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The development of the Virginia State Board of Medical Examiners

John Conner Atkeson

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THE DEVELOPMENT OF THE VIRGINIA STATE
BOARD OF MEDICAL EXAMINERS

by
John Conner Atkeson, Jr.

A Thesis
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the Graduate Faculty
University of Richmond

In Partial Fulfillment
of the Requirements for the Degree
Master of Arts in History

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INTRODUCTION

Until the latter part of the nineteenth century, the medical profession suffered from a basic lack of knowledge concerning disease and infection. The Civil War, during which thousands of men died of infection following wounds and operations, was a monument to that lack of knowledge. Wounded and injured soldiers were doomed to a slow death from gangrene caused by unclean operating methods and poor hospital sanitation. The number of lives that might have been saved by better techniques will never be known, but a fairly safe assumption would be that at least eighty percent of the wounded who actually came under a doctor's care would have survived if even a rudimentary knowledge of the modern medical profession's aseptic standards had been possessed.

In addition to the loss of life from poor operative and hospital cleanliness, there was a fairly high death rate due to diseases of both an individual and epidemic nature. Both of these, and particularly the epidemic diseases, could have been prevented by even a casual observance of sanitary requirements. The living conditions of the soldiers of both the Northern and Southern armies have been adequately described by many authors. Suffice it to mention that the men lived in very close proximity, not only to each other but to their latrine and cooking facilities. They drank polluted water and ate diseased and rotten meat and
vegetables. The real wonder is that enough soldiers survived their living conditions to give battle to their enemy.

The Civil War and its effects promoted an interest in sanitation and the need for better living facilities but it did not promote a drive to discover the causes of infection of injuries. It was generally believed that infection was the price to be paid when the human body was invaded either by a bullet or the surgeon's knife. Infection presented, in many cases, a greater danger than did the actual injury and prevented operations from being performed on the thoracic and abdominal cavities of the body. Being unable to perform surgery upon these body areas, the physician was unable to gain any real knowledge of the workings of the body and, particularly, of its malfunctions.

It was not until 1872, when Joseph Lister published his findings concerning the prevention of infection during operations that the surgical field of medicine was able to take even a stumbling step forward. Before this, a number of operations had been performed primarily as a "last ditch" procedure and their success was rare. Now, following Lister's precepts, surgeons could enter the thorax and abdomen with less fear of the infection with which they had previously been concerned.

Hard upon the heels of Lister's discoveries came the findings of such men as Louis Pasteur and Robert Koch.
These men formulated their theory of germs being the cause of disease and infection. With this knowledge, the medical profession was enabled to make great strides in the prevention and cure of diseases that had previously been impervious to any treatment.

These advances in medicine, however, brought a new threat to the populace and to the medical profession. This threat was not caused by germs nor was it subject to surgical or chemical cure. As more and more new medical ideas were expounded, the lay population began believing that anything was possible. The layman had but an imperfect idea of the new discoveries and their applications in medicine. Most people knew only that there were chemical cures for certain diseases and on this imperfect knowledge unqualified physicians and quacks preyed. Many were the claims made by these as to the curative value of a particular "system." The newspaper pages of the period attest to the amazing claims set forth. One example of the advertising that could be found in any newspaper will serve as an illustration of the claims that were made for a given system or preparation. In 1877, the Richmond Enquirer carried an advertisement for "oxygenated air." This preparation was guaranteed to cure catarrh, bronchitis, asthma, consumption, blood diseases and cancers and tumors.¹

¹ Richmond Enquirer, January 2, 1877, p. 5, col. 5.
Related to the quack and posing almost as great a problem was the incompetent physician, product of an inferior medical school. This person differed from the quack in that he had no panacea for the cure of mankind's diseases, he was merely inept through lack of knowledge caused by improper or incomplete training.

The ranks of these incompetents were greatly swelled after the Civil War. With the new advances in medical knowledge that were made in the post-bellum period, there arose a greater interest in this field of science. More and more would-be medical practitioners applied for entrance to medical schools. To meet this demand more medical schools were founded. A number of these new schools had but one claim to being a medical school and that was that they were incorporated as such. Their equipment, faculty and facilities were frequently inferior or even non-existent. The whole purpose of these schools was to entice paying students and to grant diplomas in medicine. Very little attention was paid to training the students received. The student, not knowing any better, took his diploma and set up his practice.

Quacks, poorly trained incompetent physicians, and low grade medical schools posed a hazard not only to the health and welfare of the general population but to the reputation of the well trained and well intentioned practitioner. Any errors committed by the quack or incompetent
would harm the entire medical profession, since few people knew the difference between the regular and irregular practitioner.

Although the problem of quack medicine and poorly trained physicians has probably existed from the very beginning of medicine it did not become acute in the United States of America until the latter part of the nineteenth century. During this period, the situation became intolerable to the competent practitioner. The efforts of these men in the South, and particularly in Virginia, to effect some control over the quacks and incompetents is the subject of this paper.
CHAPTER I

MEDICAL EXAMINING BOARDS IN THE SOUTHERN STATES PRIOR TO THE CIVIL WAR

Prior to the decade of the 1870's, only one state, North Carolina, possessed a law regulating the practice of medicine and surgery. On the national level, the only interest of the government was in the yearly tax levied upon members of the medical profession. Some states, though by no means all, required practitioners within their borders to pay a fee for a license to practice. Beyond this requirement for a license fee, no further attention was paid to the field of medicine. In the words of Commissioner John Eaton, of the United States Bureau of Education:

The States, with perhaps one or two exceptions, take no action as to the character of the profession, the conditions of entrance[to medical schools], education, membership, or compensation.

This lack of regulation led to many abuses, generally to the detriment of the public and the reputation of the medical profession. Medical quacks guaranteed cures of everything from the common cold to tuberculosis and cancer. The "cure" was usually via a non-surgical method, commonly


3. Ibid.
employing a secret discovery. This guarantee of a cure without surgery naturally had its effect upon the fears of the people who were only too eager to avoid the dangers of an operation. Doctor A. Cartez, writing in 1896, explained the reasons for the existence of quacks and their medicines:

Medicine is the art of usually mitigating and sometimes healing. There are too many incurable diseases, or those which become so with age . . . for a doctor to be able to pretend to do anything but soothe and reduce the pains. A patient afflicted with such troubles cannot bring himself to believe that he is condemned without remedy . . . The impotence of medicine . . . against his troubles induces the unhappy man to cast himself in time into the hands of any quack who can insinuate himself into his confidence. 'My remedy is infallible' the quack will tell him, 'try it.' . . . The patient abandons himself to one who promises a wonderful cure without reserve. Then there have been wonderful cures. At the time when little was known or knowledge was imperfect . . . what seemed like resurrections, almost miracles, sometimes took place. Such facts are satisfactorily explained now, but they were formerly astonishing and surprising. The crowd hurrahed as over a prodigy and gave absolute confidence to it. It could not be otherwise. Whatever may happen, there will always be credulous people and always men disposed to deceive them.

Doctor Cartoz failed to point out the results when a patient patronized a quack. In return for their patronage a patient was rarely cured and, in the process, he was frequently relieved of considerable money. Since the quack generally termed himself a doctor, any ill will he generated brought discredit to the medical profession as a whole. Then too, there were those people who could be helped by a

legitimate doctor, but, through fear or ignorance, patronized a quack. If the individual's disease were progressive and, as was normally the case, the quack's nostrums gave no relief, then by the time a regular practitioner came into the case the patient was beyond help. The regular physician's inability then to help this patient added to the criticism of the profession by the ignorant.

Of course, the inability of the regular profession to cure such diseases as diphtheria, tuberculosis, yellow fever or typhoid only encouraged people to pluck at the straw offered by the quack. Couple this with the mortality rate attendant upon surgery and it may readily be seen why the sick and diseased quite frequently preferred a quack and his "guarantees" to the ministrations of the regular profession.

Quackery was not without its support. Doctor Francis J. Shepherd believed that:

Probably the greatest supporters of quacks and quackeries next to the fair sex, are ministers of religion; hardly an advertisement of a quack remedy can be read without coming across testimonials from them. They are generally the first to support any new form of charlatanism. In the country part, especially, while administering to diseased souls they love to essay the efficiencies of new cure-alls on diseased bodies. This weakness may be attributed to their well known benevolence and desire to do good to their fellow men.

Doctor Shepherd did not believe that quackery was likely to come to an end in the near future:

Is there ever any chance of quackery becoming extinct? I fear not as long as human nature exists
in its present condition. Still, no doubt, there is a probability of the numbers of believers being diminished by a greater diffusion of philosophical habits of thought and a more general knowledge of physiology.5

Doctor Shepherd's solution to the problem of quackery was founded upon a long term educational program, one that would take several generations to accomplish. It is doubtful if the program would achieve its aim for as Doctor Shepherd said, "There seems to be in almost everyone a vein of credulity and superstition against which argument is useless."6 Besides, the quack was an immediate problem to everyone and several generations of education seemed too long to wait for a solution.

