

MAY 2 1973

House File 733  
State Government  
Shaw, Chairman  
Hansen  
Hill

HOUSE FILE 733

Place On Calendar

By COMMITTEE ON STATE GOVERNMENT

*Stat. Sect. 1-14-74, Page 1-14-74*

House File 733  
West, Chairman  
Cusack  
Harvey

*Sen. State Sect. 1-29, Page 3-12*

Passed House, Date 1-16-74 (57) Passed Senate, Date 4-11-74 (1325)

Vote: Ayes 90 Nays 3 Vote: Ayes 40 Nays 0

Approved 5-21-74

*Motion to reconsider filed 1-16 (57)  
Passed House for Senate amendment  
4-17-74 (1334)  
89-0*

## A BILL FOR

1 An Act relating to the practice of medicine and surgery, osteo-  
2 pathic medicine and surgery, and osteopathy and providing  
3 penalties.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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

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

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

16 NEW SUBSECTION. A graduate of a medical school who is  
17 continuing his training and performing the duties of an intern,  
18 or who is engaged in postgraduate training deemed the  
19 equivalent of an internship in a hospital approved for training  
20 by the medical examiners.

21 Sec. 3. Section one hundred forty-eight point three  
22 (148.3), subsection one (1), paragraph b, Code 1973, is amended  
23 to read as follows:

24 b. The completion of ~~three-years~~ one year of training  
25 as a resident physician, which training has been approved  
26 by or is acceptable to the medical examiners; and

27 Sec. 4. Section one hundred forty-eight point three  
28 (148.3), Code 1973, is amended by striking subsection two  
29 (2) and inserting in lieu thereof the following:

30 2. Pass an examination prescribed by the medical examiners  
31 which shall include subjects which determine the applicant's  
32 qualifications to practice medicine and surgery and which  
33 shall be given according to the methods deemed by the medical  
34 examiners to be the most appropriate and practicable. However,  
35 the federation licensing examination (FLEX) or any other na-

1 tional standardized examination which the medical examiners  
2 shall approve may be administered to all applicants in lieu  
3 of or in conjunction with other examinations which the medical  
4 examiners shall prescribe. The medical examiners may establish  
5 necessary achievement levels on all examinations for a passing  
6 grade and promulgate rules and regulations relating to examina-  
7 tions.

8 Sec. 5. Section one hundred forty-eight point three  
9 (148.3), subsection three (3), Code 1973, is amended to read  
10 as follows:

11 3. Present to the state department of health satisfactory  
12 evidence that applicant has completed one year of internship  
13 or resident training in a hospital approved for such train-  
14 ing by the ~~state-board-of~~ medical examiners. ~~No-hospital~~  
15 ~~shall-be-approved-which-does-not-provide-the-internship-with-~~  
16 ~~out-expense-to-the-intern.~~

17 Sec. 6. Section one hundred forty-eight point three  
18 (148.3), subsection four (4), Code 1973, is amended by striking  
19 the subsection.

20 Sec. 7. Section one hundred forty-eight point six (148.6),  
21 Code 1973, is amended by striking the section and inserting  
22 in lieu thereof the following:

23 148.6 REVOCATION.

24 1. In addition to the provisions of sections one hundred  
25 forty-seven point fifty-eight (147.58) through one hundred  
26 forty-seven point seventy-one (147.71) of the Code, the medi-  
27 cal examiners after due notice and hearing may direct the  
28 commissioner of health to issue an order to revoke or suspend  
29 a license to practice medicine and surgery, osteopathic medi-  
30 cine and surgery or osteopathy, or to discipline a person  
31 licensed to practice medicine and surgery, osteopathic medicine  
32 and surgery or osteopathy for any of the grounds set forth  
33 in sections one hundred forty-seven point fifty-five (147.55)  
34 and one hundred forty-seven point fifty-six (147.56) of the  
35 Code or if, after a hearing, the medical examiners determine

1 that a physician licensed to practice medicine and surgery,  
2 osteopathic medicine and surgery or osteopathy is guilty of  
3 any of the following acts or offenses:

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

6 b. Being convicted of a felony in the courts of this state  
7 or another state, territory, or country. Conviction as used  
8 in this paragraph shall include a conviction of an offense  
9 which if committed in this state would be deemed a felony  
10 without regard to its designation elsewhere, or a criminal  
11 proceeding in which a finding or verdict of guilt is made  
12 or returned, but the adjudication of guilt is either withheld  
13 or not entered. A certified copy of the final order or judg-  
14 ment of conviction or plea of guilty in this state or in an-  
15 other state shall be conclusive evidence.

16 c. Violating a statute or law of this state, another  
17 state, or the United States, without regard to its designation  
18 as either felony or misdemeanor, which statute or law relates  
19 to the practice of medicine.

20 d. Having his license to practice medicine and surgery,  
21 osteopathic medicine and surgery or osteopathy revoked or  
22 suspended, or having other disciplinary action taken by a  
23 licensing authority of another state, territory, or country.  
24 A certified copy of the record or order of suspension, revoca-  
25 tion, or disciplinary action is conclusive or prima facie  
26 evidence.

27 e. Engaging in unethical conduct or practice harmful to  
28 the public. Proof of actual injury need not be established.

29 f. Knowingly aiding, assisting, procuring, or advising  
30 a person to unlawfully practice medicine and surgery, osteo-  
31 pathic medicine and surgery or osteopathy.

32 g. Being adjudged mentally incompetent by a court of  
33 competent jurisdiction. Such adjudication shall automatically  
34 suspend a license for the duration of the license unless the  
35 board orders otherwise.

1 h. Being guilty of a willful or repeated departure from,  
2 or the failure to conform to, the minimal standard of accept-  
3 able and prevailing practice of medicine and surgery, osteo-  
4 pathic medicine and surgery or osteopathy in which proceeding  
5 actual injury to a patient need not be established; or the  
6 committing by a physician of an act contrary to honesty,  
7 justice, or good morals, whether the same is committed in  
8 the course of his practice or otherwise, and whether committed  
9 within or without this state.

10 i. Inability to practice medicine and surgery, osteopathic  
11 medicine and surgery or osteopathy with reasonable skill and  
12 safety by reason of illness, drunkenness, excessive use of  
13 drugs, narcotics, chemicals, or other type of material or  
14 as a result of a mental or physical condition. The medical  
15 examiners shall, upon probable cause, have authority to compel  
16 a physician to submit to a mental or physical examination  
17 by designated physicians. Failure of a physician to submit  
18 to an examination shall constitute admission to the allegations  
19 made against him and the finding of fact and decision of the  
20 medical examiners may be entered without the taking of testi-  
21 mony or presentation of evidence. At reasonable intervals,  
22 a physician shall be afforded an opportunity to demonstrate  
23 that he can resume the competent practice of medicine with  
24 reasonable skill and safety to patients.

25 A person licensed to practice medicine and surgery,  
26 osteopathic medicine and surgery or osteopathy who makes ap-  
27 plication for the renewal of his license, as required by sec-  
28 tion one hundred forty-seven point ten (147.10) of the Code,  
29 gives his consent to submit to a mental or physical examina-  
30 tion as provided by this paragraph when directed in writing  
31 by the medical examiners. All objections shall be waived  
32 as to the admissibility of the examining physicians' testimony  
33 or examination reports on the grounds that they constitute  
34 privileged communication. The medical testimony or examina-  
35 tion reports shall not be used against a physician in another

1 proceeding and shall be confidential, except for other actions  
2 filed against a physician to revoke or suspend his license.

3 j. Willful or repeated violation of lawful rule or regula-  
4 tion promulgated by the board or violating a lawful order  
5 of the board, previously entered by the board in a disciplinary  
6 hearing.

7 Sec. 8. Section one hundred forty-eight point seven  
8 (148.7), unnumbered paragraph one (1), Code 1973, is amended  
9 to read as follows:

10 Any A proceeding for the revocation, or suspension or  
11 probation of a license to practice medicine and surgery,  
12 osteopathic medicine and surgery, or osteopathy or to  
13 discipline a person licensed to practice medicine and surgery,  
14 osteopathic medicine and surgery, or osteopathy shall be  
15 substantially in accord with the following procedure:

16 Sec. 9. Section one hundred forty-eight point seven  
17 (148.7), subsections three (3), five (5), seven (7), and eight  
18 (8), Code 1973, are amended to read as follows:

19 3. The hearing shall be before a member or members desig-  
20 nated by the board or before a hearing officer appointed by  
21 the board. ~~The board shall designate one member to serve~~  
22 ~~as presiding member. -- Such~~ The presiding board member or  
23 hearing officer is hereby empowered to issue subpoenas,  
24 administer oaths and take or cause depositions to be taken  
25 in connection with the hearing. He shall issue subpoenas  
26 at the request and on behalf of the licensee. The board may  
27 exclude the general public from the hearings and shall admit  
28 the news media, except in those cases, which in the opinion  
29 of the board, the best interest of a witness, licensee or  
30 the public are served by a private hearing.

31 The compensation of the hearing officer shall be fixed  
32 by the medical examiners. The hearing officer shall be an  
33 attorney vested with full authority of the board to schedule  
34 and conduct hearings. The hearing officer shall prepare and  
35 file with the medical examiners his findings of fact and con-

1 clusions of law, together with a complete written transcript  
2 of all testimony and evidence introduced at the hearing and  
3 all exhibits, pleas, motions, objections and rulings of the  
4 hearing officer.

5 5. ~~In-case-any~~ If a person refuses to obey a subpoena  
6 issued by the presiding member or hearing officer or to answer  
7 any a proper question put to him during the hearing, the  
8 presiding member or hearing officer may invoke the aid of  
9 any a court of competent jurisdiction or judge thereof of  
10 this court in requiring the attendance and testimony of such  
11 person and the production of papers. Any A failure to obey  
12 such order of the court may be punished by the court as a  
13 civil contempt may be punished.

14 7. If a majority of the members of the board vote in favor  
15 of finding the licensee guilty of any an act or offense  
16 specified in ~~section~~ sections 147.55, or 147.56, or one hundred  
17 forty-eight point six (148.6), the board shall prepare written  
18 findings of fact and its decision based-thereon: imposing  
19 one or more of the following disciplinary measures:

20 a. Administer a public or private reprimand.

21 b. Suspend his license to practice his profession for  
22 a period to be determined by the board.

23 c. Revoke his license to practice his profession.

24 d. Require him to submit to the care, counseling, or  
25 treatment of physicians designated by the board.

26 e. Suspend imposition of judgment and penalty or impose  
27 the judgment and penalty, but suspend enforcement and place  
28 the physician on probation. The probation ordered may be  
29 vacated upon noncompliance. The board of medical examiners  
30 may direct the commissioner of health to restore and reissue  
31 a license to practice medicine and surgery, osteopathic medi-  
32 cine and surgery or osteopathy, but may impose a disciplinary  
33 or corrective measure which it might originally have imposed.  
34 Such findings of fact and decision shall be filed with the  
35 commissioner of public health who shall within ten days from

1 such filing enter an order revoking, or suspending ~~or placing~~  
2 ~~on-probation~~ the license issued to a physician licensed to  
3 practice medicine and surgery, osteopathic medicine and surgery  
4 or osteopathy, or discipline such physician as directed by  
5 the board in its decision. A copy of the commissioner's order  
6 shall immediately be sent by registered mail to the licensee's  
7 last known post-office address accompanied by a copy of the  
8 board's findings of fact and decision.

9 8. The licensee shall have the right to a judicial review  
10 of the board's decision and the order of the commissioner.  
11 Such review shall be initiated by application ~~to~~ or peti-  
12 tion for a writ of certiorari filed with the district court  
13 in and for Polk county, or to the district court of the county  
14 in which the licensee resides, by any method permissible under  
15 the laws of this state. Such application or petition must  
16 be made filed within thirty days after the date of the  
17 commissioner's order. On any such review, the hearing shall  
18 be tried as a suit in equity and shall be de novo. All legal  
19 evidence pertaining to the action of the board may be submitted  
20 including new evidence not submitted to the board.

