ASSEMBLY, NO. 245

(*P. L.* 1915, *p.* 261)

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 19, 1934

By Mr. WAUGH

Referred to Committee on Miscellaneous Business

AN ACT to amend an act entitled "An act to regulate the practice of dentistry in the State of New Jersey and to repeal certain acts now relating to same," approved March thirty-first, one thousand nine hundred and fifteen, as amended.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section seven of the act of which this act is amendatory be and the same hereby is amended to read as follows:

7. Any license to practice dentistry in this State may be suspended or revoked by the board upon proof to the satisfaction of the board that the holder of such license (a) has secured such license through deceit, fraud or willful misrepresentation, or (b) has been convicted of crime involving moral turpitude, or (c) habitually uses drugs or intoxicants to an extent rendering him unfit for the practice of dentistry, or (d) has been guilty of willful and gross malpractice or willful and gross neglect in the practice of dentistry, or (e) has been guilty of employing unlicensed persons to perform work which, under this act, can only legally be done by persons licensed to practice dentistry in this State, or (f) has been convicted, or has paid any penalty, more than once of practicing dentistry under a corporate or trade or firm name in violation of the provisions of this act or any amendment thereof, or (g) has willfully advertised or published grossly false, fraudulent

or misleading statements of his art, skill or knowledge or of his methods of treatment or practice, or (h) has violated any of the rules or regulations which the State Board of Registration and Examination in Dentistry may hereafter adopt with respect to the practice of dentistry, which rules or regulations the said board is empowered to adopt at any regular or special meeting of said board after public hearing held thereon, notice of which hearing is to be mailed to all registered dentists at their last known addresses at least five days prior to said hearing. Any person whose license shall be suspended or revoked in accordance with this section shall be deemed an unlicensed person, during the period of such suspension or revocation, and as such shall be subject to the penalties prescribed for unlicensed persons who practice dentistry.

Any person whose license shall be suspended or revoked, under the authority of this act may in the discretion of the board be relicensed at any time to practice without an examination upon application to the board.

Before any license shall be revoked or suspended, a notice shall be served upon the accused person which notice shall specify the grounds for such proposed suspension or revocation and shall name a time and place for hearing. Such notice shall be served upon the accused person either personally or by leaving the same at his place of business or residence, or by registered mail, at least twenty days before the time fixed for the hearing. At the time and place fixed in said notice for said hearing, or any time and place to which the said hearing shall be adjourned, the board shall hear the matter in a summary way. The accused person shall have the right to be represented at any such hearing by counsel of his selection. The president of the board shall have the right to administer oaths to witnesses and to issue subpœnas for the compulsory attendance of witnesses at such hearing. Upon the request of the accused person or his counsel, the president of said board shall issue subpœnas to compel the attendance of witnesses in behalf of the accused, which subpœnas when issued shall be delivered to the accused person or his counsel. Process for the compulsory attendance of witnesses shall be effec-

tive if served upon the person named therein anywhere within this State; *provided,* that at the time of such service the fees now or hereafter provided by law for witnesses in civil cases shall be paid or tendered to such person. Any person upon whom a subpœna shall have been served and to whom a fee has been paid or tendered as provided in this act who shall not appear according to the command thereof, having no lawful or reasonable excuse for such default, shall be liable to a penalty of fifty dollars ($50.00) which shall be sued for and recovered by said board in the manner herein provided for the recovery of penalties incurred under this act.

In case the action of the board in revoking or suspending any license shall be reviewed by writ of certiorari, the court shall determine questions of fact, as well as of law and inquire into the facts by depositions taken on notice or in such manner as is according to the practice of the court, provided that a transcript of the testimony taken before said board shall be included in the return to the writ and shall be considered by the court the same as if it had been taken by deposition on notice and either party may take additional testimony. The court may reverse or affirm in whole or in part the finding or determination of the board or pronounce such judgment on the evidence as shall be warranted by the circumstances of the case. The Supreme Court or any justice thereof in allowing any writ of certiorari shall state in the allocatur whether the same shall have the effect of staying the revocation of suspension of such license, and in case it shall not be specifically provided therein that such writ shall act as a stay pending the determination thereof, it shall not have such effect.