Added to the problem of the quack was the problem of poorly trained physicians, men who had attended a medical school but who were inept or who had received training of a low quality. These practitioners were as dangerous as the quack but in another way. They were released from their schools with a medical diploma and allowed to practice upon an unsuspecting public. The diploma was, in most cases, their license to practice, subject to such license fees as they might be required to pay in a given state. A well-meaning person might employ such physicians, unaware that

6. Ibid., p. 159.
they were incompetent, and be no better off than the person who employed a quack. The most intelligent person, carefully staying clear of quacks, might easily choose an improperly trained physician for the only guarantee of the ability of a practitioner lay in the diploma he possessed and the school that he had attended.

United States Commissioner of Education Eaton reported on the state of medical education in 1870:

The rule of regular medical colleges is to demand three years study (in which are included at least two courses of lectures) so the aspirant for medical information generally makes an arrangement with a practitioner to study in his office.

The student remains in [an] office for a period varying from three months to a year, during which he has not been examined times enough to make it worthwhile mentioning. He during this time reads some work on human anatomy without any appliances except a defective set of bones, the relic of his preceptor's dissecting days.

The neophyte then hies to some medical school, pays a small matriculation fee, writes his name, age and residence and the name of his preceptor in the matriculation book, which are absolutely the only necessary qualifications for his entrance. He begins attendance on the courses which he finds is not at all compulsory, and that he can cut a lecture when he pleases.

Generally very few of any class get plucked. Sometimes men are allowed to graduate if they promise to pursue a certain amount of study subsequently under the supervision of the faculty.

Comparatively few men (at least in the South and West) ever study three full years before applying for a diploma.

The medical colleges of this country are usually joint-stock companies, who furnish as little medical
education as they can sell at the highest rate they can obtain. Their number is excessive, and the competition between them very keen. They are consequently disinclined to introduce any new features which may scare students of low attainments away.

Nor are all the medical students free from a large share of responsibility for the present condition of things. They are in such haste to graduate that they are impatient of even the amount of instruction they are now forced to receive, and scores of men begin practice every year all over the country who have never heard a lecture at all, or, at the most, have attended but one course.7

From Commissioner Eaton's report it would appear that even the well-intentioned medical student, eager to learn all he could, was at a disadvantage. Though he might be fortunate enough to study under a preceptor who could and would drill him thoroughly, he still must attend a medical school. Here he had little to go on in choosing the best school available. If the student were successful in his choice, he still must face a repetitious process. The second of the two courses of lectures offered by the various schools was but a repeat of the first course. In exchange for the time spent in the second course, the student learned nothing that, with due attention to study, he had not learned in the first course. Small wonder then, that some students did not bother to remain for the second course. The courses attended were virtually all of a lecture nature with little or no

clinical work being made available. If, as Commissioner Eaton suggested, medical schools were interested in furnishing "as little medical education as they could sell at the highest rate they could obtain," the situation then becomes clear. The majority of the physicians in the United States would be poorly trained and would tend toward incompetency.

This then, was the basic problem of the regular medical profession: to devise a means of eliminating the quack practice, weeding out the incompetent and poorly trained physician and prevent the return of either. Numerous solutions were set forth, some sound and some quite unrealistic. The best of the sound solutions numbered two. The first of these was the idea of making membership in a medical society dependent upon ability. In 1876, Doctor T. G. Richardson of New Orleans, Louisiana, spoke at the Annual Session of the Texas Medical Association and suggested a resolution "deprecating the easy method by which candidates are sometimes rushed into the ranks of the profession." Doctor Richardson believed that "the standards for membership in a State society should unquestionably be of such a grade as would make the fact of membership an endorsement in itself--especially as we have so few State Boards of Examiners to

Another physician, William B. Atkinson, wrote "...by the grand union of our forces....we can wield a power which will prove irresistible, and which would speedily sweep away every vestige of charlatanism." Doctor Atkinson believed that the medical societies could perform the function of examining physicians and controlling their own activities.

The idea of medical societies controlling the practitioner had several disadvantages. There was no way for a society to force a practitioner to join that organization or to place himself before its examiners. Once a practitioner had joined, the society had no way of enforcing the standards it had set for its members. If a member became guilty of malpractice, the society could but retrieve its certificate of membership, it could not remove the dishonored member from active practice. The medical societies were thus "perfectly powerless to coerce errant members of the profession. They can only annoy, they cannot punish...."  

The other solution offered to the problem was the

9. Quoted by the Editor of *The Virginia Medical Monthly*, III (December, 1878), 711. In a review of *The Transactions of the Texas Medical Association*, Eighth Annual Session, April 4-7, 1876.


establishment of boards of medical examiners by the legislatures of the various states. This, in time, was to become the accepted solution. Established by legislative enactment such boards would have powers far beyond those available to a medical society. It would be the duty of such a board to examine each applicant for a license and determine his fitness to practice. At the same time provisions could be made making it illegal to practice without such approval and license of the examining board. This approach would have the merit of forcing quacks and poorly trained physicians out of the field of medical practice. A properly phrased law could subject persons who could not pass an examination to fines and imprisonment if they insisted upon practicing medicine. As will be shown, the course of establishing medical examining boards was to be the one followed by the several states.

The idea for a board of medical examiners was not new. Prior to the Civil War, several states possessed such boards. One of the earliest boards established was that of the state of Maryland, whose legislature provided for such in 1799. The Maryland board had the duty of examining applicants and granting licenses in such manner as it saw fit. A supplementary act later required all persons including those holding medical diplomas to submit to examination
by the board.\textsuperscript{12}

The states of South Carolina, Alabama, Mississippi, Louisiana and Georgia had similar laws. In South Carolina, an examining board was established in 1817. Only those who possessed no diploma were required to be examined. The law supporting this board was repealed in 1838. The Alabama medical examining boards were established in 1823, with the same duties as the board in South Carolina. The Alabama boards were abolished between 1840 and 1845. Similar laws were passed in Mississippi by the "first legislature after the organization of the State government." The laws of Mississippi were very complete and efficient. The state constitution was revised in 1834, and the medical laws were omitted. The Louisiana medical examiner laws were passed in 1803. The law in this state provided, in addition to the examination of applicants to practice medicine, for the examination of apothecaries. The Louisiana law exempted holders of medical diplomas from examination. The Georgia law went into effect in 1826 and was repealed in 1835. By 1850, according to Doctor N. S. Davis, the

\ldots advocates of the various pathies and isms [had so] persistently [represented] the idea that all penalties

\textsuperscript{12} N. S. Davis, M. D., Contributions to the History of Medical Education and Medical Institutions In the United States of America, 1776-1876 (Washington: Government Printing Office, 1877), p. 51.
and restrictions against uneducated and unlicensed practitioners were only designed to enable the regular profession to enjoy a monopoly of the practice, and to restrict the liberty of the citizen in the employment of whomsoever he pleased [that] nearly all restrictions • • were repealed by the legislatures of the various states.  

Going against this tide was the state of North Carolina. At the time of the Civil War, this was the only state to possess a medical examiner law. This law had been passed by the legislature of North Carolina in 1859 and, with revisions, it was to continue to remain in force.  

The continued existence of the North Carolina State Board of Medical Examiners gave point to the lack of such in other states, particularly those states whose borders touched North Carolina. Doctor Landon B. Edwards, editor of the *Virginia Medical Monthly*, called attention to the "effect upon Virginia communities of the Board of Medical Examiners of North Carolina." Doctor Edwards feared that Virginia would become the home "not only of those unqualified graduates, who, because of home attachments would naturally settle" in the state but would also "become burdened by an overstock of indigent 'refugees'."  

13. Ibid., pp. 55-56.  

Edwards believed that the only solution lay in a medical examining board for the state of Virginia and that the only opposition to such could "come only from those who recognize their incompetence." 15

Doctor Edwards was not the only member of the medical profession of Virginia who felt the need for a medical examining board. Doctor Samuel C. Gleaves, President of the Medical Society of Virginia, summed up his thoughts in his address before the Society in 1875:

The power of the State is one to which all educated physicians look to preserve their rights inviolate from the horde of vandals who are at present endeavoring to overrun them by false pretensions and unparalleled effrontery. An examining board, composed of educated physicians, should be appointed, before which all should come before being allowed to practice within the borders of the State... This is no new departure. Almost every state in the Union has taken action in this direction, and already its beneficial effects are being felt. 16

Doctor Gleaves had, in some respects, allowed his enthusiasm to carry him away. Very few states and certainly not "almost every state" had taken any action towards medical legislation. At the time of Doctor Gleaves' speech only North Carolina had a medical law and only a few other states


were considering such a law. Doctor Gleaves believed that legislative intervention was necessary for:

The efforts of individuals unassociated with each other can neither secure the establishment of a sufficiently elevated standard of professional acquirement; nor, were it practicable, to fix such a standard, could they compel the candidates for the profession to maintain it.

Nothing but a mandate from the State would blast quackery. What quack would dare quit the shades of his native ignorance and insignificance if he knew he must encounter searching questions? It would exterminate the whole race.

