of the society not prohibited by its regulations, any volume or pamphlet in the library, provided always that such member deposit with the librarian twice the value of such volume or pamphlet, in cash or other approved security; and the librarian shall enter in a book to be kept for that purpose, the name of the person receiving such book—the title and number of said book—the time when drawn, and when returned—the damage, if any—and the fine imposed for the same. Deliver and receive books

Any member who is not indebted to the society, and who resides within ten miles of the library, may draw one or more volumes, in the discretion of the Librarian, at any time, and retain the same one month. Any member residing over ten miles may retain such book or books three months; but all books must be returned on or before 2 o'clock of the day of each regular meeting of the society. Members residing within ten miles. Over ten miles

For not returning by that time, such member shall be fined not less than a third of the value of the book or books drawn by him—and an additional sum of twenty-five cents for every thirty days until the same is returned to the Librarian.

The Librarian shall fine each and every member three cents a day for retaining a book after it is due at the Library. Fines

On the return of each book, the Librarian shall carefully examine the condition, and note any damage it may have received in the hands of the last drawer, and impose such fine as he may deem reasonable. If the book is materially injured, or lost, the Librarian shall assess the member by whom it was drawn, a sum sufficient to purchase another, or if the book belonged to a set of volumes, he shall require the drawer to pay for the whole set, at a fair and equitable price.

Books injured

If a member lend a book to any person not a member, or to any person not entitled to draw books from the library, he shall forfeit the value of the volume.

Appeal.

Any member considering himself aggrieved by reason of any decision of the Librarian may appeal in writing to the society at their next regular meeting.

Securities, when to be retained.

The Librarian shall deliver or cause to be delivered the cash or other security, in his possession, to the person by whom it was deposited, whenever said book shall be safely returned; or in case the same is damaged or detained beyond the time specified by the regulations for the library, whenever said damage or fine for detention is paid.

Moneys to whom paid.

The Librarian shall also pay to the Treasurer all moneys by him received for such damage or fine, together with such pledge or pledges as shall be forfeited by reason of the detention of such book or books for which the sum is left beyond the term of one year from the time when the same was drawn. No book shall be drawn from the library by any member, until all fines or assessments due from said member, shall have been paid.

Report to the Treasurer

The Librarian shall at each and every annual meeting of the society make a full and minute report of the condition of the library—the moneys received—together with such suggestions as he may deem of importance relating to the duties of his office generally—and shall faithfully deliver to his successor in office all the books and other property belonging to the society, which may be in his possession.

CENSORS.

Duty of Censors.

§ 5. The Censors, or a majority of them, shall carefully and impartially examine all students who shall present themselves for that purpose, and who are entitled to such examination, pursuant to the

provisions of the statute of this state upon that subject, and who shall moreover exhibit satisfactory evidence that they are of good moral character: For which examination the Censors shall receive no other compensation from each student than the payment of their expenses.

Mode of examinations.

The questions and answers shall be written in a book appropriated to such use; and the time of such examination shall be only at the annual or semi-annual meetings of the society.

Report.

The result of each examination, if approved by the Censors, shall be immediately reported to the President of the society, under a penalty of one dollar for each omission. Three Censors shall constitute a quorum.

Penalty.

For non-attendance at an examination after suitable notice has been given by the candidate, each delinquent shall pay to the Treasurer of the society a sum not less than three nor more than five dollars, unless he can render a reasonable excuse, which shall be accepted by a vote of two thirds of the members present at a regular meeting.

Officers penalty.

Any officer of this society neglecting or refusing to perform the duties of his office, and any committee neglecting to perform the duty assigned them, shall forfeit and pay to the treasurer of this society a sum not less than two nor more than ten dollars.

ARTICLE VII.

Annual tax one dollar.

§ 1. Every practicing physician or surgeon residing, or who may hereafter reside in the County of Erie, shall at the annual meeting in January in each year, or within thirty days thereafter, pay to the Treasurer of this society the sum of one dollar for the purpose of procuring a medical library, apparatus, &c.

Penalty for non-attendance.

§ 2. Any member of this society, under the age of sixty years, and who resides within ten miles of the place of meeting, who shall neglect to attend each stated meeting of the society, shall forfeit and pay to the Treasurer one dollar; and each member residing at a greater distance, who shall fail to attend one regular meeting in the year shall be liable to a like penalty, and which sum shall be paid within thirty days thereafter.

§ 3. No member of this society shall conceal his art of curing diseases, or pretend to any nostrum, or superior knowledge or skill

in the treatment of diseases generally; nor shall any member professionally consult, attend patients or associate with any known quack, or any person professing the healing art who is not regularly authorized by the laws of the state to practice physic or surgery, or both; or with any physician who does not attach himself to the medical society, after residing in the county one year.

Quackery.

Duties of members.

§ 4. The members of this society shall attend punctually, and give advice unreservedly in consultations, and shall vindicate the professional character and practice of each other as far as opportunity, propriety and justice may require.

Penalty for refusing to comply with the requirements of the society.

§ 5. Every member who shall neglect or refuse to comply with the by-laws and regulations of this society, or the by-laws and regulations of the medical society of the state of New-York, or the medical law of said state, shall be expelled from said society, upon a vote of a majority of the members present.

Manner of trial.

§ 6. The manner of trial of a member, with a view to expulsion under this article, and the notice to be given to him, shall be determined on whenever an accusation shall be preferred.

Verdict—how given.

§ 7. Said trial shall be fair and impartial, and the verdict of the members shall be given by ballot on the day of trial.

Medical Ethics.

§ 8. The Code of Medical Ethics, revised, adopted and republished by the state medical society in the year 1832, shall be, and hereby is adopted by this society, and shall be scrupulously adhered to by each and every member thereof; and any departure from the true spirit and meaning of said code of ethics shall subject every such member to the discipline of this society.

Appeal.

§ 9. Any member, feeling himself aggrieved by the official or personal acts of another, may appeal for redress to the society, whose decision shall be final.

§ 10. It shall be the duty of every member to advise and acquaint the President with the names of all such persons as are practicing physic or surgery in the county contrary to law.

Members expelled.

§ 11. No physician who has been expelled from this or any other medical society, shall be again admitted into this society unless four fifths of the members present at an annual meeting concur by ballot in his admission.

ARTICLE VIII.

Charges of Gross Ignorance or Misconduct, and of Immoral Conduct and Habits.

Charges—to whom presented.

§ 1. Charges of the character above specified, may be presented to the President, or in case of a vacancy to the Vice President, when the society is not in session, or to the society at any of its meetings. Such charges shall be in writing, and shall contain specifications setting forth, with certainty and precision, the offence charged. And it shall be the duty of the President or Vice President, when the charges are presented to them, and of the society, when said charges are presented at a meeting thereof, before taking any steps to call a special meeting, to satisfy themselves, by taking legal advice or otherwise, that the said charges and specifications are conformable to the statute, and that they set forth facts sufficient to enable the judges of the county courts to proceed thereon, in case they should be found well founded by the society.

To be made in writing.

Duty of the President and society in relation thereto.

The person to whom charges are preferred, to call a special meeting.

§ 2. The President or Vice President, or the society, to whichever the said charges shall be presented, after becoming satisfied of the matters mentioned in the first Section, Article 8th, shall cause such special meeting to be called, and such notice to be given, as is required by the statute on that subject; and when the society shall be convened at such special meeting, the said charges shall be distinctly read, and the sense of the meeting taken thereon by ballot; and if two thirds of the members present shall be of opinion that said charges are well founded, the President shall make out and deliver such certified copy, and such notice as are required by the statute in such case made and provided.