21 Sec. 10. Section one hundred forty-eight point seven  
22 (148.7), Code 1973, is amended by adding the following new  
23 subsection:

24 NEW SUBSECTION. The commissioner's order revoking or  
25 suspending a license to practice medicine and surgery, osteo-  
26 pathic medicine and surgery or osteopathy or to discipline  
27 a licensee shall remain in force and effect until the appeal  
28 is finally determined and disposed of upon its merit.

29 EXPLANATION

30 This bill changes the provision concerning examination  
31 fees for the license to practice medicine and surgery or  
32 osteopathic medicine and surgery from a fifty dollar fee to  
33 a fee determined by the board of medical examiners, but not  
34 to exceed one hundred dollars.

35 Interns in approved internship programs are exempted from

1 licensing. The requirement that a resident physician must  
2 complete three years of training for licensure is reduced  
3 to one year.

4 The board of medical examiners is given authority to ad-  
5 minister nationally standardized examinations and to estab-  
6 lish passing grades by rule and regulation. In addition the  
7 board may approve internship programs in institutions other  
8 than hospitals. The citizenship requirement for applicants  
9 is eliminated.

10 The alternative procedure for license revocation or sus-  
11 pension or disciplinary action taken by the board is specified.  
12 The reasons for which the board may take action are listed.  
13 The board is given the authority to require a physician to  
14 submit to a mental or physical examination if the board has  
15 reason to believe that an examination is necessary to deter-  
16 mine the fitness of a physician to practice.

17 The board of medical examiners is given the authority to  
18 appoint a hearing officer who shall take testimony and make  
19 recommendations to the board. The board must make the final  
20 decision.

21 H-2006  
1 Amend House File 733, page 2, line 24 by striking the  
2 words "one year" and inserting in lieu thereof the  
3 words "two years".

H-2006 By HORN of Linn  
Filed and lost  
January 16, 1974

22 SENATE AMENDMENT TO HOUSE FILE 733

- 1 Amend House File 733 as follows:
- 2 1. Page 3, by inserting in line 2 before the word
- 3 "all" the words "any or".
- 4 2. Page 3, by striking lines 8 through 16,
- 5 inclusive.
- 6 3. By renumbering the remaining sections.

Received from the Senate  
April 16, 1974

*House concurred  
4/17*

H-2005

1 Amend House File 733, page 6, by striking all  
2 after the period in line 26 and all of lines 27  
3 through 30, and inserting in lieu thereof the follow-  
4 ing:  
5 "The hearing shall be open to the public."

H-2005

Filed and adopted  
January 16, 1974

By STANLEY of Muscatine

H-2003-A

1 Amend House File 733 as follows:  
2 1. Page 4, by striking lines 27 and 28.

H-2003-B

3 2. Page 6, by striking from lines 26 and 27 the  
4 following: "may exclude the general public from the  
5 hearings and".

H-2003-C

6 3. Page 7, by striking line 20.

H-2003-D

7 4. Page 7, by striking lines 24 and 25.

8 5. By relettering paragraphs as required by this  
9 amendment.

H-2003 Filed

By LIPSKY of Linn

H-2003-A adopted

H-2003-B withdrawn

H-2003-C adopted

H-2003-D adopted

January 16, 1974

S-2096

1 Amend House File 733 as follows:  
2 Page 3, by inserting in line 2 before the  
3 word "all" the words "any or".

S-2096 Filed - *Adopted 4/11*  
January 29, 1974

By DODERER

S-2456

1 Amend House File 733, as amended and passed by the  
2 House, as follows:

3 1. Page 3, by striking lines 8 through 16, inclu-  
4 sive.

5 2. By renumbering the remaining sections.

S-2456 Filed - *Adopted 4/11*  
March 13, 1974

By DODERER