Having thus explained what was necessary for a solution, Doctor Gleaves then explained why he believed such to be necessary:

. . . Shall not Virginia protect men who have studied long and hard and at great expense . . . and lend a helping hand against the vandal horde which how infests her border?

This State is overrun with pseudo-doctors and systems disguised beneath the forms of science, invading the bonds of the profession, and tending to distract from its character and influence.

. . . We demand the same protection, the same immunity from quackery as is granted to the clerical and legal professions.

It is of note that Doctor Gleaves based his appeal not so much upon humanitarian grounds as upon the protection

19. Ibid., p. 7.
of the profession. Such an appeal could readily give rise to the claim by the unscrupulous that the profession was worried more about competition than about the well-being of the public.

Efforts were made to have the state Legislature pass some form of medical examiner law. Doctors Edwards and Gleaves voiced their desires and opinions during 1875. In January of the following year, a bill was submitted to the Virginia House of Delegates. The purpose of the bill was for the regulation of the practice of medicine and surgery. It never came to a vote.20 Similar bills were proposed in December, 1876,21 and January, 1878,22 and the Senate received a petition from members of the medical profession in January, 1878.23 In each case, the bills and petitions in both houses died in committee or never came to a vote. No further attempts were made, or at least no further


petitions or bills appeared on the agenda of either the House of Delegates or Senate until 1882.

Before 1882, further reasons were advanced in favor of medical examining boards. In 1880, Commissioner of Education Eaton presented a case against bogus medical diplomas. In this instance, Commissioner Eaton depended most heavily for his illustrations on a situation that then existed in Pennsylvania, while leaving no doubt that this was not the only state at fault.

In the state of Pennsylvania, individuals wishing to apply for a corporate charter for a medical school merely applied to the state Legislature. Acts of incorporation were forthwith passed with no attempt being made to ascertain the purpose, equipment or faculty of the proposed institution. This easy-going attitude made it remarkably simple for unscrupulous persons to acquire the corporate right to issue medical diplomas. Commissioner Eaton pointed out that the Philadelphia University of Medicine and Surgery, the Eclectic Medical College of Pennsylvania and the College of Pharmacy of Philadelphia were founded for the sole purpose of issuing diplomas on a profit making basis. The methods employed by these organizations were, at the least, most unsavory. The school placed advertisements stating that an applicant for a diploma had but to submit a thesis on some aspect of medicine. Upon the acceptance of this
thesis by the faculty and the payment of a fee to the college, a diploma in medicine would be granted. The "student" had no need to leave his home as all business was transacted by mail. In Mr. Eaton's words, "The thesis is unimportant; the fee is the principal reason for conferring the distinction."24 The Commissioner then noted that the "situation was further complicated by the existence and loose practices of other educational corporations which . . . give diplomas after insufficient or partial instruction or pretense of instruction."25

The effect of such institutions was not limited to the states in which they were located. Since the purveyors of bogus diplomas pursued their activities mostly by mail, the effect could be widespread. Those colleges who gave some pretense of instruction did not restrict their student body. Like any other college then and now, the student body consisted of students from several states. The result of the activities of both of these forms of colleges was that holders of their diplomas were scattered through several states. These diplomas enabled untrained persons to set up a practice wherever there were no legal restrictions. Under


25. Ibid., p. clxiii.
these circumstances, the entire nation was affected by bogus diplomas. Due to the structure of the government of the United States only the individual states could take action to protect themselves while each could do nothing about the misdealings being conducted in another state.

As has been previously mentioned, as early as 1859, North Carolina had taken steps to protect its citizens. In 1874, Editor Edwards of the Virginia Medical Monthly called attention to the usefulness of the North Carolina Medical Examiner Board:

This body is becoming to be recognized as an absolute necessity in the State, as is manifested by the growing interest in its deliberations and the constantly increasing proficiency of its applicants for license. It was created by legislative enactment . . . which requires all persons engaging in the practice of medicine in the State to have the license of the Board in order to collect their fee by law.

We may remark that to obtain the proper license . . . is not merely a question of form; but the Board very properly have adopted a high standard, so that even some who obtain medical diplomas, as they are bestowed by certain colleges . . . are yearly rejected. And it is the laudable purpose of the Board gradually to elevate the standard of requirements.26

Later in the same year, Doctor Edwards had more to say upon the subject of an examining board for the state of Virginia. In a strong editorial, the doctor wrote:

It is a burning shame that here in Virginia . . . license is given to anyone who merely pays the ordinary license fees, to trifl~ with the health and lives of the people. Even the possession of certain college diplomas is no longer a mark of proficiency, for . . . the fact must be acknowledged that there are Faculties which are careless in their examinations, unduly liberal in the bestowal of honors, and treacherous to the interests of the people among whom their graduates go out to practice.27

In October, 1874, Doctor Alfred G. Tebault, then President of the Medical Society of Virginia, cited "incompetent midwives and quacks" as a "danger to mankind." He stated, "... the Legislature alone, if it will, can correct if not arrest this evil to society" and called upon the General Assembly to enact suitable laws.28

Though the spokesmen of the Virginia medical profession called in strong terms for legislative action, no action took place in the 1870's. As previously mentioned, several bills were initiated during this period but none were passed.

During the decade of the 1870's several other states took legislative action regarding the regulation of medicine and surgery. The first of these was Kentucky. The

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legislature of that state passed an act in 1874, that required "all who attempt to prescribe for the sick to be regularly graduated in medicine by a duly chartered medical college, or they must obtain proper credentials from one of the State Boards of Medical Examiners." Though this was a step in the direction of control of the medical practice, Kentucky still failed to provide for the weeding out of incompetent graduate physicians. The passage of this legislation meant, however, that of the five states that bordered Virginia, two now possessed laws to regulate medical practice. This increased the likelihood of rejected incompetents and quacks moving into Virginia.

The second state legislature to pass medical legislation in the 1870's was that of Texas. The Texas law was passed in 1876, and required an applicant to have his diploma endorsed by a District Board of Examiners and then to register the diploma with clerk of the county in which he wished to practice. This meant that the function of the District Boards of Examiners was merely to endorse the diplomas of those schools of which the Boards approved. Since there were several District Boards, there were, naturally, more than one set of standards. In the words of Doctor John H.

Rauch, Secretary of the Illinois State Board of Health, this resulted in a law that was "practically inoperative." 30

The third state to take legislative steps to regulate the practice of medicine and surgery was Alabama. The Alabama law was similar to that of North Carolina, in that it required all applicants for a license to practice medicine in the state to pass an examination. Graduates of a medical school could be examined by a county board while non-graduates had to be examined by a state board. 31

In the first four years of the decade of the 1880's, five more southern states placed restrictions upon the practice of medicine. These states were: Georgia and South Carolina in 1881, Mississippi and Louisiana in 1882, and Florida in 1884. The laws of these states varied considerably. Georgia, for example, required only that graduates of a medical school register their diplomas in the office of the Clerk of the Superior Court. There was no provision for examination but there was the implication that those who did not hold diplomas could not practice. This at least eliminated quacks and untrained practitioners but it did nothing about the incompetent graduates of medical schools.

30. John H. Rauch, Medical Education, Medical Colleges and the Regulation of the Practice of Medicine in the United States and Canada, 1765-1891, p. xx.

31. Ibid.
and holders of bogus diplomas. There being no Board of Medical Examiners, there was no one to pass upon the validity of a diploma. The Louisiana law was similar to that of Texas. Diplomas were to be registered after endorsement by the State Board of Health. This single board prevented the confusion attendant upon the several boards such as existed in Texas. Mississippi made provision for examination of all applicants for a medical license by the County Boards of Medical Censors. The law in South Carolina was similar to that of North Carolina in that all applicants must be examined by the State Board of Medical Examiners. Florida's law required examination by either a state or county board of medical examiners.32

32. Ibid.
CHAPTER II

VIRGINIA ESTABLISHES A STATE BOARD OF MEDICAL EXAMINERS

The Virginia medical profession was to make two more attempts before they were successful in gaining legislative action establishing a State Board of Medical Examiners. The first of these attempts took place in 1882. October 10, 1881, at the Annual Session of the Medical Society of Virginia, Doctor O. F. Manson offered the following resolution which was adopted by the Society:

Resolved, that a committee of five Fellows be appointed by the President to petition the Legislature for the establishment of a Board of Medical Examiners for the State of Virginia. 33

The committee was duly appointed and presented the petition of the Society to the General Assembly. The petition was placed in the form of a bill by Delegate Robert M. Mayo of Westmoreland County on January 9, 1882. 34 It failed to pass. Doctor Edwards of the Virginia Medical Monthly believed that the failure of the bill in the Legislature was "by reason of the fact that other legislation is deemed of


more importance by the prevailing political party." 35

During the following legislative session, success attended the efforts of the medical profession to establish a medical examining board in Virginia.