ARTICLE IX.

Licentiates.

Licentiates.

§ 1. Every licentiate shall subscribe to the following declaration, which shall be kept on file by the Recording Secretary:

Declaration to be subscribed.

"I, A. B., do solemnly declare that I will honestly, virtuously and chastely conduct myself in the practice of physic and surgery, with the privilege of exercising which profession I am now to be invested; and that I will, with fidelity and honor, do every thing in my power for the benefit of the sick committed to my charge."

§ 2. Every person admitted to the practice of physic and surgery by this society, shall receive the following licence to practice, viz:

License

"To all to whom these presents shall come, or may in anywise concern:

The President and members of the Medical Society of the County of Erie, State of New-York, send greeting:—

Whereas (name and place of candidate,) hath exhibited unto us satisfactory testimony that he hath studied physic and surgery for the term and in the manner directed by law; and hath, also, upon examination by our Censors, given sufficient proof of his proficiency in the healing art, and of his moral character—Wherefore, by virtue of the power vested in us by law, we do grant unto the said the privilege of practicing physic and surgery in this state, together with all the rights and immunities which usually appertain to physicians and surgeons.

In witness whereof we have granted this diploma, sealed with our seal, and testified by our President and Secretary, at this day of 18

President.

Secretary."

ARTICLE X.

Amendments

§ 1. Any proposed amendment to these by-laws shall be made in writing at a regular meeting of the society, and may be adopted at the next regular meeting by a vote of two thirds of the members present.

LAWS OF THE STATE OF NEW YORK, RELATIVE TO THE MEDICAL PROFESSION.

GENERAL REGULATIONS CONCERNING THE PRACTICE OF PHYSIC AND SURGERY IN THIS STATE—PASSED IN 1827.

[*From the Revised Statutes, Vol.* 1. *Part* 1. *Chap.* 14. *Title* 7.]

Sec. 1. Medical Societies to require physicians and surgeons to apply for admission.
2. If persons notified do not apply, license to be forfeited.
3. Charges may be preferred to society against members for misconduct, &c.
4. When charges to be delivered to the district attorney.
5. District attorney to serve copy on accused, and give notice of hearing.
6. He shall conduct prosecution and issue subpœnas for both parties.
7. County Judges to hear and determine charges; their judgement.
8 & 9. Qualifications for admission to an examination; term of study, &c.
10. Certificates of commencing of studies, to be filed with president of society.
11. Order of president specifying period of study, to be annexed to certificate.
12. When regents to grant degrees of Doctor of Medicine.
13. In what county students to be examined.
14. Candidates rejected in one county not to be examined in another; appeal.
15. Persons rejected by state censors not to be examined by county censors.
16. No person to practice without license, &c. from this or some other state.
17. Persons coming from another state, &c. to file copy of diploma with county clerk.
18. Certain diplomas not to confer right of practising in this state.
19. Persons licensed, to deposit copy of license in county clerk's office.
20. Persons under 21, not entitled to practice.
21. Certain degrees not to be a license; restrictions as to faculty.
22. Penalty for practising without authority.

Notice to be given to every physician and surgeon.

§ 1. The president of every county medical society shall give notice in writing, to every physician and surgeon not already admitted into such society, within the county in which the society of which he is president is situated, requiring such physician or surgeon, within 60 days after the service of such notice, to apply for and receive, a certificate of admission, as a member of such society.

How served; persons notified to forfeit their licenses if they do not apply.

§ 2. The service of every such notice shall be made personally, on the physician or surgeon, to whom it shall be directed; and if such physician or surgeon shall not, within the time specified in the notice, or within such further time as may be allowed by the president under the regulations of the society, apply for a certicate of membership in such society, his license shall be deemed forfeited, and he shall be subject thereafter to all the provisions and penalties of the laws of this state, in relation to unlicensed physicians, until upon a special application, he shall be admitted a member of the medical society, in the county in which he shall reside.

Charge for misconduct.

§ 3. If there shall be preferred to any county medical society, specific charges against any member thereof, of gross ignorance or misconduct in his profession, or of immoral conduct or habits, a special meeting of the society to consider the charges shall be called, of which at least ten days previous notice shall be given, in one or more of the newspapers printed in the county,

Proceedings thereon.

§ 4. If two thirds of the members present at such meeting shall be of opinion, that the charges preferred are well founded, the president of the society shall, without delay, deliver a certified copy of the charges and of the vote of the society thereon, to the district attorney of the county, and shall give notice of such delivery to the member accused, who from that time shall be suspended from the practice of physic and surgery, until the determination of such charges, in the manner hereinafter provided.

Charges to be served and notice of hearing.

§ 5. The district attorney to whom the charges shall be delivered, shall serve a copy thereof without delay, on the member accused, and at the same time shall give him notice, of the time and place at which the judges of the court of common pleas of the county will meet for the purpose of hearing and determining the same; such notice shall be served at least fourteen days, before the time of hearing appointed.

District attorney to prosecute.

§ 6. The district attorney shall conduct the prosecution of the charges, and shall issue process to compel the attendance of such witnesses, as the president of the society and the member accused shall severally require.

Judges to determine.

§ 7. The Judges of the county court, at the time and place of hearing appointed, or at such other time and place as they shall fix, shall proceed to hear and determine the charges, and shall examine, on oath, the witnesses produced: if they, or a majority of them, shall be satisfied, from the evidence, that the charges are true, they shall make an order, which shall be valid in law, expelling the member accused from the society, and declaring him for ever thereafter incapable of practising physic and surgery, within this state: or suspending him from such practice, for a limited period: if they shall be of opinion, that the charges are not established, the suspension of the member accused shall cease, and he shall be restored to all his rights and privileges, as a practising physician and surgeon.

To expel,

Or suspend,

§ 8. No student shall be admitted to an examination by any medical society, until he shall have completed, with some physician and surgeon, duly authorized by law to practice his profession, the term of medical study, prescribed in the following sections of this Title. Qualifications of students.

§ 9. The regular term of the study of medical science shall be four years, but a deduction from such term, in no case to exceed one year, shall be made in either of the following cases: Term of study.

1. If the student, after the age of sixteen, shall have pursued any of the studies usual in the colleges of this state, the period, during which he shall have pursued such studies, shall be deducted.

2. If the student, after the age of sixteen, shall have attended a complete course of all the lectures delivered in an incorporated medical college in this state, or elsewhere, one year shall be deducted.

§ 10. The physician and surgeon with whom a student shall commence his studies, shall file a certificate with the president of the county medical society to which he belongs, certifying that such person has so commenced his studies; and the term of study shall be considered as commencing from the day on which such certificate is filed. Certificates.

§ 11. If the term of study shall be intended to be for less than four years, upon either of the grounds mentioned in the ninth section of this Title, the president with whom the certificate shall be filed, upon satisfactory proof that a deduction ought to be allowed, shall annex to such certificate, an order specifying the period, not exceeding one year, which, according to the proof exhibited to him, ought to be deducted from the term of four years, and directing that the term of study of the student shall be for the period that shall remain. Order for term of study.

§ 12. No person shall receive from the regents of the university a diploma, conferring the degree of doctor of medicine, unless he shall have pursued the study of medical science for at least three years, after the age of sixteen, with some physician and surgeon, duly authorized by law to practice his profession, and shall also, after the same age, have attended two complete courses of all the lectures delivered in an incorporated medical college, and have attended the last of such courses, in the college by which he shall be recommended for his degree. Requisites for diplomas from regents.

