

CHAPTER 1140

POSTMORTEM EXAMINATIONS

S. F. 509

AN ACT relating to autopsies and postmortem examinations.

Be It Enacted by the General Assembly of the State of Iowa:

1 SECTION 1. NEW SECTION. An autopsy or postmortem examina-
 2 tion may be performed upon the body of a deceased person by a physi-
 3 cian whenever the written consent to the examination or autopsy has
 4 been obtained by any of the following persons, in order of priority
 5 stated when persons in prior classes are not available at the time of
 6 death, and in the absence of actual notice of contrary indications by the
 7 decedent or actual notice of opposition by a member of the same or
 8 prior class:

- 9 1. The spouse.
- 10 2. An adult son or daughter.
- 11 3. Either parent.
- 12 4. An adult brother or sister.
- 13 5. A guardian of the person of the decedent at the time of his death.
- 14 6. Any other person authorized or under obligation to dispose of the
 15 body.

16 The provisions of this section shall not apply to any death investi-
 17 gated under the authority of sections three hundred thirty-nine point
 18 six (339.6) through three hundred thirty-nine point twelve (339.12)
 19 of the Code.

1 SEC. 2. Section three hundred thirty-nine point thirteen (339.13),
 2 Code 1973, unnumbered paragraph two (2), is amended by adding the
 3 following new sentence:

4 NEW SENTENCE. However, the body of a deceased person may be
 5 sent out of state for the purpose of an autopsy or postmortem exami-
 6 nation if the county medical examiner certifies in writing that the out-
 7 of-state autopsy or postmortem examination is necessary or, in the
 8 case of a death which is not in the public interest, as defined in section
 9 three hundred thirty-nine point six (339.6) of the Code, if the attend-
 10 ing physician certifies to the county medical examiner that the per-
 11 formance of the autopsy out of state is proper.

Approved May 2, 1974

CHAPTER 1141

PRACTICE OF MEDICINE AND SURGERY

H. F. 733

AN ACT relating to the practice of medicine and surgery, osteopathic medicine and surgery, and osteopathy and providing penalties.

Be It Enacted by the General Assembly of the State of Iowa:

1 SECTION 1. Section one hundred forty-seven point eighty (147.80),*
 2 subsection two (2), Code 1973, is amended to read as follows:

*Cannot apply—repealed by 65 GA, ch 1086, §89

3 2. For a license to practice medicine and surgery or osteopathic
 4 medicine and surgery, issued upon the basis of an examination given
 5 by the medical examiners, ~~fifty a fee to be determined by the medical~~
 6 *examiners, but not to exceed one hundred* dollars. For a license to
 7 practice medicine and surgery, osteopathic medicine and surgery or
 8 osteopathy, issued by endorsement or under a reciprocal agreement,
 9 one hundred dollars. For a license to practice chiropractic issued by
 10 endorsement or under a reciprocal agreement, one hundred dollars.

1 SEC. 2. Section one hundred forty-eight point two (148.2), Code
 2 1973, is amended by adding the following new subsection:

3 NEW SUBSECTION. A graduate of a medical school who is continu-
 4 ing his training and performing the duties of an intern, or who is
 5 engaged in postgraduate training deemed the equivalent of an intern-
 6 ship in a hospital approved for training by the medical examiners.

1 SEC. 3. Section one hundred forty-eight point three (148.3), sub-
 2 section one (1), paragraph b, Code 1973, is amended to read as fol-
 3 lows:

4 b. The completion of ~~three years~~ *one year* of training as a resident
 5 physician, which training has been approved by or is acceptable to the
 6 medical examiners; and

1 SEC. 4. Section one hundred forty-eight point three (148.3), Code
 2 1973, is amended by striking subsection two (2) and inserting in lieu
 3 thereof the following:

4 2. Pass an examination prescribed by the medical examiners which
 5 shall include subjects which determine the applicant's qualifications to
 6 practice medicine and surgery and which shall be given according to
 7 the methods deemed by the medical examiners to be the most appro-
 8 priate and practicable. However, the federation licensing examina-
 9 tion (FLEX) or any other national standardized examination which
 10 the medical examiners shall approve may be administered to any or
 11 all applicants in lieu of or in conjunction with other examinations
 12 which the medical examiners shall prescribe. The medical examiners
 13 may establish necessary achievement levels on all examinations for a
 14 passing grade and promulgate rules and regulations relating to
 15 examinations.

1 SEC. 5. Section one hundred forty-eight point three (148.3), sub-
 2 section four (4), Code 1973, is amended by striking the subsection.