2. Section eight of the act of which this act is amendatory be and the same hereby is amended to read as follows:

8. Every licensed dentist shall procure from the secretary-treasurer of said board on or before the first day of November, one thousand nine hundred and fifteen, and on or before the first day of November annually thereafter, an annual certificate of registration; such certificate shall be issued by the secretary-treasurer upon the payment of a fee [of two] the amount of which is to be established from time to time by the State Board of Regis-

tration and Examination in Dentistry, and shall not be less than one dollar, nor more than five dollars; all certificates so issued shall be prima facie evidence of the right of the holder to practice dentistry in this State. It shall be the duty of the secretary-treasurer of the board to mail to each [licensed dentist in this State] licensee, on or before the first day of October, one thousand nine hundred and fifteen, and on or before the first day of October annually thereafter, a printed blank form to be filled out by such licensed person, which form shall be returned by such licensed person to the secretary-treasurer of said board, properly filled out, together with the fee herein fixed for such annual registration. Upon receipt of such form and fee, the annual certificate of registration shall be issued and transmitted. The board shall cause a notice to be inserted in not less than three newspapers; one in the city of Trenton, one in the city of Camden, and one in the city of Newark, to the effect that such annual registration will be required. Such notice shall be printed in such papers, once a week for three consecutive weeks between the first day of September and the first day of October, one thousand nine hundred and fifteen, and during the same period annually thereafter. The license to practice dentistry of every person who shall fail to procure any annual certificate of registration at the time and in the manner required by this section may be suspended by the board in the manner provided by section seven hereof. Any license so suspended shall be reinstated within three years from the date of such suspension upon the payment of all past due annual registration fees and an additional reinstatement fee of twenty-five dollars. Any person whose license shall have been suspended for such cause shall, during the period of such suspension, be regarded as an unlicensed person, and, in case he shall continue or engage in the practice of dentistry during such period, shall be liable to the penalties prescribed by section eleven of this act for practicing dentistry without a license.

Any such registration certificate issued between the first day of October and the first day of November of any year may be displayed at any time

following its receipt by a licensee. On and after November first, of each year, it must be displayed in the manner prescribed in section nine of the act of which this act is an amendment.

3. Section ten of the act of which this act is amendatory be and the same hereby is amended to read as follows:

10. No corporation shall practice or continue to practice, offer or undertake to practice, or hold itself out as practicing dentistry. No person shall practice or continue to practice dentistry as an officer, agent or employee of any corporation, or under the name of any corporation. No person shall practice or continue to practice dentistry under, or as successor to, any firm name or trade name or under any name other than his true name; *provided*, that nothing herein contained shall prohibit the practise of dentistry by a partnership of dentists, who must be duly licensed and registered by the State Board of Registration and Examination in Dentistry, under a firm name containing nothing but the surname of every member of said partnership; *and provided, further*, that nothing contained herein shall prohibit a licensed dentist from practicing under his own name or under a firm name containing only the surnames of each duly licensed and registered member of such firm. Every person or corporation, firm, company, association or partnership, violating any of the foregoing provisions of this section shall be subject to a penalty of three hundred dollars for the first offense and [six] five hundred dollars for the second and each subsequent offense. Every person practicing dentistry under a firm name as herein authorized and every person practicing dentistry for himself or as an employee of another shall cause his full name to be conspicuously displayed and kept in a conspicuous place at the entrance of the place where such practice shall be conducted [,]. [and any] Any person who shall neglect to cause his name to be displayed as herein required, shall be liable to a penalty of one hundred dollars [.], which shall be sued for and recovered by said board in the manner herein provided for the recovery of penalties incurred under this act. Any defendant who may refuse or fail to forthwith pay the amount of the judg-

ment ordered against him and all the costs and charges incident thereto, for the violation of any portion of this section, shall be committed to the county jail for not less than thirty days, and not exceeding ninety days, except in cases where the penalty is five hundred dollars, in which case commitment shall be for not less than sixty days and not exceeding one hundred and fifty days.