In what counties students to be examined.

§ 13. No student shall be admitted to an examination by any county medical society, except of the county in which he shall have pursued his medical studies for four months immediately preceding his examination; but if the student, during that period, shall have attended the lectures in either of the incorporated medical colleges of this state, he may be examined and licensed, either by the medical society of the county in which such college is situated, or by that of the county in which he shall have resided, previous to such attendance.

If rejected, to appeal.

§ 14. No person, who shall have been examined by the censors of any county medical society, as a candidate for the practice of physic and surgery, or either of them, and shall have been rejected on such examination, shall be admitted to an examination before the censors of any other county medical society; but such person may appeal from the decision of the censors by whom he shall have been examined, to the medical society of the state.

Persons rejected by state society.

§ 15. No person, who, either upon an original examination or upon an appeal, shall have been rejected by the censors of the state medical society, shall thereafter be admitted to an examination, before the censors of any county medical society.

Who to practice physic.

§ 16. No person shall practice physic or surgery, unless he shall have received a license or diploma, for that purpose, from one of the incorporated medical societies in this state, or the degree of doctor of medicine from the regents of the university; or shall have been duly authorized to practice by the laws of some other state or country, and have a diploma from some incorporated college of medicine, or legally incorporated medical society, in such state or country.

Persons from another state or country.

§ 17. No person coming from another state or country, shall practice physic or surgery in this state, until he shall have filed a copy of his diploma with the clerk of the county where he resides, and until he shall have exhibited to the medical society of that county, satisfactory evidence that he has regularly studied physic and surgery, according to the requisitions of the ninth section of this Title.

Diplomas to students in certain schools, not valid.

§ 18. No diploma, granted by any authority out of this state, to an individual who shall have pursued his studies in any medical school within this state, not incorporated and organized under its

laws, shall confer on such individual the right of practicing physic or surgery within this state.

§ 19. Every person licensed to practice physic or surgery, or both, shall deposit a copy of such license with the clerk of the county where he resides, who shall file the same in his office; and until such license is so deposited, such person shall be liable to all the penalties provided by law, in the same manner as if he had no license. Licenses in all cases to be filed.

§ 20. No person under the age of twenty-one years shall be entitled to practice physic or surgery in this state. Persons under 21.

§ 21. The degree of doctor of medicine conferred by any college in this state, shall not be a license to practice physic or surgery; nor shall any college have, or institute, a medical faculty, to teach the science of medicine, in any other place than where the charter locates the college. Degrees conferred by colleges, &c.

§ 22. Every person, not authorized by law, who for any fee or reward, shall practice physic or surgery within this state, shall be incapable of recovering, by suit, any debt arising from such practice. Penalties for practicing without authority.

RELATING TO THE PRACTICE OF PHYSIC AND SURGERY.

An act concerning the Practice of Physic and Surgery in this State, Passed April 7, 1830. Chap. 126, p. 141.

[From the Revised Statutes, Vol. III. Appendix, p. 104.

§ 1. All that part of section twenty-second of Title seventh of Chapter fourteenth of the First Part of the Revised Statutes, after the words "such practice," at the end of the third line, be and the same is hereby repealed. Repeal.

§ 2. Every person not authorized by law, who shall practice physic or surgery within this state, shall for each offence of which he may be duly convicted, forfeit and pay a sum not exceeding twenty-five dollars, to be recovered, with costs of suit, before any justice of the peace of the county where such penalty shall be incurred, by any person who will prosecute for the same; and the justice before whom such conviction shall be had, shall pay the same to the overseers of the poor of the town where such conviction shall be had, for the use of the poor of such town, or of the county poor, where the distinction between town and county poor shall have been abolished. But the provisions of this section shall Penalty for practicing without authority.

Exemption as to roots, barks and herbs.

not be deemed and taken to extend to or debar any person from using or applying, for the benefit of any sick person, any roots, barks, or herbs, the growth or produce of the United States.

An act to amend an act entitled "An act concerning the practice of physic and surgery in this state, passed April 7th, 1830.—Passed April 3, 1834.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

Amendment of act.

§ 1. The last clause of the second section of the act entitled "An act concerning the practice of physic and surgery in this state," passed April 7th, 1830, in the following words: "But the provisions of this section shall not be deemed and taken to extend to, or debar any person from using or applying for the benefit of any such person, any roots, barks or herbs, the growth or produce of the United States," is hereby repealed.

§ 2. The act hereby amended shall not be so constructed as to apply to any person or persons who shall without fee or reward, use or apply, for the benefit of any sick person, any roots, barks or herbs, the growth or produce of the United States.

MEDICAL SOCIETIES.

An act to incorporate Medical Societies, for the purpose of regulating the Practice of Physic and Surgery in this State. Passed April 10, 1813. Sess. 36. Chap. 94.

[From the Revised Statutes, Vol. III. p. 304.

Preamble.

WHEREAS, well regulated medical societies have been found to contribute to the diffusion of true science, and particularly the knowledge of the healing art: Therefore,

County medical societies, how incorporated.

§ 1. *Be it enacted by the People of the state of New-York, represented in Senate and Assembly,* That it shall and may be lawful for the physicians and surgeons in the several counties of this state, now authorized by law to practice in their several professions, except in those counties wherein medical societies have been already incorporated, to meet together on the first Tuesday of July next, at

the place where the last term of the court of common pleas next previous to such meeting was held in their respective counties; and the several physicians and surgeons so convened as aforesaid, or any part of them, being not less than five in number, shall proceed to the choice of a president, vice-president, secretary and treasurer, who shall hold their offices for one year, and until others shall be chosen in their places; and whenever the said societies shall be so organized as aforesaid, they are hereby declared to be bodies corporate and politic, in fact and in name, by the names of the medical society of the county where such societies shall respectively be formed, and by that name shall be in law capable of suing and being sued, pleading and being impleaded, answering and being answered unto, defending and being defended, in all courts and places, and in all matters and causes whatsoever; and shall and may have a common seal, and may alter and renew the same at their pleasure: *Provided always*, That if the said physicians and surgeons shall not meet and organize themselves at such time and place as aforesaid, it shall be lawful for them to meet at such other time as a majority of them shall think proper; and their proceedings shall be as valid as if such meeting had been at the time before specified.

The officers of each society.

Its corporate name,

And privileges.

§ 2. *And be it further enacted*, That the medical societies of counties already incorporated, shall continue to be bodies corporate and politic, in fact and in name, by the name of the medical society of the county where such societies have respectively been formed, and by that name shall be in law capable of suing and being sued, pleading and being impleaded, answering and being answered unto, defending and being defended, in all courts and places, and in all matters and causes whatsoever, and shall and may have a common seal, and may alter and renew the same at their pleasure, and that the president, vice-president, secretary and treasurer, of such incorporated societies, shall hold their offices for one year, and until others shall be chosen in their places.

The present county societies to continue incorporated.

Their privileges and general powers,

And officers.

§ 3. *And be it further enacted*, That the medical society already incorporated, by the style and name of the Medical Society of the state of New-York, shall continue to be a body politic and corporate, in fact and name, and by that name shall be in law capable of suing and being sued, pleading and being impleaded, answering and being answered unto, defending and being defended, in all courts

The medical society of the state of New York to continue incorporated.

and places, and in all matters and causes whatsoever; and shall and may have and use a common seal, and may change and alter the same at their pleasure; and that the said society shall be composed of one member from each of the county societies in the state, elected by ballot at their annual meeting, who shall meet together at the time and place appointed by the said society for that purpose, and being met, not less than fifty in number, may annually elect by ballot, a president, vice-president, secretary and treasurer, who shall hold their offices for one year, and until others shall be chosen in their places.

