

THE NUMBER AND FORM IN WHICH THE QUESTION WILL
APPEAR UPON THE OFFICIAL BALLOT AT THE GENERAL
ELECTION, NOVEMBER 7, 1944, IS AS FOLLOWS:

Proposed Petition for Initiative No. 48

A BILL TO ENACT BY THE INITIATIVE A LAW TO DEFINE
OSTEOPATHY AND TO AUTHORIZE AND REGULATE THE
PRACTICE OF OSTEOPATHIC PHYSICIANS AND OSTEOPATHIC
SURGEONS AND TO PROVIDE PENALTIES FOR THE VIOLA-
TION OF THIS ACT, AND TO REPEAL SECTIONS 3125 TO 3137
INCLUSIVE OF THE REVISED CODES OF MONTANA OF 1935
AND ALL ACTS AND PARTS IN CONFLICT HEREWITH.

FOR INITIATIVE MEASURE NO. 48
A LAW DEFINING OSTEOPATHY, AUTHORIZING AND
REGULATING PRACTICE OF OSTEOPATHIC PHYSICIANS
AND SURGEONS

AGAINST SAID INITIATIVE MEASURE NO. 48

A BILL TO ENACT BY THE INITIATIVE A LAW TO DEFINE OSTEOPATHY AND TO AUTHORIZE AND REGULATE THE PRACTICE OF OSTEOPATHIC PHYSICIANS AND OSTEOPATHIC SURGEONS AND TO PROVIDE PENALTIES FOR THE VIOLATION OF THIS ACT, AND TO REPEAL SECTIONS 3125 TO 3137 INCLUSIVE OF THE REVISED CODES OF MONTANA OF 1935 AND ALL ACTS AND PARTS IN CONFLICT HEREWITH.

Be It Enacted by the People of Montana:

Section 1. The word Osteopathy, as used in this Act, is the name of that system of healing art or school of medicine which in its theory places chief emphasis as health factors upon the structural integrity, natural immunity, and powers of recovery of the body, and in its practice upon the adjustment of structural irregularities, and the normalization of functional activity through manipulation.

Section 2. It shall be unlawful for any person to practice or hold himself out to practice as an osteopathic physician or osteopathic surgeon in this state, without a certificate so to do, issued by the State Board of Osteopathic Examiners hereinafter created; provided that any license or certificate heretofore issued under the laws of this state, authorizing its holder to practice shall in no wise be affected by the provisions of this act, insofar as said certificate grants to the holder thereof certain right and privileges.

Section 3. The Governor of the state shall appoint a board within thirty days after this act shall be in effect to be known as the State Board of Osteopathic Examiners. Said Board shall consist of three qualified resident osteopathic physicians each of whom shall have practiced in Montana for a period of at least five years prior to their appointment. Each member of said board shall serve for a term of four years, and until his successor is appointed, except in cases of the first Board one member of which shall be appointed for a term of one year, one for two years, and one for three years as specified in their appointment. In case of vacancy by death, or otherwise, the Governor shall appoint in like manner a person to serve through the unexpired term.

Section 4. The Board of Osteopathic Examiners shall elect a President, a Secretary, and a Treasurer from among their number and shall have and use a common seal, and may make and adopt all necessary rules and regulations and by-laws relating to the enforcement of the provisions of this act and not inconsistent herewith. Examinations shall be held at least twice a year, at the time and place fixed by said Board and all applicants for examination shall be notified in writing at least ten days before each meeting.

Section 5. Each person wishing to practice as an osteopathic physician in this state shall apply to the Board of Osteopathic Examiners upon suitable blanks provided by the Board for a certificate to do so and unless such applicant presents a certificate from another state, or a certificate from the National Board of Examiners for Osteopathic Physicians and Surgeons, or a certificate to practice osteopathy issued in this state before the passage of this act, such applicant at the time and place designated by the Board shall submit to an examination in the following branches, to-wit: Anatomy, physiology, physiological chemistry, pathology, minor surgery, obstetrics, gynecology, diagnosis, bacteriology, hygiene, principles of osteopathy, therapeutics and the art of practice, and such other branches as are taught, practiced, and embraced in the examinations of recognized and regularly conducted colleges of osteopathy and deemed advisable by the Board. The Board shall cause such examination to be scientific and practical and of sufficient severity to test the candidates fitness to practice. The applicant before taking the examination shall present evidence of having completed a standard four-year high school course or its educational equivalent, and if he matriculated in an osteopathic college after January of 1939, two years (60 semester hours) of study in a properly accredited college or university, and of having been in personal attendance at a recognized and regularly conducted college of osteopathy for four school years of nine months each preceding his graduation, or three school years of nine months each if the applicant graduated prior to the year 1919 and has been in continuous practice since then.