On December 6, 1883, Delegate John E. Moon of Albemarle County presented to the Virginia House of Delegates a bill to "regulate the practice of medicine and surgery." 36 With very little apparent discussion, the bill was approved by the House of Delegates on January 7, 1884, and was sent to the Senate for concurrence. 37 The Senate made one amendment in the House bill. This amendment stated: "Provided the provisions of this bill shall not apply to any midwife." The amended bill was returned to the House where it was agreed to on January 22, 1884. 38 The Act to Regulate the Practice of Medicine and Surgery became, with the signature of Governor William E. Cameron, law on January 31, 1884. 39


37. Ibid., p. 132.

38. Ibid., p. 226.

The new law provided that the board of medical examiners was
to consist of three members from each congressional district
in the state and two from the state-at-large. The first
board was to convene on January 1, 1885, and the term of its
members was to be four years with new appointments being
made at the end of each term. The law described the type of
men to be appointed and the source of such as follows:

The said board shall consist of men learned in medi-
cine and surgery and shall be appointed by the governor
. . . from a list of names to be recommended by the
medical society of Virginia. . . . Such recommendations
shall be by the votes of a majority present at some
meeting of the society.

The Board was to have not less than one regular meet-
ing each year and was to prescribe its own by-laws, rules
and regulations for its proceedings and government and for
the "examination of candidates for the practice of medicine
and surgery by its individual members." Provision was made
so that an applicant might be examined without going before
the board in session:

When an applicant shall have an examination satis-
factory as to proficiency before three members of the
. . . board, or before the board in session, the presi-
dent thereof, shall grant to such applicant certificate
to that effect.

If an applicant were capable of passing the examina-
tion, he could not be

rejected on account of his adherence to any particular
school of medicine or system of practice, nor on account
of his views as to the method of treatment and cure of
diseases.
The law exempted from examination those persons who had been licensed prior to January 1, 1883. Any person who began a medical practice after that date must be examined by the Board. A physician called in consultation from another state was not required to possess a Virginia license nor must he be examined. As mentioned previously, midwives were specifically exempted. No reason for this action seems to have been given during the period in which the law was drafted but it would seem reasonable to assume that they were granted exemption because of the conditions of the day. Doctors were not overly plentiful and they were sometimes few and far between. An expectant mother would be better off with a midwife of some experience than with no one. This would hold particularly true with the Negro population which depended largely on midwives for assistance during a childbirth. Forcing the midwives to take an examination would serve no useful purpose and would merely deprive the population of a needed service.

Persons violating the act were to be subject to a "fine of not less than fifty nor more than five hundred dollars for each offense, and [would] be debarred from receiving compensation for service rendered as such physician or surgeon." 40

40. Ibid., pp. 79-91.
There was little, if any, opposition to the passage of the Act to Regulate the Practice of Medicine and Surgery. In large part, the lack of opposition was probably due to the provisions exempting established practitioners and all past and future midwives and preventing discrimination against a particular school or theory of medicine.

Though it is reasonable to believe that the established practitioners included quacks and incompetents in their ranks, so long as they had paid their license fees prior to January 1, 1883, they had nothing to fear from the Medical Examining Board regardless of the degree of their ability. Those of the group who followed certain schools of medicine or who advocated certain forms of treatment or held dissimilar views as to the causes of diseases had no reason to fear that their beliefs might be discriminated against or that others who agreed with them might not, in the future, be allowed to practice in Virginia.

The phrasing of the law thus eliminated opposition to its passage while achieving its aim of bringing the medical profession under a legal control. There were to be no exemptions from examination. The law stated that "all" applicants for a license to practice medicine must stand examination. Graduates of medical schools and non-graduates alike could be examined by either the State Board in session or by three individual examiners of their own choosing.
The passage of the Medical Examiner law was hailed as a positive step in the direction of better medical services. It remained to be seen if the law gained vigor through proper administration or would become a dead letter through slipshod examining methods and a forgetful attitude on the part of those officials directly concerned.

During the first three years of the operation of the Medical Examining Board of Virginia, 223 applicants were examined. Of these, 49 were rejected. The members of the Board were frankly amazed by the low degree of training exhibited by some of the applicants. In a report covering the first three years, several examples of answers given by students were cited by the Board. One applicant, when asked the function of the liver, replied, "Don't know." Of the 174 applicants licensed, four were Negro and seventy-five were from Virginia medical schools.41

The new law, besides weeding out incompetents and quacks, produced an unexpected side effect. In a report to the Virginia Legislature, Doctor H. Gray Latham,42 President of the Virginia State Board of Medical Examiners, stated:


42. Doctor Latham's name is given in various publications as "H. Grey Latham" and "H. Gray Latham." The latter spelling, having been noted most frequently, has been adopted.
Already an advantage of the Medical Examining Board is seen in Virginia: the schools in the neighboring States, to which many of the students from Virginia go for their education, have raised their standard and refused to graduate men unless they believe they can pass the Virginia Board.43

Doctor Latham noted that the effect was apparent only in neighboring states and that while "some of the schools have raised their standard . . . a very large number have refused to do so."44 In spite of the general low quality of the various schools, Doctor Latham felt that: "There are in this country and State medical schools which are notable and honorable. . . . The number of these colleges are increasing, and nothing has contributed so much to them as the Medical Examining Boards of the various States."45 In this view, Doctor Latham was supported by the editor of the Virginia Medical Monthly who believed that:

The Virginia Board is doing an immense deal of good to the profession at large. It is stimulating the colleges up to a proper sense of their responsibility, and it is giving to the profession and to the communities a class of educated doctors which they have not generally had since the war.46


44. Ibid.

45. Ibid., 913.

CHAPTER III

THE VIRGINIA MEDICAL LAW AMENDED

The first years of the operation of the Medical Examining Board brought to light a few problems. As originally provided by law, the Board was to consist of three members from each congressional district in the state and two from the state-at-large. In a letter to the Medical Director of the United States Navy Doctor William C. Dabney, then President of the Medical Society of Virginia, stated: "The number of examiners through an oversight has been made thirty-two instead of twelve."47 It would seem, on inspection, that if the number thirty-two were an oversight, it would have appeared as such only after some reflection on the part of Doctor Dabney. Certainly there would have been ample opportunity for a different figure to have been

47. Doctor Albert L. Gihon, Medical Director of the United States Navy in a letter to the Editor of The Journal of the American Medical Association, II (April 15, 1884), 442; citing a letter from Doctor William C. Dabney to Doctor Gihon. There are several references to the figure thirty-two in the literature of the period. The writer has been unable to reconcile this figure with the fact that the Biographical Directory of the American Congress, 1774-1949 (Washington: Government Printing Office, 1950), p. 386, gives the number of Congressional districts as eleven. This would then, according to the law as stated, make a total of thirty-five members of the Virginia Medical Examining Board. Since the larger figure was apparently never cited during the period, the lesser figure will be used hereafter.
inserted in the bill while it pended in the General Assembly. An earlier bill, proposed in the year 1882, had provided for a total of twenty-six members of the Board, not twelve. It would thus appear that, in general, no real thought had been given as to a proper figure for the number of members to form the Medical Examining Board. It is more probable that serious thought on this subject commenced after nominations for appointment to the Board were started. During the process of nominating various physicians it probably became quickly apparent that thirty-two members would not only constitute a rather large and unwieldy group but that it was difficult to find that many physicians of the necessary standing who would be able to desert their practice in order to join the Board during its sessions. No doubt, then as now, a good physician was not without employment and usually had more patients than he could comfortably handle. Considering these problems, it would then appear desirable for the Board to consist of a smaller membership.

The other problems were somewhat more complex. Three members of the Medical Examining Board could constitute an examining panel and as such could pass upon the qualifications of an applicant for a license. This provision had

been placed in the original law for the benefit of those applicants who were unable to be present for examination by the Board in session. In practice this provision was subject to several forms of abuse. The applicant could pick his three examiners and would be examined at their individual professional offices. This picking and choosing of individual examiners by the applicant and the various locations of the examination were the true source of the abuse. Doctor H. Gray Latham of the Board of Medical Examiners explained the problem thus:

Individual examining cannot do justice to the applicant: First the applicant comes to the member of the board as a guest and with a story of poverty, with parents and sisters dependent on his passing this examination, and there is not a member of the board who can be altogether deaf to such appeals. Entertaining this guest for three or more days, is not always agreeable or convenient for the country examiner. Second, the examiners cannot maintain a suitable watch over applicants, as has, unfortunately, on more than one occasion been proven necessary. The applicant writes out his answers to the questions proposed in the office of the examiner, where he has to contend with the temptation offered by well filled bookcases and a table full of medical literature of most recent date and . . . it has often been found that the temptation has been yielded to. 49

From Doctor Latham's statement it can be seen that the provision for examination by three members of the Board constituted a loophole, not in the law but in the efficiency of the law. An applicant who might feel uneasy about

appearing before the Board in session could pick three Examiners who might be friendly towards him and who might succumb to his tale of woe. The tale of woe failing, the applicant could resort to cheating and thus gain his license. In this manner an incompetent applicant could, and probably did, gain admission to the medical profession in the state.

With the recognition of these problems an effort was initiated to have the Act to Regulate the Practice of Medicine and Surgery amended. In December, 1887, the Medical Society of Virginia met with the State Board of Medical Examiners and:

... prepared a bill incorporating all three of the resolutions adopted by the Society, known respectively as the 'Moore,' 'Chancellor,' and 'Brock' resolutions. The first proposed to do away with examinations by individual Examiners and requires all parties to be examined to come before the Board in session; the second called for a reduction of the number composing the Board; and the third permitted none but the holders of reputable diplomas of graduation in medicine to come before the Board for examination.50

With the presentation of these resolutions to the House of Delegates Committee on Propositions and Grievances, discussion concerning medical legislation became public. In the year 1883, little or no opposition had been aroused to restrictions on medical practice. The opposite now became

true. The Examining Board had been in operation for a period just short of three years. During that time the Board had, not unnaturally, acquired a few enemies. A number of would-be practitioners had been rejected, certain schools were seeing large percentages of their graduates failed—thus deterring from the colleges' reputation—and the family and friends of those who had failed were unhappy. To this could be added those persons who wished to practice in Virginia and who were prevented from doing so for fear of the Medical Examining Board. During its first years of operation the Board had established the fact that it was an effectively functioning body and that more than lip service was being paid the new law. The situation thus came to a crisis when the medical profession itself made known its wish to amend the law and make the requirements for obtaining a license more difficult. The crisis resulted in considerable acrimonious debate and the indulgence of outright "Mudslinging."

The public debate began even before the resolutions of the Medical Society of Virginia and the Medical Examining Board had been framed for presentation to the General Assembly. The debate was carried on through the columns of the newspapers of the period.

In a letter to the Editor of the Richmond Dispatch, one "T. N. W." took the stand that those who were in favor
of the Examining Board so as to prevent castoffs from other states from being "dumped" in the state of Virginia, were in reality worried about competition. The letter writer, who claimed to be a physician, felt that those who possessed diplomas had already passed sufficient interrogation by their professors. The writer said:

Fathers, mothers, friends, who have made great sacrifices to have their sons graduated from the best medical schools in this state with . . . professors . . . both at the University of Virginia and at Richmond . . . [who are] the equals in medical attainment to any board that has or probably will assemble in this State or any other, may surely be pardoned for manifesting indignation when a board, composed in part of ordinary practitioners, who themselves have never stood an examination before such a board, overrules the school of the professors who have been watching the progress of the candidates for a couple of years or more and says: We will not allow him to practice in Virginia.

I have confidence in our institutions. Their diploma is sufficient for me. Let no little examiners be invited to say yes or no.51

Though the writer may have believed it proper not to examine graduates, his argument overlooked the salient fact that if an applicant, graduate or not, could not pass an examination by the Board, then his education had been neglected in some manner. Particularly so if "ordinary practitioners" could conceive questions the answers to which the student had not received from his professors.

51. "T. N. W.;" letter to the Editor of the Richmond Dispatch, November 20, 1887, p. 6, cols. 4 and 5.
Doctor Hugh T. Nelson, then Secretary of the Board of Medical Examiners, undertook to answer the letter of "T. N. W."

We must say that when graduates from medical colleges come before our good citizens with no more knowledge of anatomy than to assert that man is a composite creature with thirty-six separate and distinct bones in his spinal column, and with his sides above his diaphragm; when they . . . give morphine five grains at a time; when they want to treat our women under certain critical conditions in such manner as would be murder— and these are only a few out of the many cases of ignorance which this board has met with—we do say that the State should interpose some protecting influence between the diploma granting and licensing powers.

The immense number of medical schools in the country makes them all so eager to fill their halls with students that all sorts of advantages (?) are offered young men, and such inducements held out that persons totally unfitted to study a branch of science or even to think or act intelligently are allowed to undertake to become physicians, and that by a method of short hand very frequently, and not after two or more years of hard study as Dr. T. N. W. believes. 52

The day following Doctor Nelson's letter, December 18, 1887, an element that most naturally had a great interest in the Medical Examining Board voiced its views. Certain students of the Medical College of Virginia wrote to the Editor of the Richmond Dispatch. Their argument was placed upon a broader base than that of "T. N. W." These writers believed that the students in the medical colleges in Virginia

... represent all sections of the country. They pay more for their tuition in institutions chartered by the State of Virginia than they would pay [in] any of the southern or western medical colleges, and yet, after graduating, their diploma is not worth the parchment on which it is written. They must stand a second examination before a board composed of gentlemen who when they graduated were not as well qualified for the practice of medicine as the graduate of today, for it is a well known fact that the medical science has advanced and is advancing more than any other. In April, 1887, six out of ten of the graduates of one of our Virginia colleges were rejected, and of the nineteen gentlemen who appeared before this board only seven passed the examination.

The medical students certainly deserve some consideration, for they not only support this board, but they are the sufferers. Let our Legislature exempt the students who patronize our home institutions or refuse the amendment asked for by the Medical Society of Virginia, which by the way, represents only about one-third of the physicians in the State.53

In almost the same breath, the anonymous student writers were admitting that a high percentage of their number were failing to pass the required examination while asking that graduates of the same institution as those rejected should be exempted from the examination! The writers believed that the mere fact that students were bringing money into the state through its medical colleges should entitle them to a privileged position. A more sophomoric argument cannot be imagined. Still, the idea of exempting graduates of local institutions was not without precedent.

53. "XYZ" letter to the Editor of the Richmond Dispatch, December 18, 1887, p. 7, col. 5.
In 1881, the medical law in South Carolina stated: "The degree of doctor in medicine lawfully conferred by any medical college in [this] state shall be a license to practice."54 But good precedent or not, the admittedly poor examination record of the graduates of at least one Virginia medical school stood against it. The record alone provided excellent grounds upon which the State Board of Medical Examiners should be continued. If they could not gain exemption from the examination, then the students wanted the proposed amendments rejected so that the local boards might continue their existence. A tacit admission that the local boards were ineffective and that an applicant stood a better chance of passing the examination of such a board.

While the argument for the exemption of graduates of Virginia institutions went forward, there arose an appeal to rescind entirely the Act to Regulate the Practice of Medicine and Surgery and depend upon the intelligence of the people. One such appeal by a "J. E. H." is fairly typical:

The people are not all fools; they can much more readily and quickly detect whether a physician is competent than all of your 'Examining Boards,' and as an old practitioner I would be glad to see this law wiped off the statute books of our State.55


The only difficulty with the above approach was that it took the Medical Examining Board but three days to weed out an incompetent person while it would necessarily take "the people" more time since they must witness the practitioner and his activities during several actual cases and while they were "readily and quickly" detecting his incompetency some person might needlessly die under the care of such a practitioner. Doctor "J. E. H." also failed to explain why, since the people were "not all fools," quackery had gained a strong foothold not only in Virginia but throughout the United States.

In January, 1888, the students of the Medical College of Virginia took a more positive action than that of writing letters to the local newspaper. The students submitted a petition to the Senate of Virginia through Senator Lovenstein. The petition "respectfully" requested that the Legislature "exempt the graduates of medical institutions chartered by the State of Virginia from standing an examination before the State Board of Medical Examiners." The grievance of the students included those listed in the letter previously cited and certain additional complaints which are given, in part, as follows:

2. The antagonism manifested by certain members of the State Board of Medical Examiners to at least one of our medical colleges is open and marked, and therefore the board is not as conservative as it should be.
Listing the states in which the laws regulating the practice of medicine and surgery exempted the graduates of institutions in those states and believing that this constituted sufficient precedent for Virginia to follow, the students then stated their belief in the unfitness of the Virginia State Board to pass upon their attainments:

4. The State Board of Medical Examiners having never passed an examination before any board and having been selected at random from amongst the practitioners to whom the art of examining is something new, have not the experience that our faculties have obtained by years of constant teaching and association with the student.

By the use of the phrase "our faculties," the implication was given that the students of the Medical Department of the University of Virginia were to be included as complainants. Be it noted however, that the students of the University of Virginia had nothing to do with the petition nor, insofar as it can be determined, did they subscribe to the petitioners' sentiments. The petition continued:

5. The sole object of the law regulating . . . medicine . . . is a selfish one—i.e., to prevent competition. Medicine is studied and practiced solely for the sake of profit and gain, and not for 'sweet Charity's sake'. . . . Competition is the life of this as well as of all other trades.

The students could not have found another statement more likely to arouse the ire of the practitioners of the state. Particularly those in the rural areas who traveled miles on horseback and spent long hours seeing patients with frequently poor prospects of their fee ever being paid but who
nevertheless continued their work to the best of their ability.

The petition then appealed, as did the earlier letter, to the sympathy of its readers:

6. The students of our college are mostly young men who are educating themselves, and can ill afford to bear the expenses of travelling, hotel bills, examination fees, &c., incident to appearing before the . . . Board . . .

The petition pointed out that the facilities for teaching medicine had improved and increased to such an extent during the past few years that the graduates of the day were infinitely superior to the members of the Medical Examining Board when they were graduated. This belief was buttressed with the statement:

9. The graduates of our college have withstood the severest tests before the army and navy examining boards. Students who have distinguished themselves before the faculty . . . by their proficiency . . . have been rejected by the State Board . . .