How constituted and composed.

Its officers.

Medical societies' anniversary meetings.

§ 4. *And be it further enacted*, That the medical society of the state of New-York, and also the medical societies of the respective counties, shall and may agree upon and determine the times and places of their meeting; and the time so agreed upon shall for ever thereafter be the anniversary day of holding their respective meetings; and it is hereby made the duty of the secretary of each of the county medical societies, to lodge in the office of the clerk of their respective counties, if not already done, a copy of all the proceedings had at their first meeting; and it shall also be the duty of the secretary of the medical society of the state of New-York, in like manner, to lodge in the office of the secretary of this state, a copy of their proceedings had at their first general meeting; and the said clerks and secretary are hereby required to file the same in their respective offices, for which they shall each receive the sum of twelve and an half cents.

Proceedings of first meeting—where deposited.

State society divided into classes.

§ 5. *And be it further enacted*, That the members now composing the medical society of the state of New-York from each of the four great districts, shall remain divided into four classes, and one class from each of said districts shall go out of office annually.

Notice how given of vacancies in the state society.

§ 6. *And be it further enacted*, That it shall be the duty of the secretary of the medical society of the state of New-York, whenever the seats of any of the members shall become vacant, to give information of the same to the respective county societies, to the end that such county societies may supply such vacancy at their next meeting.

Classes in the state society may be varied and how.

§ 7. *And be it further enacted*, That in case there shall be an addition to the number of members composing the medical society of the state, that in that case it shall be in the power of the said socie-

ty at any of their annual meetings, and as often as they shall judge necessary, to alter and vary the classes in such manner as that one-fourth of the members from each of the great districts, as near as may be, shall annually go out of office.

Vacancies in state society how filled.

§ 8. *And be it further enacted*, That if the seat of any member of the medical society of the state of New-York shall be vacated, either by death, resignation or removal from the county, it shall be the duty of the medical society of such county to fill such vacancy at their next meeting after such vacancy shall happen.

Medical societies to examine students.

§ 9. *And be it further enacted*, That the medical societies established as aforesaid, are hereby respectively empowered to examine all students who shall and may present themselves for that purpose, and to give diplomas, under the hand of the president and seal of such society before whom such student shall be examined, which diploma shall be sufficient to empower the person so obtaining the same, to practice physic or surgery, or both, as shall be set forth in the said diploma, in any part of this state.

To give diplomas which shall authorize the party to practice.

Students if refused diploma by county society may appeal to the state society.

§ 10. *And be it further enacted*, That if any student who shall have presented himself for examination before any of the medical societies of the several counties of this state shall think himself aggrieved by the decision of such society, it shall be lawful for such student to present himself for examination to the medical society of the state of New-York; and if in the opinion of such society the student so applying is well qualified for the practice of physic or surgery, or both, as the case may be, the president of said society shall, under his hand and the seal of such society, give to the said applicant a diploma, agreeable to such decision.

And state society may award diploma on such appeal.

Censors to be appointed by the societies.

§ 11. *And be it further enacted*, That it shall and may be lawful for the several medical societies so established as aforesaid, at their annual meetings, to appoint not less than three, or more than five censors, to continue in office for one year and until others are chosen, whose duty it shall be carefully and impartially to examine all students who shall present themselves for that purpose, and report their opinion in writing to the president of the said society.

Their duty.

Medical societies may hold real and personal estate.

§ 13. *And be it further enacted*, That it shall and may be lawful for the medical societies of the respective counties of this state, and also the medical society of the state of New-York, to purchase and hold any estate, real and personal, for the use of said respective so-

Proviso.

cieties: *Provided*, Such estate, as well real as personal, which the county societies are hereby respectfully authorized to hold, shall not exceed the sum of one thousand dollars; and that the estate, as well real and personal, which the medical society of the state of New-York is hereby authorized to hold, shall not exceed five thousand dollars.

Societies—their general powers to make by-laws

§ 14. *And be it further enacted*, That it shall be lawful for the respective societies to make such by-laws and regulations relative to the affairs, concerns and property of said societies, relative to the admission and expulsion of members, relative to such donations or contributions as they or a majority of the members at their annual meeting shall think fit and proper: *Provided*, that such by-laws, rules and regulations made by the society of the state of New-York, be not contrary to, nor inconsistent with, the constitution and laws of this state, or of the United States; and that the by-laws, rules and regulations of the respective county societies shall not be repugnant to the by-laws, rules and regulations of the medical society of the state of New-York, nor contrary to, nor inconsistent with, the constitution and laws of this state, or of the United States.

Proviso.

Treasurer of each county society liable for moneys.

§ 15. *And be it further enacted*, That the treasurer of each society established as aforesaid, shall receive and be accountable for all moneys that shall come into his hands by virtue of any of the by-laws of such societies, and also for all moneys that shall come into the hands of the president thereof for the admission of members, or licensing students; which moneys the said president is hereby required to pay over to the said treasurer, who shall account therefor to the society at their annual meetings, and no moneys shall be drawn from the treasurer, unless such sums and for such purposes as shall be agreed upon by a majority of the society at their annual meeting, and by a warrant for that purpose signed by the president.

And to account therefor.

Moneys how drawn.

Secretary of each society to keep its minutes, &c.

§ 16. *And be it further enacted*, That it shall be the duty of the secretary of each of the said medical societies, to provide a book, in which he shall make an entry of all the resolutions and proceedings which may be had from time to time; and also the name of each and every member of said society, and the time of his admission, and also the annual reports relative to the state of the treasury, and all such other things as a majority of the society shall think proper; to which book any member of the society may at any time

have recourse; and the same, together with all books, papers and records which may be in the hands of the secretary, and be the property of the society, shall be delivered to his successor in office. And deliver them, &c. to his successor.

§ 17. *And be it further enacted*, That it shall be lawful for each of the said medical societies, to cause to be raised and collected from each of the members of such society, a sum not exceeding three dollars in any one year, for the purpose of procuring a medical library and apparatus, and for the encouragement of useful discoveries in chemistry, botany, and such other improvements as the majority of the society shall think proper. A medical library and apparatus, &c. may be procured by each society, and how.

§ 18. *And be it further enacted*, That any student who may receive a diploma from the medical society of this state, shall pay to the president thereof, on receiving the same, ten dollars; and for each diploma that a student may receive from the medical society of any county, he shall pay to the president thereof, on receiving the same, five dollars: *Provided*, That the students who have been examined previous to the twenty-sixth day of May, one thousand eight hundred and twelve, and were entitled to receive diplomas, but who have not received the same, shall not pay therefor more than two dollars. What sums to be paid on receiving diplomas.

§ 19. *And be it further enacted*, That the medical society of this state may elect by ballot at their annual meeting, eminent and respectable physicians and surgeons residing in any part of this state, which persons so elected shall be permanent members of the society, and entitled to all the privileges of the same: *Provided*, That not more than two such members shall be elected in any one year, and that they receive no compensation for their attendance from the funds of the society. State society may annually elect two members thereof, and how.

§ 23. *And be it further enacted*, That it shall be in the power of the legislature to alter, modify or repeal this act whenever they shall deem it necessary or expedient. Legislature may modify or repeal this act.

§ 24. *And be it further enacted*, That if there should not be a sufficient number of physicians and surgeons in any of the counties of this state to form themselves into a medical society agreeably to this act, it shall be lawful for such physicians and surgeons to associate with the physicians and surgeons of an adjoining county, for the purposes hereby contemplated. When physicians, &c. of one county may become members of another county society.

This act declared a public act.

§ 25. *And be it further enacted*, That this act shall be, and hereby is declared to be a public act.*

An act to amend an act, entitled "An act to incorporate Medical Societies, for the purpose of regulating the Practice of Physic and Surgery in this State." Passed April 20, 1818. Chap. 206, p. 192.

Censors to be elected.

§ 3. *And be it further enacted*, That the state medical society shall annually elect not more than twelve, nor less than six censors, any three of whom shall be a quorum for the examination of students.

Anniversary meeting of county societies may be altered in certain cases.

§ 5. *And be it further enacted*, That in those counties where the anniversary meetings of any county medical society shall occur on the same day on which the court of common pleas shall meet, it shall be lawful for such society to alter the time of their anniversary meeting to such day as a majority of the said society present may think proper.

Delegates to represent the colleges of medicine.

§ 6. *And be it further enacted*, That each of the colleges of medicine in this state, may elect a delegate to represent their colleges, respectively, in the medical society of the state, who shall be entitled to all the privileges, and subject to the same regulations, as the delegates from the county medical societies.

An act further to amend "An act to incorporate Medical Societies for the purpose of regulating the Practice of Physic and Surgery in this State." Passed April 13, 1819. Chap. 237, p. 308.

Tax.

§ 1. *Be it enacted by the People of the State of New-York, represented in Senate and Assembly*, That it shall and may be lawful for each medical society in this state, to cause to be raised and collected from each practicing physician and surgeon, residing in the county or counties where such society is by law established, a sum not exceeding one dollar in any one year; which sum, when collected, shall be a part of the fund of said society, to be applied as directed by the seventeenth section of the act, entitled "An act to

*The original act for establishing Medical Societies in this State, and a general State Medical Society, was passed April 4, 1806.

incorporate medical societies for the purpose of regulating the practice of physic and surgery in this state," passed April 10, 1813.

An act to enable the County Medical Societies in this State to alter the time of holding their Annual Meetings. Passed April 23, 1823. Chap. 228, p. 281.

§ 1. *Be it enacted by the People of the State of New-York, represented in Senate and Assembly*, That it shall and may be lawful for any society, incorporated under the act, entitled "An act to incorporate medical societies, for the purpose of regulating the practice of physic and surgery in this state," at any anniversary meeting of such society, to change the day of holding their annual meeting to such other day in the year as may be more convenient: *Provided*, That two-thirds of the members present concur in voting for such change: notice of intention to move the same having been first given at some previous regular meeting of the society.* Annual meeting, &c. Proviso.

*It will be observed that the Revisors have omitted the following sections as not in force——In the act passed April 10, 1813, sections 12, 20, 21, 22——In the act passed April 10, 1818, sections 1, 2. 4, 7——In the act passed April 13, 1819, section 2. All the above are repealed by enactments contained in the "*General Regulations*" contained in pages 17, &c.

A SYSTEM OF MEDICAL ETHICS.

[The following code of Medical Ethics was reported to the State Medical Society in February, 1823, by a committee consisting of Drs. Manley, Pascalis and Steel, and unanimously adopted. It is now re-printed by order of the Society, with a few alterations.]

A system of Medical Ethics comprises all the moral principles and regulations which should govern physicians and surgeons in the exercise of their professional avocations with the public in general, in private and confidential cases, as well as in their intercourse with other medical men, and before magistrates and courts of justice.

Such a system may be reduced to the form of a code of medical police, exhibiting maxims and precepts in five respective divisions of medical ethics, under the following heads:

1*st*. *Personal Character of Physicians.*
2*d*. *Quackery.*
3*d*. *Consultations.*
4*th*. *Specifications of Medical Police in Practice.*
5*th*. *Forensic Medical Police.*

FIRST DIVISION.

Personal Character of Physicians.

Qualifications, &c.

Trials, &c.

It would be difficult to determine which of the three learned professions in society requires the most virtue, or the most purity, and perfection of personal character. Those only can judge who are themselves acquainted with the difficulties to be surmounted in the study of medicine and surgery, and the labor and extent of the long course of experimental observation which is necessary to pursue, before the confidence of the public can be attained. The life of a physician is, on the whole, a continual struggle against prejudices and erroneous habitudes of the mind, and not unfrequently against ingratitude,* exclusive of the personal hazard among the sick, the fatigue, and the loss of ordinary comfort and rest which it necessarily involves.

Requisites.

I. A physician can not successfully pass through his career without the aid of much fortitude of mind, and a religious sense of all his obligations of conscience, honor, and humanity.† His per-

*It unfortunately happens that the only judges of medical merit, are those who have sinister views in concealing and depreciating it. *John Gregory, M. D. Lec.* 1, *on the duties of Physicians, p.* 17, *Lon. Ed.*

†Hence appears the necessity of a physician having a large share of good sense, and knowledge of the world, as well as medical genius and learning. *Ibid. p.* 17.

sonal character should therefore be that of a perfect gentleman, and above all, be exempt from vulgarity of manners, habitual swearing, drunkenness, gambling, or any species of debauchery, and contempt for religious practices and feelings.*

II. The confidence of the public can not be awarded to a physician who has rendered himself notorious for felony or misdemeanor, or who has incurred penalties for crimes.

III. A physician in indigent circumstances is not permitted to embrace or exercise any business which would degrade the character of his profession; such as keeping a tavern, lottery office, gambling, victualling, or play-house. Any low trade or servile mercenary occupation, is incompatible with the dignity and independence of medical avocations. In such extreme and derogatory situations, a physician forfeits the privileges of his profession.

No other business to be embraced during the practice of medicine.

SECOND DIVISION.

The importance of the medical profession requires that it should be exercised with fidelity to its scientific principles and approved doctrines; with honor to all its members, and with justice and humanity to the sick. A departure from the above principles constitutes

Quackery,

which degrades the medical character by ignorance, artifice, unapproved methods of practice, and by the use of remedies dangerous to health and life.

Quackery.

IV. Any physician and surgeon who divides his responsibility with a known quack, and associates with him in medical consultations, receiving a fee, or the usual charges for such services, or practices with nostrums, secret medicines, or patent remedies, is guilty of quackery.

Nostrums and secret medicines.

V. The right of a patent medicine being incompatible with the duty and obligations enjoined upon physicians to advance the knowledge of curing diseases, it constitutes quackery, and can not be professionally countenanced.

VI. Public advertisements, or private cards, inviting customers afflicted with defined diseases; promising radical cures; engaging

Advertisements, cards, &c.

*The most celebrated physicians, who to this day remain our models and masters, were religious men. I know none among the living who can be judged greater than Stahl, Boerhaave, Linnæus and Haller, who always headed their works by an invocation to the Supreme Ruler. *F. E. Fodere. Vid. Diction des sciences medicales, art. Med. Police.*

for no cure, no pay; offering advice and medicines to the poor, *gratis;* producing certificates and signatures, even from respectable individuals, in support of the advertiser's skill and success, and the like, are all absolutely acts of quackery, which medical institutions should also repress, and punish by the rejection or expulsion of those who commit them.

