

No. 108.

4th Session, 8th Parliament, 29th Vic., 1865.

BILL.

An Act to regulate the Qualifications of
Practitioners in Medicine and Surgery in
Upper Canada.

[No. 108 of 1865.—1st Session.]

Mr. PARRÉ.

QUEBEC :

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An Act to regulate the Qualifications of Practitioners in Medicine and Surgery in Upper Canada.

WHEREAS it is expedient that persons requiring medical aid should be enabled to distinguish qualified from unqualified Practitioners; Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:—

Preamble.

5 **1.** This Act shall be known and cited as the Medical Act for Upper Canada. Short title.

2. This Act shall take effect from and after the first day of one thousand eight hundred and When Act shall take effect.

3. A Council, which shall be styled "The General Council of Medical Education and Registration of Upper Canada." hereinafter referred to as "The Council," shall be established. Council established.

4. The Council shall consist of one person, chosen from time to time, by each of the following Colleges and bodies:— Composition of Council.

15 The University of Toronto,
 The University of Trinity College, Toronto,
 The University of Victoria College,
 The University of Queen's College,
 The Toronto School of Medicine,

and by every other college or body in Upper Canada, by law authorized or hereafter to be authorized to grant Medical or Surgical Degrees or Certificates of qualification to practise Medicine, Surgery and Midwifery, or either, and of twelve persons to be elected from among the registered practitioners of medicine of Upper Canada, as hereinafter is provided.

25 **5.** Members of the council, representing medical corporations, must be qualified to be registered under this Act. Qualification of members of Council.

6. The members of the council shall be elected for a period of three years; any member may resign his appointment at any time by letter, addressed to the President of the council; and upon the death or resignation of any member of the council, the council may proceed to supply the vacancy so created, by electing from the members of the profession registered under this Act, a person to fill such vacancy, if such deceased or resigning member was originally elected by the profession, but not otherwise; and if such member was elected by any of the said colleges or bodies, such college or body may supply the vacancy. Resignation of members and vacancies

30
 35 All acts of the council shall be valid notwithstanding any such vacancies.

First meeting
of Council.

7. The council shall hold its first meeting on the first Wednesday of July of this year, in the city of Toronto, at such hour and place as the Chancellor of the University of Toronto may ordain, and shall make such rules and regulations as to the times and places of the intended meeting of the council and the mode of summoning the same, as to 5 them shall seem expedient, which rules and regulations shall remain in force till altered at any subsequent meeting; in the absence of any rule or regulation as to the summoning of future meetings of the council, it shall be lawful for the President thereof to summon the same, at such 10 time and place as to him shall seem fit, by circular letter to be mailed to each member; at each meeting, in case of the absence of the President, some other member to be chosen from among the members present, shall act as President; all acts of the council shall be decided by the majority of the members present, the whole number not being less than five; at all meetings, the President, for the time being, shall have a 15 casting vote only.

Council may
appoint offi-
cers.

8. The council shall appoint a President, Registrar and Treasurer, and such other officers as may be necessary to the working of this Act.

Application
of moneys.

9. All moneys, forming part of the council funds, shall be paid to the Treasurer, and shall be applied to carrying this Act into execution. 20

Duty of Re-
gistrar.

10. It shall be the duty of the Registrar to keep his register correct, in accordance with the provisions of this Act, and the rules, orders and regulations of the council, and to erase the names of all registered persons who shall have died, and he shall, from time to time, make the necessary alterations in the address or qualifications of the persons 25 registered under this Act; and to enable him duly to fulfil the duties imposed him, it shall be lawful for him to write a letter to any registered person, addressed according to the address of such person on the register, to enquire whether he has ceased to practise or has changed his residence, and if no answer shall be returned to such letter within 30 the period of six months from the sending of such letter, it shall be lawful for the Registrar to erase the name of such person from the Register; Provided always, that the same shall be restored by direction of the council, upon cause duly shown to that effect.

Proviso.

Who may be
registered.