All examination papers shall be examined and their sufficiency passed upon by members of the Board whose decision shall be final thereon, subject to the right of appeal which shall be to the District Court of the County in which the examination is held and said District Court shall review such examination without a jury and shall have the right to take testimony thereon and the decision of such District Court shall be also subject to the right of appeal to the Supreme Court by any person aggrieved thereby, and upon such appeal the Supreme Court shall have the right to consider questions of both law and fact.

After examination the Board shall grant a certificate to such applicants as shall pass the examination which certificate shall be granted by not less than two members of the Board and attested by the seal thereof. For the support and maintenance of the Board the fees for the certificate to practice as an osteopathic physician shall be twenty dollars (\$20), and for the examination in general surgery and certificate to practice as an osteopathic surgeon fifty dollars (\$50) additional, which fees shall be paid in advance to the secretary of the Board to defray the expenses of the Board. Provided that each individual holding a certificate to practice osteopathy in this state and which certificate has not been voided, may by presenting same to the Board and paying a fee of two dollars (\$2.00) receive a certificate to practice as an osteopathic physician as provided in this Act.

Section 6. Each person wishing to practice as an osteopathic surgeon in this state shall in addition to meeting the requirements provided for a certificate to practice as an osteopathic physician present: (a) evidence of having completed two years of at least nine months each year of post-graduate instruction in surgery in a recognized and regularly conducted college, or (b) present evidence of having completed a post-graduate course of at least nine months in surgery in a recognized and regularly conducted college or an internship in a hospital under such college supervision and a one-year course of training of at least nine months as a surgical assistant in a hospital having at least twenty-five beds for patients and equipped for doing major surgical work. The applicant shall further be required to successfully pass an examination in surgery and kindred subjects, essential to general surgical practice, before two special examiners in surgery, who shall be called in by the Board. The special examiners which the Board is hereby authorized to call in to examine applicants for major surgical practice shall

each hold a license authorizing him to practice major or general surgery and each such special examiner must have been in major surgical practice at least five years.

Section 7. Said Board of Osteopathic Examiners shall issue certificates of qualification under this act to all qualified applicants of good moral character having a diploma from a recognized and regularly conducted college of osteopathy as such at the time it was issued, and who pass the required examination as provided by Section 5 of this act or may issue a certificate to practice as osteopathic physicians to those qualified applicants who hold a diploma from such a recognized and regularly conducted college of osteopathy and an unrevoked certificate to practice issued by the examining Board of another state or a certificate issued by the National Board of Examiners for Osteopathic Physicians and Surgeons as provided in Section 9, or to those heretofore licensed to practice osteopathy in this state. The certificates issued by this Board and attested by its seal, shall be conclusive evidence of the right of the holder thereof to practice as an osteopathic physician or as an osteopathic surgeon in this state. Said Board shall keep a record of all its proceedings; also a register of all applicants licensed together with his or her name and age and time spent in the study and practice of osteopathy or osteopathy and surgery, and the name and location of the college or institution of osteopathy from which said applicant holds a diploma. Said books shall be prima facie evidence of all matters recorded therein.

Section 8. The Secretary of the Board of Osteopathic Examiners may upon satisfying himself that the credentials of an applicant are such as to entitle him to an examination before the Board, grant the applicant a temporary certificate to practice as an osteopathic physician until the next meeting of said Board when he shall report the facts, at which time the temporary certificate shall expire, but such temporary certificate shall not be granted by the Secretary of said Board after the Board has once rejected the applicant. The Secretary shall not issue any temporary certificate to any applicant to practice as an osteopathic surgeon.

Upon all signs, cards, or public professional announcements, the osteopathic physician's name shall be associated with the words, osteopathy, or osteopathic, or the letters, D.O.