THIRD DIVISION.

Consultations.

Consultations

All the individuals composing the colleges and medical societies constituted by the legislature of this state, are by them, qualified *physicians and surgeons.* The two professions of medicine and surgery are blended by the law, both in the schools and in practice.

Qualifications, &c.

The examination by the censors of the county and state societies, of candidates for the degree of *license*, and by the professors of colleges for the degree of *doctor*, are equally directed to embrace in their exercises, the elements and doctrines of both sciences, establishing thereby the candidate's proficiency, not only in medicine, but in surgery. There are no degrees of qualifications, nor are different rights assigned to the members of the same profession, but such as result from their individual choice, skill, and fitness. Practical surgery is more properly attended to by the younger members, but the more experienced should be deemed competent to direct or inspect either the theoretical or practical departments.

These remarks are offered, to show that the distinction frequently adopted in practice, and especially in consultation, between physicians and surgeons, confining each other to *surgical* or *medical*, *external* or *internal* cases, has no foundation in propriety, and if adhered to, arises from the wish to indulge in personal or interested motives. It is admitted, however, that when the question is merely to perform some operative process, a *practical surgeon* should be selected in preference; but this exception is only applicable, when a physician declines (on such accounts as he may think proper,) to perform a necessary operation, and by no means invalidates the principle established in the state of New-York, in conformity to medical ethics.*

*Among the moderns, the arts of physic and surgery have often been promiscuously practiced by the same person: for example, Aildanus, Severinus, Bartholine, and many others of distinguished genius and learning.

* * * * The separation of physic from surgery in modern times, has been productive of the worst consequences. *J. Gregory, Lect.* 11, § 44.

VII. A consultation of one or many physicians is like a deliberating committee, over which a senior in age or experience presides, each one, however, being equally responsible for the trust assigned to him of the cure and relief of the patient. The attending physician is exclusively charged with the execution of the treatment from day to day, nor is any consulting physician ever allowed to visit or inspect, unless it be with his colleagues, or by agreement, or in cases of emergency.

Operations in consultations.

When a surgical operation is required, it devolves upon the senior practitioner of surgery in the consultation, or on one especially appointed*

VIII. A diversity of opinion in consultation is to be regretted, for if unavoidable, it must cause much delay and many inconveniences before a medical umpire can be obtained. It is needless to point out what a correct sense of delicacy will in this case require from a gentleman who, in spite of his opposition, finds himself in the minority; he should politely retire from the consultation, and if he be the family physician, he should consistently resign his *deliberative vote.*†

Reserve, secrecy, opinions, &c.

IX. A great reserve, and even secrecy respecting the deliberations of a consultation, is indispensable. No communication is to be made to the patient or friends, but by unanimous order and consent; because, whatever opinions are emitted, become subject to frequent alterations or inversions from mouth to mouth, and may become a source of contradiction, perhaps injurious to some of the physicians in attendance.

Visits of consulting physicians and surgeons.

X. It is the duty of a consulting physician to take care that his visits be not multiplied without necessity. He is, through courtesy, at liberty to decide when to discontinue his attendance. A consulting physician, however, can not be dismissed without the consent of the patient as well as of the attending physician.

Advice.

XI. Physicians are justly censurable if their patient be in danger and they do not in time procure advice and responsibility besides their own. Whatever be the motive that induces them to dispense

*In consultations, the junior physician (or the physician in ordinary) should deliver his opinion first, and the others in the progressive order of seniority. *T. Percival. Med. Ethics, p.* 19.

†"Every physician must rest on his own judgment, which appeals for its rectitude to nature and experience alone." *J. Gregory, Lect.* 1. *on the duties and qualities, &c. Lond. Ed. p.* 14.

"But an obstinate adherence to an unsuccessful method of treating a disease, is self-conceit; it generally proceeds from ignorance—it is a species of pride to which the lives of thousands have been sacrificed." *Ibid. p.* 28.

with a consultation, they certainly may expose their reputation by an incorrect judgment or misapprehension of their patient's case, and weaken the confidence reposed in them. And a physician does not acquit himself correctly towards his patients if he does not benefit him with the best advice that can be procured. Poverty, or the narrowness of means to remunerate an additional practitioner, is no reasonable excuse, for he can scarcely deserve the name of a practicing physician who can not find at least one medical friend to consult, when the life or limb of a fellow-creature is in jeopardy.

FOURTH DIVISION.

Specifications of Medical Ethics in Practice.

Duties.

XII. Physicians are often requested to declare to the patient his danger, and to urge his observance of religious and testamentary acts; but medical aid, in extremely dangerous cases, would seldom be of any avail, if in place of composing the mind of the sufferer, physicians were to doom it to despondency and despair. Such services are incompatible with their duty of administering hope and comfort, without the influence of which, many doubtful cases of disease might at once become positively fatal.

To a christian minister alone, or to some other authorized person, therefore, appertains the task of disclosing to the patient his alarming situation, and preparing his mind to meet with composure that event, which to his friends may appear inevitable.

Physicians should not interfere in the final settlement of their patient's worldly affairs. These are eventually composed of various family claims and pretensions; and a physician's inteference in their distribution may be taxed as arising from interested motives, or be thought by those concerned to be a disgraceful violation of the confidence reposed on his humane functions as medical attendant.

In order to protect himself, and to place his name beyond the reach of any implication, he should,

Notice of danger, &c.

1st. Give timely and explicit information of the dangerous situation of the patient, to those who have the best right to advise him in his religious and temporal concerns.

2d. He should inform them of a possibility of a change in the prognostic, in order to prevent any relaxation of care and attention

on the part of nurses and others, that no chances of the patient's recovery be lost through neglect.

3d. The physician in such a case, should continue his personal attendance, which is the more proper, as he entertains or has acknowledged some hopes of a favorable change; should he be dismissed from pecuniary motives, his responsibility nevertheless requires a friendly or gratuitous attention.*

XIII. It is not intended in this system of medical ethics to instruct physicians and surgeons upon every felonious act of infanticide, murder, &c. for which the penal statutes of this country have made sufficient provision. It is incumbent upon medical authorities to consider, condemn and punish as *criminal*, such acts of medical practitioners as offend the respective obligations of married persons, or the chastity and modesty of the youth of both sexes. This restrictive definition is to be applied,

1st. To the personal conduct of medical men, who abuse the confidence of families, and become exposed to legal damages for *crim. con.* or *seduction*, &c.

2d. To those who, with a view of curing diseases or correcting certain natural imperfections, prescribe remedies or advise remedial means that must interfere with matrimonial rights and the observance of a chaste and moral life.

The scope of opinion on this subject may be wide, and the pretexts in palliation numerous, but the dependence of the public upon our labors for the preservation of health, and the cure of diseases, ought to be held sacred; nor can confidence be granted to a profession, that should allow any of its members to violate hospitality, to promote immorality, or to be accessory to vicious and criminal conduct.

XIV. Honor and justice particularly forbid a medical practitioner's infringing upon the rights and privileges of another who is legally accredited, and whose character is not impeached by public opinion, or civil or medical authority; whether he be a native or a stranger settled in the country. There is no difference between physicians but such as results from their personal talents, medical acquirements, or their experience; and the public, from the services

Privileges, talents, &c.