The students believed that the failure of an applicant to pass the examination of the Board cast "a stigma" upon him, "while to pass . . . is of no benefit." A rather peculiar statement in that passing the examination, the applicant reaped the benefit of a license to practice without which his period of study had been wasted unless he wished to leave Virginia.

The petition complained of the "growing indifference" of the members of the Board, saying that "in April, 1887,
a little over one-third of the members were present." The belief was held that this situation would result in throwing "the destiny of the applicants into the hands of a few prejudicial examiners." The proposed amendment to the law was designed to help correct this apparent indifference. By making the Board smaller, it would be possible to fill it more readily with members who could attend every meeting.

The petition was concluded with the students' statement of what they believed the real purpose of the law:

12. The present law regulating the practice of medicine and surgery was gotten up by a few for the benefit of a few and is class legislation of the most pronounced form; therefore we petition that it be amended so as to exempt the graduates of our home institutions.

It would appear that in this statement, the students sullied their supposedly high and noble motives. They objected to "class legislation" but if they themselves could be exempted, it would be perfectly all right to practice it upon the graduates of institutions in other states. A somewhat inconsistent stand. The petition was signed by James N. Ellis, W. B. Ashburne, Will N. Klase, A. B. Smith, J. W. Henson and Junius F. Lynch as the "Committee for the Students of the Medical College of Virginia." 56

56. Article entitled "The Students Kick," Richmond Dispatch, January 6, 1888, p. 1, col. 6. Unfortunately, the journals and records of the General Assembly of Virginia during this period did not include any mention of the wording of various bills and petitions unless such were adopted as
It is possible that the students that signed this petition sincerely believed that they were being discriminated against. Of the six signers, at least four were able to pass the state examination and later achieved a fairly honored position in their profession. This would at least indicate that they were not disgruntled incompetents. James N. Ellis graduated from the Medical College of Virginia in 1889, passed the state examination and joined the Medical Society of Virginia during the same year. He later became superintendent of the Dispensary of the Medical College of Virginia, Surgeon of the Free Dispensary of the University College of Medicine in Richmond, and Demonstrator of Anatomy in the latter during 1893-96. W. B. Ashburne graduated in 1889, having already passed the State examination in 1888, and became a member of the Medical Society of Virginia in 1890. It should be noted to Ashburne's credit that, having once passed the state examination, it was not necessary that he continue on to graduation from medical law and the final wording was then included in the Acts and Joint Resolutions of the General Assembly of Virginia for the particular session.

57. Transactions of the Twenty-Ninth Annual Session of the Medical Society of Virginia (Richmond: J. W. Fergusson, 1898), p. xxv.

college. James W. Henson graduated from medical college and passed the state examination in 1889 and became a member of the Medical Society of Virginia in 1890. He held the posts of Professor of Anatomy at the Medical College of Virginia and Assistant Demonstrator of Anatomy at the University College of Medicine. 59 Junius Floyd Lynch graduated and passed the state examination in 1888. He held the positions of President of the Seaboard Medical Association, Quarantine Commissioner of Chattanooga, Tennessee, Chief Assistant Surgeon, Plant System, Railroad Hospital at Sanford, Florida, and became a member of the Medical Society of Virginia in 1898. 60 He apparently had left the state after graduation and so had not bothered to join the Society until his return. Of A. B. Smith and Will N. Klase, nothing is known other than they did not become members of the Society. They may or may not have passed the state examination but since no record of the period exists, it is not possible to determine whether they became licensed in Virginia. It is possible that they removed to another state.

The student petitioners received virtually immediate results. The following day, January 7, 1888, two motions

59. Transactions of the Twenty-Ninth Annual Session of the Medical Society of Virginia (Richmond: J. W. Ferguson, 1898), p. xxv.

60. Ibid., p. xxxv.
were put in the Senate of the General Assembly. The first was a resolution introduced by Senator Harrison requesting the Medical Examining Board to inform the Senate as to how many of the graduates of the Medical College of Virginia and of the Medical Department of the University of Virginia were "applicants for the certificate of proficiency and license to practice, and how many of each institution passed successful examination."61 Following this resolution, Senator Heaton introduced a bill to repeal the Act to Regulate the Practice of Medicine and Surgery.62 Senator Heaton's act would appear to have been precipitate. But it may well have been that his action was a parliamentary maneuver, as will be seen later, when he advocated that his bill not be passed.63

The petition to the House of Delegates by the Medical Society of Virginia brought about a public hearing held by the House Committee on Propositions and Grievances on the night of January 11, 1888, in the Senate chamber. According to the reports of the Richmond Dispatch, "a good deal of the discussion was of a heated character, and the varying views


62. Ibid., p. 106.

63. Infra, p. 60.
that have been presented in the communications to the newspapers were presented with more or less . . . warmth."

During the hearing the opportunity was made to emphasize that "neither the faculty of the University [of Virginia] nor of the college here endorse" the scheme of the students. The faculty of the Medical College of Virginia had informed the students that they could not "join them in their petition, being on record as in favor of an examining board."

To the Legislative Committee, the students insisted "that owing to the presence on the State Board of some Richmond physicians 'who are notoriously hostile to the college here' it is impossible for them to get justice done them." The students then took the stand that if the law were not to be repealed, then they wished the retention of the local boards "as they have the choice of going before them or the State Board." In rebuttal to the pleas of the students, various physicians went on record as being in favor of the State Board "with or without the change proposed by the Medical Society of Virginia . . ." and the Board of Medical Examiners.

One physician, Doctor Webb, a member of the House of Delegates, seemed to side with the students in being opposed to the "examination of students except by the faculties which graduated them." The students added a complaint which they had not included in their petition. It was claimed by them that the "University [of Virginia] graduates are examined at
one time of the year and the graduates of the college here at another time." It was felt by the students that under those circumstances "it does not follow that the same questions are asked of the two sets of students." 64

During this Legislative Committee hearing, the real complaint of the students became quite obvious. They did not wish to undergo the examination of the State Board of Medical Examiners. It appeared to be immaterial to the students whether they gained exemption or the medical law was repealed so long as they no longer would have to face the State Board. The representatives of the students in the hearing, Messrs. Lynch, A. B. Smith and Albart, 65 were apparently quite willing to resort to any form of accusation in order to gain their point. Their accusations ranged from charges of "hostile" examiners to the implied charge that favoritism was being shown the graduates of another college. If the law was not to be repealed or amended to exempt the graduates of Virginia medical schools, the students then felt it should stand as it then existed. The students had complained that they were given a different examination from that given the students of the University of Virginia. They


65. Ibid. The first two students named were signers of the student petition.
thereby contradicted their complaint by expressing a willingness to be examined by the local boards of three members, a situation in which the existence of different examinations was implicit. A chance to be taken apparently because of the opportunities offered by way of ease in passing the examination. Four of the professors of the Medical College of Virginia, while not siding openly with their students, spoke in favor of the State Board but not as it was then "composed," thereby seeming to agree to the complaint of the students that certain members of the Board were "hostile" to the Medical College of Virginia.

Rather strangely, the Richmond Dispatch, while reporting at some length the complaints of the students, failed to mention the statement made at the same meeting by Doctor H. Gray Latham, President of the State Board of Medical Examiners. The statement was a detailed rejoinder not only to the petition of the students but to the complaints voiced by them during the legislative hearing. The statement was later presented to the Legislative Committee in written form. Doctor Latham said, in part:

... The State Board of Medical Examiners, selected from among the best men in the State, knows no graduate, college or school, has nothing to do with the numbers of classes or fees, acts only for the best interests of the public and the profession and asks no reward. ...
Who oppose the Virginia Examining Board? Not the Faculties of the two institutions owned by the State of Virginia. . . . The opposition comes from the colleges whose Faculties are afraid to have their work inspected. . . . It comes from graduates of those colleges, who in the easy and hurried way in which they have been 'pushed through' recognize their inability to stand the . . . examination required.

. . . the petition of the students of the Virginia Medical College was not the action of the Faculty of that institution. . . . It was the natural desire on the part of young men to escape an ordeal. . . . This petition contains some mistakes which we will now take the trouble to correct.

Doctor Latham pointed out that the students in Virginia medical schools paid a lower tuition rate than they would in a number of other states and referred the Committee to examples of tuition rates in certain states. Concerning the possibility of the Medical Examining Board being antagonistic and of its members having been selected "at random," Doctor Latham stated:

The statement that there is some antagonism on the part of the Board to the Medical College of Virginia is absolutely unwarranted. When the Board examines a student, he is only known by a number assigned to him. The name of the student or where he graduated is not known.

The statement that the State Board was selected 'at random' is not in accordance with the facts. The Board was carefully selected by the Medical Society of Virginia, an organization representing nearly one-half of the physicians of the State.