Section 9. A graduate of a recognized and regularly conducted college of osteopathy who has been strictly examined and thereafter granted a certificate to practice his profession in another state, or granted a certificate by the National Board of Examiners for Osteopathic Physicians and Surgeons, may be issued a certificate to practice as an osteopathic physician under this act upon the presentation, to the Board, of his diploma and the certificate obtained in such other state, or the certificate from the National Board of Examiners for Osteopathic Physicians and Surgeons, and satisfactory evidence of good moral character, and the payment of all fees required of other applicants; but the Board may examine the applicant as to his or her qualifications.

Section 10. Out of the funds coming into possession of the Board of Osteopathic Examiners each of the members of said Board may receive as compensation per diem not to exceed ten dollars (\$10) for each day actually engaged in the duties of the Board meeting with all legitimate expenses incurred in attending the meetings of said Board. The Special examiners in surgery as provided in Section 6 when called in by the regular members of the Board to examine applicants in surgery, shall receive their actual expenses and the same per diem as the regular members of the Board. No Board meeting shall exceed three days. Secretarial and other Board expenses shall also be paid out of the Board funds and no part of the compensation of Board Members or other expenses of said Board shall be paid out of the State Treasury. The fees coming into the treasury of said Board shall be paid out upon a warrant of the President and Secretary thereof in payment of the compensation and expenses of said Board in carrying out the provisions of this act. Such Board shall make an annual report of its proceedings to the Governor of the State for the year ending the thirty-first day of December preceding the making of said report. Said report shall be filed with the Governor on or before the fifteenth day of January of each year.

Section 11. The certificate as an osteopathic physician provided for in this act shall entitle the holder to practice his profession, including manipulative and physiotherapy, antiseptics, anaesthesia administration, parasite elimination, obstetrics, minor surgery, use of biologicals and such adjunctive emergency measures used as such for counteracting infection, stimulation and for the relief of pain, as taught, practiced and embraced in the examinations of recognized and regularly conducted colleges of osteopathy, but shall not entitle him to practice major surgery. The certificate as an osteopathic surgeon provided for in this act shall entitle the holder to practice with unlimited surgical rights in addition to his rights as an osteopathic physician.

Section 12. Osteopathic physicians shall observe and be subject to all state and municipal regulations relative to reporting births and deaths and all matters pertaining to the public health, with equal rights and obligations as physicians of other schools of medicine and such reports shall be accepted by the officers of the department to which the same are made. Osteopathic physicians and osteopathic surgeons licensed hereunder shall have the same rights as physicians or surgeons of other schools of medicine with respect to the treatment of cases, holding of public health offices or offices in public institutions. Provided that nothing in this act shall be construed to permit an osteopathic physician, or osteopathic physician or surgeon, to practice in privately owned or quasi-public hospitals where the owners of such hospitals are opposed to such permission.

Section 13. A recognized and regularly conducted college of osteopathy is one recognized by the Board which is legally chartered, and requires for admission to its course of study a preliminary education equal to the requirements for graduation from an accredited high school, and after 1939, two years (60 semester hours) of study in a properly accredited college or university, and requires before granting the degree of Doctor of Osteopathy, an actual attendance at such college of at least thirty-six months, or four terms of nine months each, or prior to 1919, three terms of nine months each, its course of study to include:

Anatomy and its branches (Descriptive, Regional, Applied, Surgical and Dissection);
Diagnosis (Physical, X-Ray and Electrical, Laboratory and Differential) Clinical Practice, Case Recording.

All subdivisions and aspects of study in subjects considered essential for the practical training of an osteopathic physician for general practice including: Embryology, Chemistry, Toxicology, Histology, Physiology, Pathology, Bacteriology, Public Health and Hygiene, including Germicides, Immunology, Parasitology, Hydrotherapy, Dietetics, Pharmacology, Surgery with surgical diagnosis, Eye, Ear, Nose and Throat, Anaesthesia, Anaesthetic administration, Gynecology, Obstetrics; Professional Ethics and Efficiency, Jurisprudence, Principles of Osteopathy, Osteopathic Technique, Therapeutics and the art of practice.