* "It is as much the business of a physician to alleviate pain and to smooth the avenues of death, when unavoidable, as to cure diseases." *Vid. 7 Gregory's Lectures. Lon. Ed. p. 32, and Benjamin Rush's appendix on the duties of a physician, art. XI.*

they receive, are the natural judges of these intellectual advantages. In all probability, every good physician would receive a merited share of patronage, were there not many who usurp a portion through artful insinuations, and slanders of others, or combinations against, or improper interferences with, the more worthy practitioner. Any physician thus molested or injured, is justifiable in applying for redress to the county medical society to which he is attached.

Visits, &c. XV. A physician is not to visit a patient placed under another practitioner's care, without previous and ostensible friendship or business, nor without first informing the attending physician; if then he thinks it proper to advise, he may do it, but it must be in conformity to the rules of consultation as above explained.

Libellous attacks, &c. XVI. Libellous attacks among physicians are no doubt subject to the same mode of redress by damages as the law points out to other citizens; but we hold that matters of libel include professional and practical acts whether true or false, published or stated to any person who is not a competent judge, with a view to injure the professional reputation of a physician. This identical principle was adopted by the supreme court of Pennsylvania in the trial of Benj. Rush, v. Wm. Cobbett, alias Porcupine, in which a verdict of $4,000 damages was awarded to the plaintiff for a libel founded in a malicious representation of the plaintiff's practice, made to the public by the defendant.

Medical controversies. XVII. If medical controversies are brought before the public in newspapers or pamphlets, by contending medical writers, and give rise to, or contain assertions or insinuations injurious to the personal character or professional qualifications of the parties, such papers are unquestionably disreputable to the medical community; for those who should be foremost in the pursuit of truth, ought to be the last to set an example of an illiberal, indecorous, and revengeful deportment, so contrary to what is expected from literary and scientific gentlemen. Such papers are therefore to be reported by the censors to their respective county medical societies, and the authors are liable to such punishment as the case may require.

Confidential—Secrecy, &c. It is a matter of justice, necessity and propriety, that the business of a physician and surgeon should be always considered of a confidential nature. Even *secrecy*, in certain circumstances, as will be explained hereafter, is the privilege of the faculty; and inviolable

even in a court of justice. In ordinary practice, common sense, decency and delicacy should, in familiar conversation with females, and persons uninstructed in medicine, always exclude such topics as patients, diseases, remedies, operations, and the like. A display of terrific and wonderful relations of diseases, remedies, wounds, operations and cures, is frequently indulged in, no doubt *ad captandum*, yet in most cases they produce but an equivocal admiration for the narrator, and prove besides his very imperfect knowledge of human nature. Those who are not familiar with the subjects of medical art and study, are liable to draw mistaken and contradictory inferences from what they hear concerning them. Hence many people suppose that a physician is an unfeeling man; and assimilate a good surgeon to a butcher. The more talk, therefore, the more numerous the misrepresentations set afloat, and the greater the diffidence, distrust, or disrespect excited.

Wrong inferences.

XVIII. The exposure of the nature of the complaint which a physician is called upon to judge or cure, subjecting the patient to public shame, or impeaching his moral character, is an unpardonable breach of medical ethics.

XIX. "The poor," says Boerhaave, "are the best customers, because God will be the paymaster." Instead of fee, they give in exchange the benefit of experience, of useful observation, and frequently the gratification of successful advice, which is more exactly followed by them than by the rich, who too often spoil the best directions by their whimsical notions and love of comfort. The most lucrative and extended patronage a physician can enjoy, far from being an honorable pretext for not affording some attention to the poor, stands as a proof of his selfishness or want of humanity.

Patronage, &c.

XX. In urgent cases of sickness, or of injuries occasioned by accidents, a call for medical or surgical help should be obeyed immediately, unless such compliance be to the detriment of some other sufferer. It often happens in such cases that many physicians, and more than are required, meet on the spot. Courtesy then assigns the patient to the first physician or surgeon who arrives, and if he should want assistance, he has a right to request it from a physician or practical surgeon present, according to the nature of the case. But if the physician or surgeon who usually attends the fa-

Calls to be promptly obeyed, in cases of accidental injuries.

Courtesy, &c.

mily or patient, be of the number, then the present urgent case is assigned to him.

Concerning attendance.

In the event of concurring attendance of many medical gentlemen, no fee is to be exacted for the trouble of coming, unless called upon by some authorized person. An accidental injury is *distress*, and help for a fellow-being in *distress*, is claimed by the laws of nature.*

Fees, compensation, &c

XXI. The fees for the compensation of medical services are regulated by the value of currency, and the price of necessaries in different countries and cities; by the customs approved and established among experienced and reputable practitioners; and sometimes by a recorded rate of charges, such as individuals belonging to any trade or profession adopt by general consent. Public opinion in civilized nations, and among the more enlightened classes of society, will always highly estimate and liberally compensate medical services.

Charges, justice and honor.

A strict sense of justice and honor towards each fellow member of the profession, should prevent a physician from undervaluing his services, by items and charges in his bills beneath the customary rate, with a view to draw patronage by exciting comparisons. A practitioner may settle his demands with his patrons on whatever terms he pleases, but he has no right to make the low charges an established usage to the prejudice of his brethren. The reputation of a *cheap doctor*, after all, is neither dignified nor enviable.

Demands—their character.

Others will follow quite a contrary method. They will place an exorbitant value on their time and labor, and exact oppressive demands for their services. The conduct of such has a very injurious influence over the lower and middling classes of society, who, needing medical aid, are deterred from applying to any physician, lest they should incur ruinous charges. These expensive doctors should be reminded, that whenever a person pays a bill which he thinks extravagant and unreasonable, he easily repays himself, and gratifies his vanity, if not his resentment, by divulging how much money he has been willing to bestow, what liberality he has exercised, or to what imposition he has been exposed!

*Dr. Gregory says (p. 179) "that under such circumstances, considerations of benevolence, humanity, and gratitude are wholly set aside; for when disputes arise, they must be suspended or extinguished, and the question at issue can alone be decided on the 'principle of *commutative justice*.'" If a physician would, therefore, contend for *remuneration*, it could not be as a *medical fee*, but an indemnity only for the expenses of transporting himself there, where he *might* be wanted. The question is the more easily settled, as it has no further reference to medical service.

Some physicians, more intent on acquiring wealth than a good name, *exact* from their patients their charges, whether great or small, with unrelenting severity, refusing time to procure the necessary means, often having recourse to law-suits, disregarding the plea of low circumstances, or absolute want, thus creating much distress; such conduct is as disreputable to the physician as it is disgraceful to humanity; for the highest aim of the profession is to reach its utmost requisitions. These *extortioners*, as they dishonor the medical profession by a single act of such oppression, deserve a public reprimand, if not a prompt expulsion from their county medical society. Law-suits.

Whenever a physician is reduced to obtain his professional fees by compulsory measures, it is his duty first to propose, and to prefer the settlement of the matter in contention by a reference to arbitrators.

XXII. It is enjoined in the sacred obligation which Hippocrates imposed upon the pupils of the noble science of medicine and surgery, which is also the model of the like engagement offered to the candidates for graduation in this and other countries, that they shall respect and assist their preceptors and masters, their seniors by experience or age, and shall contribute as far as in their power, to the honor, improvement, and utility of their professions. According to this precept, physicians and surgeons have something more to do than to procure their livelihood. As they are indebted to the labors, talents, and experience of their predecessors in the healing art for all that constitutes its admirable body of doctrine; so present and future generations look to them for some additional improvement, because much can yet be done to extend its usefulness. This obligation is unbecomingly violated by many physicians who pretend to eminence; they estrange themselves from medical associations —never have any observation or improvement to communicate— their degree of skill and experience always remains unknown and mysterious—they screen themselves from scientific labors and controversies; and, as if incompetent, never contribute by any effort, however small, to the advancement of the medical character. Such practitioners, although they are frequently popular and wealthy, are, nevertheless, only comparable to drones in the bee-hive; medical associations should refuse to confer upon them offices, appointments, Claims of medical preceptors and masters.

