

State Medical Board, Sufficiency of Charge Against Practitioner. License, Sufficiency of Charge to Revoke License of Doctor. Doctors, Sufficiency of Charge Against.

A positive statement under oath that a person is guilty of unprofessional or dishonorable conduct by accepting fees upon the condition that he will cure a person, when he could not from the nature of the disease guarantee a cure, is a sufficient allegation to warrant a hearing. Also, an allegation that he is associating with a company that is violating the medical law is a sufficient allegation to justify a hearing.

Helena, Montana, February 18, 1910.

Dr. William C. Riddell,
Secretary, State Board of Medical Examiners,
Helena, Montana.

Dear Sir:—

I am in receipt of your letter of February 16, containing a written complaint making certain charges of unprofessional and dishonorable conduct against J. Legeault, M. D.

You make inquiry as to whether these charges, if proven, would be legal grounds for the revocation of Doctor Legeault's license.

Our statute does not specifically define what constitutes unprofessional or dishonorable conduct on the part of a practicing physician, and such question is left largely to the discretion of the board of medical examiners.

However, the first two paragraphs of the complaint specifically state that the party has been guilty of unprofessional and dishonorable conduct in agreeing, for hire, to cure certain diseases which he knew he could not guarantee to cure. These charges do not specify the particular disease he agreed to cure, but if, on a hearing, the testimony of complainants should show that the diseases were such as are recognized by the profession as incurable, or at least so difficult that a cure could not be guaranteed in advance, such testimony would seem to be sufficient.

Also, if the testimony establishes the fact that the accused party has been associating himself, as a physician, with an association which has been violating the medical laws of this state, it would seem that such testimony would be sufficient to warrant the board in finding that he was guilty of unprofessional and dishonorable conduct.

Section 1588, revised codes, provides the method of procedure where a written complaint has been filed with the board.

The board must fix a time for the hearing of such charges, and must serve a copy of the written complaint or charges that were filed with the board upon the person charged at least 20 days before the date fixed by the board for the hearing of such charges. Upon the date fixed for the hearing at least a quorum of the board must be present, and at such hearing they should first take testimony of the complainants and such evidence as they may wish to introduce in support of the allegations contained in the complaint, and then the person charged should be permitted to produce testimony in refutation of such charges. In, after hearing all the testimony, the board decides to revoke the certificate, the board must specifically state in writing the grounds upon which such order of revocation is made and deliver a copy thereof, upon demand, to the person whose certificate is revoked, and the person whose certificate is revoked has an appeal to the district court from the order of the board revoking his certificate, if he desires so to do.

Very truly yours,

ALBERT J. GALEN,

Attorney General.