Dealing with the plea of poverty and the expenses incurred in the examination, Doctor Latham felt that it was "simply a blind" since
the Board meets directly after the colleges close. The fee to the Board is five dollars. The cost for boarding at the houses where the students generally stay is probably for three days about three dollars. 67

In a postscript to this statement, added after the night it was read during the hearing, Doctor Latham reminds the Committee that a majority of the faculty and a number of the students of the Medical College of Virginia were present at the hearing and spoke. He then charged the faculty of the Medical College as being in opposition to the Medical Examining Board:

We regret to say that the Faculty, while expressing belief in the value of the Examining Board in the abstract, were very warmly opposed to any examination of their students, and their speeches amounted to an earnest protest to the Board, and in favor of the bill which has been presented for its abolition. 68

Doctor Latham concluded his postscript with a rejection of the belief of the Medical College that members of the Board were antagonistic towards the college:

We know that individual members of the Board, a large number of whom are graduates of the Virginia Medical College, have the kindest feeling for the Faculty, and if the Virginia Medical College has been referred to so often in this paper, it is because of the strange attitude assumed by the Faculty, it being the only organized body—we can with truth say, the only medical man in the State—opposed to the Medical Examining Board. 69


68. Ibid., p. 916.

69. Ibid.
Whatever effect Doctor Latham's statement might have had upon the Legislative Committee, he made one fact clear: his belief that opposition to the Medical Examining Board stemmed solely from the Medical College of Virginia.

A few days later, on the evening of January 25, 1888, another Legislative Committee public hearing was held in the Senate chamber. During this second hearing the accusations made by Doctor Latham were, to some degree, substantiated. Doctor M. L. Jones, professor at the Medical College, expressed his opposition to the examination of the graduates of Virginia medical schools, particularly those of the Medical College of Virginia. Doctor W. H. Taylor, city coroner and professor at the Medical College, joined with Doctor Jones in opposition to the Board and expressed a desire to see it abolished. Doctor George Ben. Johnson was "utterly opposed to any changes being made in the existing law," which, in effect, was taking the side of the students in their plea for retention of the local boards. One of the students agreed with Doctor Johnson, feeling that if the Board were to continue he, "speaking for himself and associates preferred that no change whatsoever should be made in the law."

Professor Harris, a member of the faculty of the non-medical Richmond College, spoke in favor of the law and gave as a reason for his belief that it "would be a step backward
to repeal the law." Professor Harris further believed that the existence of the Examining Board "would make" the medical students "study harder," and so would be to the advantage of both the student and the public. 70

Between the two public hearings conducted by the Legislative Committee, a bill to amend the law regulating the practice of medicine and surgery was reported out of the Committee on Propositions and Grievances of the House of Delegates. The committee included only one of the amendments requested by the Medical Society and the Examining Board—that of abolishing the local boards. According to the Richmond Dispatch, the bill as presented "recorded the judgement of the committee that the petition of the students of the Virginia Medical College be denied . . . and that all applicants for the privilege of practicing medicine in Virginia shall first pass an examination before the State Board." 71 A proviso was inserted into the bill for use at the discretion of the President of the Board of Medical Examiners. This proviso provided that

When in the opinion of the president of the board an applicant has been prevented by good cause from


appearing before the board he shall appoint a committee of three members, who shall examine such applicant. . . 72

The basic difference between this and the old provision was that the President of the Board was the one to make the decision as to whether an applicant could not appear before the Board in session and then the three members would be appointed, not chosen by the applicant.

On the same day, January 17, 1888, the request of the Senate for the figures concerning the applicants for a license from the two Virginia medical schools was honored by the Board of Medical Examiners. According to the figures of the Board, forty-one graduates of the Medical College of Virginia had been examined with seven of that number being rejected—a far cry from the figures claimed by the student petitioners. During the same period, twenty-four graduates of the Medical Department of the University of Virginia had been examined and all had passed. 73 If the students of the Medical College of Virginia had any pride in the status of their school, these figures, when compared with those of the University of Virginia, might give them understandable cause for feeling they were being discriminated against. Seen from the point of view of the Board however, these figures

72. Ibid.
73. Ibid.
would mean that, in actuality, the Medical College of Virginia was allowing some sub-standard students to graduate. In one way, this was a more serious situation than the possibility that the members of the Board were biased. In any event, the figures gave an excellent reason for the students not being exempted from the examination of the State Board.

One effect of the Legislative Committee hearings was that the Medical College of Virginia gained no friends from among the medical and secular press of the state. The Richmond Dispatch reprinted an article from the Norfolk Landmark which stated:

A student from any college in Virginia who is not willing to submit his qualifications to a reasonable test . . . is not a safe man to practice medicine in this State. . . . Let the law pass; let us have no disguised, no masked physicians. There should be no easy road to the . . . profession of medicine and surgery.74

Doctor Clarence A. Bryce, Editor of the Southern Clinic wrote:

We are pleased to say that the best men in the medical profession are the strongest supporters of the Board. . . . There are opponents . . . and they are working with all of their . . . energies to effect [the Board's] overthrow. It is very strange, or rather unfortunate, that the only persons opposed to this law . . . are the professors, students and young hopefuls connected with the so-called Medical College of Virginia.

74. Richmond Dispatch, January 18, 1888, p. 2, col. 6, quoting the Norfolk Landmark, no date given.
The faculty of this school have certainly brought reproach upon themselves and their students. 

Doctor Edwards of the Virginia Medical Monthly praised the faculty of the Medical Department of the University of Virginia and one member of the faculty of the Medical College of Virginia:

... we should mention that the profession and the people of Virginia cannot too highly commend the course adopted by the Faculty of the Medical Department of the University of Virginia in constantly urging the importance and value of the measure. 

It is due also to Doctor Geo. Ben. Johnson to say that he has openly expressed opinions favoring examinations of graduates of the Medical College of Virginia, very different from those expressed by other members of that Faculty before a recent session of the Legislative committee. 

Doctor Johnson may have advocated examination of the graduates of the Medical College of Virginia but he had been against changing the medical law in any way and so, at best, could only be considered a rather halfhearted supporter of the stand taken by the Medical Society of Virginia and the Medical Examining Board.

On February 8, 1888, the House of Delegates, by a narrow margin of 36 - 32 approved the amendment and

75. Clarence A. Bryce, M. D., "Medical Examining Board," The Southern Clinic, XI (February, 1888), 57.

re-enactment of the Act to Regulate the Practice of Medicine and Surgery.\footnote{77}

On February 20, Senator Heaton of the Senate Committee on General Laws reported out of committee his own bill to repeal the medical practice act and personally recommended that it not be passed.\footnote{78}

February 23 the House of Delegates received word from the Senate that the amendment had been passed by that body with no changes being made. The vote was 17 - 11.\footnote{79}

The final step was taken on March 1, 1888, when Governor Fitzhugh Lee affixed his signature to the act of amendment and thereby made it law.\footnote{80} The act as signed by Governor Lee did not differ from the bill presented by the House committee and which, as mentioned previously, was reported by the *Richmond Dispatch*.

With this amendment, the Act to Regulate the Practice


\footnote{79. *Journal of the House of Delegates for the Session 1887-'88*, p. 443.}

\footnote{80. *Acts and Joint Resolutions of the General Assembly of the State of Virginia During the Session 1887-'88* (Richmond: James E. Goode Company, 1888), pp. 359-370.}
of Medicine and Surgery reached a solid footing. All applicants, with rare exception, would thenceforward face the same examiners, the same questions and would take the same chances. No longer would a possibly incompetent applicant have an opportunity to be passed in the examination by personally appealing to his examiners for leniency or by taking advantage of a fortuitous moment to cheat.

The medical examiner law would not again come under the criticism it endured in the years 1887-1888. The only additional major changes made in the law by the end of the nineteenth century were those made in the legislative session of 1899-1900. The amendment made at this time provided for a reduction of the number of members of the Medical Examining Board from three for each congressional district and two from the state-at-large to two from each district and three from the state-at-large. It was further provided that each applicant "shall produce before said board a diploma, or other satisfactory evidence of his graduation in some medical college."81 These provisions thus fulfilled the other two requirements of the resolution of the Medical Society of Virginia and the Medical Examining Board made in 1887.82


82. Supra, p. 37.
There were no comments or discussions such as had occurred during the years 1887 and 1888. It is doubtful if many citizens outside of the medical profession were even aware of the amendment. The gentlemen of the profession were apparently in solid agreement concerning the amendment of 1900, for the writer has found no evidence of any of them opposing the action of the Legislature. Possibly the best conclusion as to the attitude of the regular profession concerning the Virginia State Board of Medical Examiners may be drawn from a letter written by a Doctor Samuel M. Hammill. Doctor Hammill may be considered as a disinterested party since he was not a resident of Virginia and his practice was located at Oak Hall Station, Pennsylvania. Writing in 1890, Doctor Hammill brings up and disposes of several points which had been bones of contention among the non-Virginia physicians regarding the Board of Medical Examiners. The doctor's letter gives the picture of a man who had previously held his own reservations on the subject and then, after a fair trial, became a hearty supporter not only of the Virginia Board but of all similar boards:

There seems to exist among the members of the profession in Philadelphia and probably throughout the State, the impression that the [Virginia Board of Medical Examiners] has for its prime object the rejection of all applicants not residents of Virginia or graduates of her institutions. This was the opinion [of the writer] but a thorough knowledge of the board and its methods, obtained by a recent experience in passing the required examination, has led [the writer]
to the conclusion that it has for its sole object the protection of the people and the profession in the State from the gravest danger of the time—the uneducated physician.83

Doctor Hammill outlined the method of examination and emphasized that since all papers were signed with a number, none of the examiners could know the names of the applicants or their state of residence. The papers were "examined and marked strictly on their merits. Thus it is evident that no favoritism can be shown."84 Which statement was certainly at variance with the view held by the students of the Medical College of Virginia.

Doctor Hammill then comments upon the effectiveness of the teaching methods employed by the Medical Department of the University of Virginia and its success in having its graduates pass the examinations. He felt that it would do a good many colleges no harm to emulate the University of Virginia:

The University of Virginia always makes a fine showing in these examinations, out of 57 applicants but one has been rejected. This is accounted by the fact that her course... is thorough and that the requirements for graduates are high.

83. Doctor Samuel M. Hammill, letter to the Editor of The University Medical Magazine (University of Pennsylvania Faculty of Medicine), III (November, 1890), 99.

84. It is to be noted that from its inception, the Virginia Medical Examining Board employed the number method of identifying applicants.
Some of our Northern colleges ought to look with shame upon the records their graduates have made before this board. There certainly must exist some grave defect . . . in these institutions, or such men would not be graduated. These results demonstrate the necessity of State boards.\textsuperscript{85}

Doctor Hammill affirmed his belief in the idea of state medical boards of examiners by stating:

The profession and inhabitants of Virginia are to be congratulated on having so long possessed such a noble institution as her Medical Examining Board.

The work accomplished by these State boards is most commendable. They have for their object not only the elevation of the profession, but a greater and nobler one—the protection of human life.\textsuperscript{86}

\textsuperscript{85} Hammill, \textit{loc. cit.}, 100.

\textsuperscript{86} Ibid.
CHAPTER IV

SUMMARY AND CONCLUSIONS

The state of Virginia was not a leader in the move for medical legislation. The first medical law in the state became effective nearly thirty years after neighboring North Carolina had possessed an operating State Board of Medical Examiners while a number of other states had preceded Virginia's action during the years just following the Civil War.

It is to be noted however, that Virginia was among the leaders in having an effective examining board. Other states which had such laws had, in many instances, rendered them largely ineffective by the exemption from examination of the graduates of their own institutions or, in some states, the graduates of any medical school. These exemptions alone would permit a certain number of incompetent physicians to practice. The exemption of graduates would additionally have the effect of mitigating against the promotion of better education. From the beginning, the Virginia law required that all applicants for a license to practice medicine be examined and, as was noted by the President of the Medical Examining Board, the effect was felt in the increasing proficiency of the graduates of several colleges. There was one attempt to gain exemption from examination for the graduates of Virginia medical schools. The attempt was
defeated and never successfully revived. From the date of the defeat of that effort, all amendments to the Virginia law were made with the view of making more difficult the requirements for a license to practice medicine. An example of such an amendment is that of 1900, which required all applicants to be graduates of a medical school.

Though Virginia had patterned her initial legislation after that of Alabama, she later moved ahead of that state in her requirements. In 1904, Alabama still allowed non-graduates to practice if they could pass the examination of her medical board. For that matter, by the same year only six southern states, Virginia, North Carolina, South Carolina, Georgia, Florida and Louisiana, required an applicant for a license to practice to possess a diploma of graduation.

The laws of the several states and the methods of examination were so varied that reciprocity was little practiced. Today, a number of states have reciprocity agreements though still not to any great extent. The Virginia law had made provisions for such but, by 1900, the Board of

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Medical Examiners had entered into no agreements with other state boards. Texas was the only southern state that had entered into reciprocal agreements and the remainder of the southern states had no law permitting such. The Secretary of the Virginia State Board of Medical Examiners believed that Virginia would eventually "exchange certificates with all other boards having the same requirements." The North Carolina board took the attitude that its "standard is so much higher than in most states that it has no desire to enter into any agreements." From these statements it may be seen that the various states were a long way from agreement as to how effective each other's examining boards were.

 Several facts stand out clearly regarding the medical examining boards of the nineteenth century. The cause of better education was considerably advanced with the advent of effective examining laws, particularly so in those schools located in states that required examination of graduates. No school would be able to survive if its graduates were consistently unable to pass the required examinations and were thus unable to practice medicine. There were problems with this of course, for until all states had

89. Ibid., p. 8.
90. Emil Amberg, M. D., Present Status of Interstate Reciprocity Concerning Licenses to Practice Medicine, reprinted from The Medical News, (October 27, 1900), 20, 23.
effective boards of medical examiners, a rejected applicant had but to remove to a state that had no requirements, or ineffective laws, and set up his practice there. However, the ineffectiveness of the programs of certain schools would become known as the various boards published their findings. Medical writers would take note and would tell their readers, though not necessarily specifying the schools concerned. The effect of such would be that more and more people would become aware that such existed and at least the medical aspirant of good intentions would be better informed in his selection of the school he wished to attend. An example of such writings is an article written for a non-medical publication, the *North American Review*:

"When the State Boards were created . . . and began their duties, there went up a great cry from the large number of low class medical colleges. Their students had been graduated . . . only to be . . . plucked by a State Board. . . . The Illinois board and the boards of North Carolina and Virginia especially have shown that some of the colleges that make great pretensions are but little better than diploma mills."

"As a matter of fact . . . such acts and boards as . . . have [been] mentioned have frightened many colleges into doing better work."

"As an example of the "great cry" that went up, the activities of the faculty and students of the Medical College of Virginia were cited:

"In fact one [college] in Virginia has been heard from already. This college was in favor of the Virginia board until it began to be shown by the examinations of the board that it was graduating incompetent"
men. Then there was a terrible wail from the college (the Medical College of Virginia) and from its students, and the State Legislature was beset to exempt the students of this college from the examinations—a practical acknowledgement that the college was doing bad work. Fortunately, however, the Legislature did not see why the students of this college should be exempt from the examinations.91

If the above were any indication, Doctor Bryce of the Southern Clinic had been correct in stating that the faculty of the Medical College of Virginia had "certainly damaged the school . . ." for such articles as the above would be seen and heeded by earnest would-be medical students. Such men would not pick the Medical College of Virginia and would be far more likely to attend a college with a good record in examinations such as the University of Virginia.

The other significant aspect, possibly the most important, is not easily assessable. Certainly, prior to the establishment of the Virginia State Board of Medical Examiners, there had been a steady influx of incompetent practitioners and outright quacks. A tabulation of the activities of the Board produces the information that in the first five years of its operation, a total of 382 persons applied for examination. Of this number, 99 or almost one-third of the total were rejected. Of all applicants, 29.51

percent of the graduates and 64.29 percent of the non-
graduates were rejected. Among those who were non-
graduates it is not unlikely that there were some who had
had no medical education whatsoever and who were trying to
get a license so that they might practice their own pecu-
liar brand of "healing." An example of such would be the
applicant who gave King's College, London, England, as the
school from which he graduated. He failed the examination.
It was later noted that no such school existed. If it
had not been for the intervention of the Board of Medical
Examiners, this particular applicant would have been able to
set up a practice by merely paying a license fee. As a
practitioner he could have caused considerable harm to
patients who were luckless enough to have patronized him.
It can be seen that there were probably a number of persons
who would have liked to have set up a practice in Virginia,
but who lacked the effrontery of the gentleman from "King's
College" and would therefore not even attempt to pass the
examination. The mere existence of the State Board and its
efficient operation deterred such people.

92. Rauch, Medical Education, Medical Colleges and
the Regulation of the Practice of Medicine in the United
States and Canada, 1765-1891, p. viii. See table in appen-
dix for compilation of figures Doctor Rauch received from
the Virginia Board.

93. Ibid.
By performing its function of passing upon the fitness of a would-be practitioner, the Virginia State Board of Medical Examiners achieved its two-fold purpose, that of protecting the health and welfare of the people of the state and protecting the medical profession. The profession gained protection because it no longer had to suffer the damage to its reputation caused by the activities of incompetents and charlatans while the health and welfare of the people were protected from the mis-management and frauds perpetrated by those same persons.
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94. Ibid., pp. v, vi, vii.
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VITA

The author was born in Norfolk, Virginia, on December 15, 1929, and has since lived in a number of states and countries.

He completed high school in Georgia in 1946, served with the United States Army in Korea, and was graduated a Bachelor of Arts in History from Randolph-Macon College for Men in June, 1956. He was married in 1956 and worked for nearly two years with an engineering firm. He entered the University of Richmond in 1957, and anticipates receiving a Master of Arts degree in History in August, 1959. He has been accepted by Vanderbilt University for study leading to a degree of Doctor of Philosophy and expects to begin work at that school in September, 1959.