4. Section twelve of the act of which this act is amendatory be and the same hereby is amended to read as follows:

12. This act shall not be construed to prohibit an unlicensed person from performing mechanical work upon inert matter in a dental office or laboratory for any licensed dentist; or to prohibit a duly licensed physician from treating the diseases of the mouth or performing operations in oral surgery; nothing in the provisions of this act shall be construed to permit the performance of dental operations by any unlicensed person under cover of the name of a registered practitioner; any person shall be regarded as practicing dentistry within the meaning of this act who shall advertise, by sign, card, circular, pamphlet or newspaper, or otherwise indicate that he will perform by himself, or his agents or servants any operation on, or make examination of, with intent of performing or causing to be performed any operation on the human teeth or jaws, or with intent to construct any bridge, crown, denture or other prosthetic appliance, except for a dentist duly licensed as herein provided, or who is manager, proprietor or conductor of a place where dental operations are performed, or where bridges, crowns, dentures or other prosthetic appliances are constructed or supplied any person other than a duly licensed dentist, or who shall use the words or letters, "doctor of dental surgery," or "D. D. S." or "D. M. D.," or the terms "mechanical dentist," or "prosthetic dentist," or the use of the word "dentist" in English or any foreign language, or in any way, in connection with his or her name, or any other title intended to imply or designate him or her as a practitioner of dentistry, or who in connection with such title or titles, or without the use of such title, or any of them, shall treat or profess

to treat, either by himself or his agent or servant, or as agent or servant of another, any of the diseases or lesions of human teeth or jaws, or extract teeth, or shall prepare or fill cavities in human teeth, or correct the malposition of teeth or supply or construct and insert, whether by his own agency or the agency of the person so treated, under his direction, artificial dentures, crowns, or bridges as substitutes for natural teeth, or any prosthetic appliances or restorations of any nature whatever, or take, either through his own agency or the agency of the person for whom such prosthetic restoration is furnished, under his direction and guidance, any impression of the human gums, by any method whatsoever, direct or indirect, as from a previously constructed prosthetic appliance, in connection with the manufacture or supplying of artificial dentures or prosthetic appliances or restorations, except for licensed and registered dentists as herein provided, or perform any operation or make examination of with the intent of performing or causing to be performed any operation on the human teeth or jaws. The performance of any or all of these specified acts shall constitute an offense, whether there has been payment for services illegally rendered or for appliances or materials illegally furnished or not, and any person found guilty of any offense under this section shall be held to be an illegal practitioner of dentistry and shall be subject to a penalty of three hundred dollars for the first offense and of five hundred dollars for the second and each subsequent offense, which shall be sued for and recovered by said board in the manner herein provided for the recovery of penalties incurred under this act, and any defendant who may refuse or fail to forthwith pay the amount of the judgment ordered against him and all the costs and charges incident thereto, shall be committed to the county jail for not less than thirty days and not exceeding ninety days, except in cases where the penalty is five hundred dollars, in which case commitment shall be for not less than sixty days and not exceeding one hundred and fifty days.

5. Section fourteen of the act of which this act is amendatory be and the same hereby is amended to read as follows:

14. Any penalty incurred by violation of any provision of this act, except by any violation specifically made a misdemeanor by this act, shall be sued for and recovered by and in the name of the State Board of Registration and Examination in Dentistry. Every district court in any city and judicial district in any county, and every court of common pleas in any county is hereby empowered upon the filing of a complaint in writing, duly verified, which said verification when made by any member of the said State Board of Registration and Examination in Dentistry, or by any member of any incorporated dental society of this State, or of any county of this State, may be made upon information and belief that any person, firm, company, association or partnership, has violated any provision of this act, except the provisions above referred to as misdemeanors, to issue process at the suit of the State Board of Registration and Examination in Dentistry, as plaintiff; such process shall be either in the nature of a summons or warrant, which warrant may be issued without any order of the court or judge first being obtained against the person or persons so charged, which process when in the nature of a warrant, shall be returnable forthwith, except when it is served at a time when the court is not sitting, in which case the defendant may be detained in any jail until he may be brought before such court, either to furnish bail, as provided under this act, or for trial, in such manner as is herein provided; and when in the nature of a summons shall be returnable in not less than five nor more than fifteen entire days; such process shall state what section of the law is alleged to have been violated by the defendant or defendants, and upon the return of such process, or at any time to which the trial shall be adjourned, the said court shall proceed summarily to hear the testimony and to determine and give judgment in the matter without a jury and without the filing of any pleadings for the plaintiff for the recovery of such penalty with costs, or for the defendant, and the said court shall, if judgment be rendered for the plaintiff, cause any such defendant who may refuse or fail to forthwith pay the amount of the judg-

ment rendered against him and all the costs and charges incident thereto, to be committed to the county jail for any period of not less than thirty days and not exceeding ninety days, except in cases where the penalty is five hundred dollars, in which cases commitment may be made for a period of not less than sixty days and not exceeding one hundred and fifty days.

STATEMENT

These amendments give the State Board of Registration and Examination in Dentistry additional power to regulate the practice of dentistry; they provide additional safeguards against the illegal practice of dentistry.