Section 14. Each individual holding a certificate to practice osteopathy in this state, and who is in active practice in this state, shall on or before the first day of April of each year, present to the Board evidence of having done post-graduate study satisfactory to the Board during the previous year, and pay a renewal fee of two dollars (\$2) to the Secretary of the Board of Osteopathic Examiners; and each individual, holding a certificate to practice osteopathy in this state, and who is not in active practice in this state, shall, on or before the first day of April of each year, present evidence of such post-graduate study, and pay a renewal fee of two dollars (\$2) to the Secretary of the Board. The Secretary of the Board shall before the fifteenth of March each year send a notice to each individual holding a valid certificate to practice under this act, and from whom a fee is due, stating that such fee is due and requiring evidence of post-graduate work satisfactory to the Board.

The certificate to practice automatically becomes void when evidence of post graduate study is not presented and the renewal fee is not paid at the time named. Provided that the Board may reinstate a practitioner whose certificate has lapsed upon the payment of all back renewal fees, or upon the payment of ten dollars (\$10) if the lapsed fee exceeds that amount.

Section 15. Before any practitioner receiving a certificate, as heretofore provided for, is entitled to practice by virtue thereof, he must have his certificate recorded in the county in which such practitioner may reside or sojourn, and when so recorded, the clerk shall certify thereon, under his official seal, the fact and date of such record, and shall return such certificate to the person to whom the same was granted, and shall be entitled, for such service, to collect from the holder of such certificate the legal fee for recording.

Section 16. Any person practicing osteopathy in this state, or holding himself out to be an osteopathic physician, or an osteopathic surgeon with the intent or expectation of receiving pay therefor, without first obtaining a certificate as herein provided for, or contrary to the provisions of this act, or who, for the purpose of obtaining such certificate shall falsely represent himself or herself to be the holder of a diploma as herein provided, shall be deemed guilty of misdemeanor, and upon conviction thereof shall be punished by a fine of not more than \$1,000 nor less than \$250, or by imprisonment in the county jail not exceeding one year nor less than ninety days; or by both fine and imprisonment for each and every such offense. It shall be the duty of the respective county attorneys to prosecute violations of this act.

Section 17. The Board of Osteopathic Examiners may refuse to issue, or may suspend or revoke, any certificate for any one or any combination of the following causes:

- (a) Conviction of a felony as shown by a certified copy of the record of the court of conviction;
- (b) The obtaining of or the attempt to obtain a certificate of practice for money, or other thing of value, by fraudulent misrepresentations;
- (c) Gross mal-practice;
- (d) Advertising by means of knowingly false or deceptive statements;
- (e) Habitual drunkenness or habitual addiction to the use of morphine, cocaine or other habit forming drugs.

The Board may neither refuse to issue, nor refuse to renew, nor suspend, nor revoke any certificate, however, for any of these causes, unless the person accused has been given at least twenty days' notice in writing of the charges against him and a public hearing of said charges by the Board. The Board of Osteopathic Examiners shall have the power to compel the attendance of witnesses and the production of relevant books and papers for the investigation of matters that may come before it and the presiding officer of said Board shall have the same authority to compel the giving of testimony as is covered in courts of justice; and after said hearing, as provided for herein, and the sufficiency of the evidence offered in said hearing has been passed upon by the members of the Board, the decision of the Board shall be final thereon subject to the right of appeal which shall be to the District Court of the county in which the examination is held, and said District Court shall try said matter de novo and shall review, without a jury, all of the facts and matters in relation to said examination and application for such certificate as may be involved, and shall have the right to take testimony thereon, and the decision therein of such District Court shall be subject also to the right of appeal to the Supreme Court by any person aggrieved thereby, and upon such appeal the Supreme Court shall have the right to consider questions of both law and fact.

Section 18. Nothing in this act shall be construed to interfere with such practice of the healing art as is licensed under Sections 3116 to 3124, inclusive, and Sections 3138 to 3154, inclusive of the Revised Codes of the State of Montana of 1935, nor with any other practice of the healing art legalized by the laws of Montana.

Section 19. If any section or matter in this act shall be held by the courts to be unconstitutional or invalid, it shall not affect the validity of the remaining parts of this act, and said unconstitutional or invalid part may be eliminated from this act, and the remaining portion or portions thereof shall be and remain in full force and effect and be as valid as if such invalid clause or section or matter had not been incorporated herein.

Section 20. Sections 3125 to 3137, inclusive of the Revised Codes of Montana of 1935, and all Acts or parts of Acts conflicting herewith are hereby repealed.