Estrangement and exclusiveness of members.

or even employments in committees, on the principle that proofs are wanting of their talents, zeal, judgment and professional emulation.

FIFTH DIVISION.

Forensic Medical Police.

XXIII. There are numerous accidents and offences, the nature and degree of criminality of which are determined by medical opinion. Human passions daily occasion acts of violence which fall under the cognizance of public justice; and diseases of the mind, whether arising from vice, intemperance, sickness or accident, have also their share of influence in the commission of crime; and often lead their unfortunate victims to suicide and murder. Crimes so originating could be perpetrated in ways so disguised to conceal the authors, or the means by which they were accomplished, were it not that juries can be assisted by medical men in evidence relating to physiology. A physician should always be in readiness to answer in these judicial inquisitions, and to give an opinion, on facts referring to his judgment, according to the approved doctrines of medicine and surgery, as far as these are ascertained. Ignorance, or an imperfect knowledge upon matters which place life, honor and innocence in a fatal predicament, is unpardonable, and should subject any physician so illiterate, to disqualification for the privileges of his profession.

Judicial inquisitions.

Rules thereon.

XXIV. To well instructed physicians, only two rules need to be recommended. The one relating to their conduct when they are called upon to give professional evidence; and the other to the nature and extent of the secrecy which they are bound to maintain in relation to their patients.

Decisions of physicians.

1st. When physicians engaged in the decision of a forensic question are unbiassed by the parties, and have no interest for plaintiff or defendant, (being well informed of all the facts alleged in evidence,) they have only to decide by known medical principles, and can therefore rarely disagree. It is their duty to obtain every possible information upon the case, and before giving in their declaration, candidly and conscientiously to canvass each other's opinions, so that erroneous ideas may be removed, and information participated.* Two or more physicians on one side of a question, should

*When two or more gentlemen of the faculty are to offer their opinions or testimony, it would sometimes tend to obviate contrariety, if they were to confer freely with each other, before their public examination. *T. Percival, Med. Ethics*, ch. 4, page 107.

in the same manner freely communicate, in order to guard against versatile and contradictory declarations, for which the trivial sarcasm, "doctors differ," is no excuse, as they always invalidate their opinions, authority, decisions and respectability.

2d. The second rule is that of secrecy upon facts with which physicians become professionally acquainted, or are invited to ascertain; such as, whether an apparent pregnancy be real; the gestation and birth of a child; its parentage, color, and age: the judgment and treatment of syphilitical and gonorrhœal diseases; the able or disabled state of a person, in limb or constitution; the fallacy of virginity, and other circumstances, to the confession of which a degree of shame, and the idea of exposure are attached, and which are never mentioned but with an engagement to secrecy. Secrecy,

This duty has been defined by comparing it to that of the Catholic Confessional, which admits of no disclosures except in cases of treason or murder.* This inference has been acknowledged by the judiciary of New-York, and, in its application to medical matters, admitted by that of Pennsylvania in the year 1800.† The Revised Statutes of our state have, however, prescribed the duty of physicians on this point. In the second volume, (page 406,) is the following enactment:— except in cases of treason and murder.

"No person duly authorized to practice physic and surgery, shall be allowed to disclose any information which he may have acquired in attending any patient in a 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." No disclosures.

EXTRACT

From the Proceedings of the MEDICAL SOCIETY *of the* STATE OF NEW-YORK, *at its annual Session in February*, 1833.

Dr. M'Call offered the following resolution with its preamble, which were adopted:

*The sacred duty or privilege of a Catholic priest not compellable to disclose the secrets of auricular confession, was maintained by a decision of the court of sessions of New York, 14th of June, 1813, in the case of the Rev. Mr. K refusing his testimony on a matter of felony. *Vid. Cathol. quest. report, by Wm. Sampson, Esq.*

†Many persons would rather suffer or die than be exposed to shame or disgrace from the complaints they are laboring under. It is a law of nature that they should seek for cure or relief, and be protected by professional secrecy, even if a matter of prosecution should arise therefrom.

Whereas a great diversity of opinion exists amongst the medical profession of our state, on the powers of Medical Societies as to the admission of members; and whereas a perfect understanding of said law is important to the harmony and usefulness of the profession—Therefore,

Resolved, That a committee be appointed to obtain the opinion of the Attorney General upon the same.

Resolved, That Drs. M'Call, Burwell and Taylor, be said committee.

Dr. M'Call, from the committee appointed to wait on the Attorney General, reported the following opinion of that officer:

Albany, February 6, 1833.

Doctors M'Call, Burwell and Taylor.

Gentlemen,—In pursuance of the request of the Medical Society of this state, communicated through you, I have given a brief consideration to the powers of the County Medical Societies, relating to the admission and expulsion of members.

The first act authorizing the incorporation of Medical Societies, was passed in 1806. 4 Web. 537. This act was revised and re-enacted on the 10th of April, 1813, and is still in force. 2 R. L. 219. 3 R. S. 304. This act, after reciting that "well regulated Medical Societies have been found to contribute to the diffusion of true science, and particularly the knowledge of the healing art," provided that a society might be formed in each county, by the voluntary association of not less than five physicians and surgeons, and the choice of certain officers. By the 14th section of the act, the societies were empowered at their annual meetings, to make by-laws and regulations "relative to the affairs, concerns and property of said societies, *relative to the admission and expulsion of members*, and relative to donations or contributions.

It has never been doubted that the act of 1813 gave the several societies ample discretion, as well in relation to the admission as the expulsion of members. They were not compelled, without their consent, to associate either with licensed quacks, or men of bad moral character.

But it has been said that title VII. of chapter XIV. of the first part of the Revised Statutes, (1 R. S. 452,) has introduced a different rule on this subject. That inasmuch as every physician is required

to apply for admission into the Medical Society of his county, on pain of the forfeiture of his license, the society can have no right to reject him on the ground of his moral or professional character; and that inasmuch as provision is made for the expulsion of members by the judges of the county courts, the society can have no power over its members, other than such as this statute has provided.

On both of these points, I entertain a different opinion from the one above mentioned. The Revised Statutes do not profess to repeal the act of 1813, or any part of it. Both acts relate to the same subject, and should be construed together; and it is believed that they may be interpreted in such a manner as to give effect to all their provisions.

First. Every physician, not already a member, must apply for admission into the society of his county, on pain of the forfeiture of his license.

Second. The society, in pursuance of its by-laws and regulations, may either admit or reject the applicant. If rejected, he loses nothing but the benefits which he might have derived from the association. His license is not forfeited.

Third. The society, in pursuance of its by-laws and regulations, may either expel a member, or may deliver charges to the district attorney; and the member may be expelled from the society by the judges of the county court. In the first case the member loses nothing but the benefits of the association: in the last case he may be for ever disqualified from pursuing his profession, or be suspended from practice for a limited period.

This opinion will derive some support from the decision of the Supreme Court, in the case of *The People* against *The Medical Society of the county of New-York.* 3 Wend. 426.

I am, with great respect,

Your obedient servant,

GREENE C. BRONSON.