11. Every person resident in Upper Canada, and now possessed, or 35 who hereafter may become possessed of any one or more of the qualifications described in the Schedule (A) to this Act shall, on the payment of a fee not exceeding five dollars in respect of qualifications obtained on or before the first day of January, one thousand eight hundred and , and not exceeding ten dollars in respect of qualifica- 40 tions obtained on or after that date, be entitled to be registered on producing to the Registrar the document conferring or evidencing the qualification or each of the qualifications in respect whereof he seeks to be so registered, or upon transmitting by post to the Registrar, information of his name and address, and evidence of the 45 qualification or qualifications in respect whereof he seeks to be

Fees.

Colleges, &c.,
may transmit
lists of per-
sons to be
registered.

registered, and of the time or times at which the same was or were re- 50 spectively obtained; and it shall be lawful for the several colleges and bodies, named or referred to in section four of this Act, to transmit from time to time to the said Registrar lists, certified under their re- spective seals, of the several persons who, in respect of qualifications granted by such colleges and bodies respectively, are for the time being

entitled to be registered under this Act, stating the respective qualifications and places of residence of such persons; and it shall be lawful for the Registrar thereupon, and upon payment of such fee as aforesaid, in respect of each person to be registered, to enter in the register the persons mentioned in the list with their qualifications and places of residence as thereon stated, without other application in relation thereto.

12. The council shall at their first meeting, and from time to time, as occasion may require, make orders, regulations or by-laws for regulating the registers to be kept under this Act, as nearly as may be in accordance with the form set forth in Schedule B to this Act, or to the like effect.

Council to make by-laws respecting registers.

13. The several colleges and bodies named or referred to in section four of this Act, shall, from time to time, when required by the council, furnish such council with such information as they may require, as to the course of study and examinations to be gone through in order to obtain the respective certificates of qualification which they are entitled to grant under Schedule A to this Act, and the ages at which such course of study and examinations are required to be gone through, and such qualifications are conferred, and generally as to the requisites for obtaining the same; and any member or members of the council, or any person or persons deputed for this purpose by such council, may attend and be present at such examination.

Colleges, &c., to furnish statement of studies when required.

14. In case it shall appear to the council that the course of study and examination to be gone through in order to obtain any such qualification from any such college or body, are not such as to secure the possession, by persons obtaining the same, of the requisite knowledge and skill for the efficient practise of the profession, it shall be lawful for such council to represent the same to the Governor in Council.

Council may represent to Governor General that course of study is not efficient.

15. Upon such representation it shall be lawful for the Governor in Council, if he see fit, to order that any such qualification, granted by such college or body, after such time as may be mentioned in the order, shall not confer any right to be registered under this Act; Provided always, that it shall be lawful for the Governor in Council, when it is made to appear, upon further representation from the council or otherwise, that such college or body has made effectual provision for the improvement of such course of study or examination or the mode of conducting such examinations to revoke any such order.

Governor may order qualification shall not be registered. Proviso.

16. After the time mentioned in this behalf in any such Order in Council, no person shall be entitled to be registered under this Act in respect of any such qualification, as in such Order mentioned, granted by the college or body to which such Order relates, after the time there-mentioned, and the revocation of any such Order shall not entitle any person to be registered in respect of any such qualification granted before such revocation.

No person to be registered under such qualification pending such order.

17. In case it shall appear to the council that attempt has been made by any such college or body to impose upon any candidate offering himself for examination an obligation to adopt or refrain from adopting the practice of any particular theory of Medicine or Surgery as a test or condition of admitting him to examination or of granting a certifi-