1 SEC. 6. Section one hundred forty-eight point six (148.6), Code
 2 1973, is amended by striking the section and inserting in lieu thereof
 3 the following:

4 **148.6 Revocation.**

5 1. In addition to the provisions of sections one hundred forty-seven
 6 point fifty-eight (147.58) through one hundred forty-seven point
 7 seventy-one (147.71) of the Code, the medical examiners after due
 8 notice and hearing may direct the commissioner of health to issue an
 9 order to revoke or suspend a license to practice medicine and surgery,
 10 osteopathic medicine and surgery or osteopathy, or to discipline a
 11 person licensed to practice medicine and surgery, osteopathic medi-
 12 cine and surgery or osteopathy for any of the grounds set forth in
 13 sections one hundred forty-seven point fifty-five (147.55) and one

14 hundred forty-seven point fifty-six (147.56) of the Code or if, after
15 a hearing, the medical examiners determine that a physician licensed
16 to practice medicine and surgery, osteopathic medicine and surgery
17 or osteopathy is guilty of any of the following acts or offenses:

18 a. Knowingly making misleading, deceptive, untrue or fraudulent
19 representation in the practice of his profession.

20 b. Being convicted of a felony in the courts of this state or another
21 state, territory, or country. Conviction as used in this paragraph
22 shall include a conviction of an offense which if committed in this
23 state would be deemed a felony without regard to its designation else-
24 where, or a criminal proceeding in which a finding or verdict of guilt
25 is made or returned, but the adjudication of guilt is either withheld
26 or not entered. A certified copy of the final order or judgment of con-
27 viction or plea of guilty in this state or in another state shall be con-
28 clusive evidence.

29 c. Violating a statute or law of this state, another state, or the
30 United States, without regard to its designation as either felony or
31 misdemeanor, which statute or law relates to the practice of medi-
32 cine.

33 d. Having his license to practice medicine and surgery, osteopathic
34 medicine and surgery or osteopathy revoked or suspended, or having
35 other disciplinary action taken by a licensing authority of another
36 state, territory, or country. A certified copy of the record or order of
37 suspension, revocation, or disciplinary action is conclusive or prima
38 facie evidence.

39 e. Knowingly aiding, assisting, procuring, or advising a person to
40 unlawfully practice medicine and surgery, osteopathic medicine and
41 surgery or osteopathy.

42 f. Being adjudged mentally incompetent by a court of competent
43 jurisdiction. Such adjudication shall automatically suspend a license
44 for the duration of the license unless the board orders otherwise.

45 g. Being guilty of a willful or repeated departure from, or the fail-
46 ure to conform to, the minimal standard of acceptable and prevailing
47 practice of medicine and surgery, osteopathic medicine and surgery or
48 osteopathy in which proceeding actual injury to a patient need not
49 be established; or the committing by a physician of an act contrary to
50 honesty, justice, or good morals, whether the same is committed in
51 the course of his practice or otherwise, and whether committed within
52 or without this state.

53 h. Inability to practice medicine and surgery, osteopathic medicine
54 and surgery or osteopathy with reasonable skill and safety by reason
55 of illness, drunkenness, excessive use of drugs, narcotics, chemicals,
56 or other type of material or as a result of a mental or physical condi-
57 tion. The medical examiners shall, upon probable cause, have author-
58 ity to compel a physician to submit to a mental or physical examina-
59 tion by designated physicians. Failure of a physician to submit to an
60 examination shall constitute admission to the allegations made against
61 him and the finding of fact and decision of the medical examiners may
62 be entered without the taking of testimony or presentation of evi-
63 dence. At reasonable intervals, a physician shall be afforded an oppor-
64 tunity to demonstrate that he can resume the competent practice of
65 medicine with reasonable skill and safety to patients.

66 A person licensed to practice medicine and surgery, osteopathic
67 medicine and surgery or osteopathy who makes application for the
68 renewal of his license, as required by section one hundred forty-seven
69 point ten (147.10) of the Code, gives his consent to submit to a mental
70 or physical examination as provided by this paragraph when directed
71 in writing by the medical examiners. All objections shall be waived
72 as to the admissibility of the examining physicians' testimony or ex-
73 amination reports on the grounds that they constitute privileged com-
74 munication. The medical testimony or examination reports shall not
75 be used against a physician in another proceeding and shall be confi-
76 dential, except for other actions filed against a physician to revoke or
77 suspend his license.

78 i. Willful or repeated violation of lawful rule or regulation promul-
79 gated by the board or violating a lawful order of the board, previously
80 entered by the board in a disciplinary hearing.