In case of attempt to prevent candidate from adopting any special theory

- Government may issue injunction.** cate, it shall be lawful for the council to represent the same to the Governor in Council, who may thereupon issue an injunction to such college or body directing the same to desist from such practice; and in the event of their not complying therewith may then order that such college or body shall cease to have the power of conferring any right to be registered under this Act, so long as they shall continue such practice. 5
- No qualification to be registered unless Registrar is satisfied of its correctness.** **18.** No qualification shall be entered on the register either on the first registration or by way of addition to a registered name unless the Registrar be satisfied by the proper evidence that the person claiming is entitled to it; and any appeal from the decision of the Registrar may be decided by the council, and any entry which shall be proved to the satisfaction of the council to have been fraudulently or incorrectly made may be erased from the register by order in writing of the council. 15
- Medical Register for U. C. to be published.** **19.** The Registrar of the council shall, in every year, cause to be printed, published and sold under the direction of such council a correct register of the names in alphabetical order according to the surnames, with the respective residences, in the form set forth in Schedule B to this Act or to the like effect, and medical titles, diplomas and qualifications conferred by any college or body with the dates thereof of all persons appearing on the register as existing on the first day of January of every year, and such register shall be called "*The Medical Register for Upper Canada*," and a copy of such register for the time being, purporting to be so printed and published as aforesaid, shall be *prima facie* evidence in all courts and before all Justices of the Peace and others that the persons therein specified are registered according to the provisions of this Act, and the absence of the name of any person from such copy shall be *prima facie* evidence that such person is not registered according to the provisions of this Act; Provided always that in the case of any person whose name does not appear in such copy, a certified copy under the hand of the Registrar of the council, of the entry of the name of such person on the register, shall be evidence that such person is registered under the provisions of this Act. 20
- To be evidence.**
- Proviso.**
- Practitioner convicted of felony.** **20.** Any registered medical practitioner, who shall have been convicted of any felony in any court, shall thereby forfeit his right to registration, and by the direction of the council his name shall be erased from the register. 25
- Higher degrees and qualifications may be registered.** **21.** Every person registered under this Act, who may have obtained any higher degree or any qualification other than the qualification in respect of which he may have been registered, shall be entitled to have such higher degree or additional qualification inserted in the register in substitution for or in addition to the qualification previously registered, on the payment of such fee as the council may appoint. 30
- Persons registered to be entitled to practise and to recover fees.** **22.** Every person who shall be registered under the provisions of this Act shall be entitled according to his qualification or qualifications, to practise Medicine, Surgery and Midwifery, or either or any of them as the case may be, in Upper Canada, and to demand and recover in any court of law, with full costs of suit, reasonable charges for professional aid, advice and visits and the cost of any medicine or other medical or surgical appliances rendered or supplied by him to his patients. 45

- 23.** After the first day of one thousand eight hundred and None but registered practitioners to recover.
no person shall be entitled to recover any charge in any court of law for any medical or surgical advice, or for attendance, or for the performance of any operation, or for any medicine which he shall have 5 both prescribed and supplied, unless he shall prove upon the trial that he is registered under this Act, except as otherwise provided for by law.
- 24.** After the first day of one thousand eight hundred and Interpretation.
the words "legally qualified medical practitioner" or "duly Legally qualified practitioner.
10 qualified medical practitioner," or any other words importing a person recognized by law as a medical practitioner or member of the medical profession, when used in any Act of Parliament, shall be construed to mean a person registered under this Act.
- 25.** After the first day of one thousand eight hundred and No unregistered person to attend any institution receiving public grant.
15 no person shall be appointed as medical officer, physician or surgeon in any branch of the public service, militia or otherwise, or in any hospital or other charitable institution not supported wholly by voluntary contributions, unless he be registered under the provisions of this Act.
- 26.** After the first day of one thousand eight hundred and No certificate to be valid unless signer is registered.
20 no certificate required by any Act now in force, or that may hereafter be passed, from any physician or surgeon or medical practitioner shall be valid, unless the person signing the same be registered under this Act.
- 27.** If the Registrar make or cause to be made any wilful falsification in any matters relating to the register, he shall be deemed guilty of Falsification of register.
25 misdemeanor, and shall, on conviction thereof, be imprisoned for any term not exceeding twelve months.
- 28.** If any person shall wilfully procure or attempt to procure him- Persons fraudulently causing themselves to be registered.
80 self to be registered under this Act by making or producing, or causing to be made or produced, any false or fraudulent representation or declaration, either verbally or in writing, every such person so offending, and every person knowingly aiding and assisting him therein, shall be deemed guilty of a misdemeanor, and shall on conviction thereof be 85 imprisoned for any term not exceeding twelve months.
- 29.** Any person who shall wilfully and falsely pretend to be or take Persons falsely claiming to be registered.
or use any name, title, addition or description implying that he is registered under this Act, shall, upon conviction, forfeit and pay a penalty not exceeding one hundred dollars; and every such penalty 40 shall form part of the funds of the council, and shall be paid over to the Treasurer for the uses and purposes thereof.
- 30.** There shall be elected from time to time by open public meeting Election of Members of Council.
of medical practitioners registered under this Act, resident in each of the territorial divisions of Upper Canada, mentioned in Schedule C to 45 this Act, one member of council for each of such territorial divisions, and the place, time and mode of holding such election, and the person to act as Returning Officer thereat, shall be determined by the Governor in Council, and published thrice in the *Canada Gazette*; Provided Previso.
always, that at the elections to be first held after the passing of this Act 50 every person so resident and entitled to be so registered may vote and shall be qualified for election as such member.

Member of
Council to
notify Regis-
trar of death.

31. It shall be the duty of the member of the council representing each such territorial division to notify the Registrar of the council of the death of any registered medical practitioner occurring within his division, so soon as he shall become aware of the same, and upon the receipt of such notification the Registrar shall erase the name of the person so deceased from the register.

Cap. 40 Con.
Stat. U. C.
repealed.

32. From and after the passing of this Act, the Act chapter forty Consolidated Statutes of Upper Canada shall be and the same is hereby repealed.

Public Act.

33. This Act shall be deemed a Public Act.

10

SCHEDULE A.

1. License to practise physic, surgery and midwifery, or either, within Upper Canada, granted under the Acts of Upper Canada, fifty-ninth George Third, chapter thirteen, and eighth George Fourth, chapter three, respectively.

2. License or diploma granted under the second Victoria, chapter thirty-eight.

3. License or authorization to practise physic, surgery and midwifery, or either, within Lower Canada, whether granted under the Ordinance twenty-eighth George Third, chapter eight, or under the Act tenth and eleventh Victoria, chapter twenty-six, and the Acts amending the same.

4. Certificate of qualification to practise medicine, surgery and midwifery, or either, hereafter to be granted by any of the colleges or boards named or referred to in section four of this Act.

5. Medical or surgical degree or diploma of any university in Her Majesty's dominions.

6. Certificate of registration under the Imperial Act twenty-first and twenty-second Victoria, chapter ninety, known as "The Medical Act."

7. Commission or warrant as Physician or Surgeon in Her Majesty's naval or military services.

SCHEDULE B.

Name.	Residence.	Qualifications and Additions.
A. B.	Toronto, County of York.	A. M., M.D., Toronto University.
C. D.	Kingston, Co. of Frontenac.	A. M., M.D., Queen's College.
E. F.	Etobicoke, Co. of York.	Licentiate, Medical Board.
G. H.	Toronto.	Do. Toronto School of Medicine.

SCHEDULE C.

1. Western and St. Clair Electoral Divisions as established for election of Members of the Legislative Council.
2. Malahide and Tecumsoth Electoral Divisions as established for election of Members of the Legislative Council.
3. Saugeen and Brock Electoral Divisions as established for election of Members of the Legislative Council.
4. Gore and Thames Electoral Divisions as established for election of Members of the Legislative Council.
5. Erie and Niagara Electoral Divisions as established for election of Members of the Legislative Council.
6. Burlington and Home Electoral Divisions as established for election of Members of the Legislative Council.
7. Midland and York Electoral Divisions as established for election of Members of the Legislative Council.
8. Kings and Queens Electoral Divisions as established for election of Members of the Legislative Council.
9. Newcastle and Trent Electoral Divisions as established for election of Members of the Legislative Council.
10. Quinté and Catarqui Electoral Divisions as established for election of Members of the Legislative Council.
11. Bathurst and Rideau Electoral Divisions as established for election of Members of the Legislative Council.
12. St. Lawrence and Eastern Electoral Divisions as established for election of Members of the Legislative Council.