1 SEC. 7. Section one hundred forty-eight point seven (148.7), un-
2 numbered paragraph one (1), Code 1973, is amended to read as fol-
3 lows:

4 ~~Any A~~ proceeding for the revocation, or suspension or probation of
5 a license to practice medicine and surgery, osteopathic medicine and
6 surgery, or osteopathy or to discipline a person licensed to practice
7 medicine and surgery, osteopathic medicine and surgery, or osteopathy
8 shall be substantially in accord with the following procedure:

1 SEC. 8. Section one hundred forty-eight point seven (148.7), sub-
2 sections three (3), five (5), seven (7), and eight (8), Code 1973, are
3 amended to read as follows:

4 3. The hearing shall be before a member or members designated by
5 the board or before a hearing officer appointed by the board. The
6 board shall designate one member to serve as presiding member. Such
7 The presiding board member or hearing officer is hereby empowered
8 to issue subpoenas, administer oaths and take or cause depositions to
9 be taken in connection with the hearing. He shall issue subpoenas at
10 the request and on behalf of the licensee. The hearing shall be open
11 to the public.

12 The compensation of the hearing officer shall be fixed by the medical
13 examiners. The hearing officer shall be an attorney vested with full
14 authority of the board to schedule and conduct hearings. The hearing
15 officer shall prepare and file with the medical examiners his findings of
16 fact and conclusions of law, together with a complete written transcript
17 of all testimony and evidence introduced at the hearing and all exhibits,
18 pleas, motions, objections and rulings of the hearing officer.

19 5. ~~In case any~~ If a person refuses to obey a subpoena issued by the
20 presiding member or hearing officer or to answer any a proper question
21 put to him during the hearing, the presiding member or hearing officer
22 may invoke the aid of any a court of competent jurisdiction or judge
23 thereof of this court in requiring the attendance and testimony of such
24 person and the production of papers. Any A failure to obey such order
25 of the court may be punished by the court as a civil contempt may be
26 punished.

27 7. If a majority of the members of the board vote in favor of finding
28 the licensee guilty of any an act or offense specified in section sections
29 147.55, or 147.56, or one hundred forty-eight point six (148.6), the

30 board shall prepare written findings of fact and its decision based
 31 ~~thereon~~ imposing one or more of the following disciplinary measures:

32 a. Suspend his license to practice his profession for a period to be
 33 determined by the board.

34 b. Revoke his license to practice his profession.

35 c. Suspend imposition of judgment and penalty or impose the judg-
 36 ment and penalty, but suspend enforcement and place the physician on
 37 probation. The probation ordered may be vacated upon noncompli-
 38 ance. The board of medical examiners may direct the commissioner of
 39 health to restore and reissue a license to practice medicine and surgery,
 40 osteopathic medicine and surgery or osteopathy, but may impose a
 41 disciplinary or corrective measure which it might originally have
 42 imposed. Such findings of fact and decision shall be filed with the
 43 commissioner of public health who shall within ten days from such
 44 filing enter an order revoking, or suspending ~~or placing on probation~~
 45 the license issued to a physician licensed to practice medicine and sur-
 46 gery, osteopathic medicine and surgery or osteopathy, or discipline
 47 such physician as directed by the board in its decision. A copy of the
 48 commissioner's order shall immediately be sent by registered mail to
 49 the licensee's last known post-office address accompanied by a copy of
 50 the board's findings of fact and decision.

51 8. The licensee shall have the right to a judicial review of the
 52 board's decision and the order of the commissioner. Such review shall
 53 be initiated by application ~~to~~ or petition for a writ of certiorari filed
 54 with the district court in and for Polk county, or to the district court
 55 of the county in which the licensee resides, by any method permissible
 56 under the laws of this state. Such application or petition must be made
 57 filed within thirty days after the date of the commissioner's order. On
 58 any such review, the hearing shall be tried as a suit in equity and shall
 59 be de novo. All legal evidence pertaining to the action of the board
 60 may be submitted including new evidence not submitted to the board.

1 SEC. 9. Section one hundred forty-eight point seven (148.7), Code
 2 1973, is amended by adding the following new subsection:

3 NEW SUBSECTION. The commissioner's order revoking or suspend-
 4 ing a license to practice medicine and surgery, osteopathic medicine
 5 and surgery or osteopathy or to discipline a licensee shall remain in
 6 force and effect until the appeal is finally determined and disposed of
 7 upon its merit.

Approved May 27, 1974

CHAPTER 1142

INTERNSHIP OF PHYSICIANS AND SURGEONS

H. F. 416

AN ACT relating to the internship requirements of physicians and surgeons and osteo-
 pathic physicians and surgeons.

Be It Enacted by the General Assembly of the State of Iowa:

1 SECTION 1. Section one hundred forty-eight point three (148.3),
 2 subsection three (3), Code 1973, is amended to read as follows: