Today, physicians are perhaps the most regulated professionals in the United States, but in 1870, almost all of them were unlicensed. In most jurisdictions, anyone could hang up a shingle and practice medicine. Only the Dakota Territory and Ohio required physicians to register with local authorities. Between 1870 and 1900, the practice of medicine changed dramatically, and by 1900, almost every state passed some type of medical licensing. The medical licensing statutes passed over this 30-year period gave medical examination or health boards increasingly broad authority to determine who could become and remain a physician. The Illinois Medical Practice Act of 1877 and Illinois State Board of Health interpretations of their statute became important models for numerous states. The Illinois act created allies of organized regular and irregular physicians and broadly interpreted the powers entrusted to a medical board. Other states paid attention to the Illinois board’s prosecutions and mimicked its actions.

Medical licensing boards’ enforcement powers forced fundamental changes in medical school curriculums, purged unlicensed ignorant practitioners and outright frauds, reduced the number of non-medical school graduates, marginalized midwives, revoked the licenses of abortionists, and unified the best organized of both regular and irregular medical practitioners. When physicians lobbied state legislatures for these medical practice acts, organized physicians (both regular and irregular) were the primary advocates for these laws. Organized regular and irregular physicians battled each other in state legislatures and crafted compromises that, while objectionable to both groups, forced these physicians into an uneasy marriage. Both the organized regulars and irregulars argued that licensing laws would eliminate unqualified practitioners and prevent unqualified quacks from harming innocent patients. Many regular physicians also believed they would directly benefit from medical licensing laws by eliminating the irregulars. These predictions — at least in the short term — were wrong. Medical boards licensed numerous irregular physicians, and both groups ultimately enforced these laws in ways that managed competition between organized physicians (both regular and ir-
regular) and eliminated their unorganized or marginalized competitors.

While the existing literature has focused on the battle between regular and irregular physicians, this dynamic needs to be re-evaluated. Organized regular and irregular physicians did not enforce these statutes to eliminate each other; instead, they prosecuted their unorganized and more marginal colleagues. While William Rothstein’s statement that “conflict between regular physicians and homeopaths and eclectics continued to be a dominant feature of the organized profession in the later years of the century” is certainly true, the shotgun marriage between the organized regular, eclectics, and homeopaths created an opportunity to eliminate physicians that each of the groups found unpalatable [1]. If anything, organized regulars and irregulars realized they shared common interests. These new medical regulations were not enforced in ways to settle sectarian disputes so much as to drive the out unorganized sects and fraudulent practitioners.

MEDICAL LICENSING ACT AND INSTITUTION OF HEALTH BOARD

Between 1870 and 1880, 15 states passed some type of medical licensing. Not surprisingly, these licensing laws were wildly diverse. While some states passed laws that simply required physicians to register with local authorities, other states began to experiment with more stringent licensing laws. Perhaps the more influential and important of these early laws was the 1877 Illinois medical licensing law. The Illinois licensing law did not just create a system to regulate physicians, it created the Illinois Board of Health that was charged with the responsibility of regulating physicians and midwives, creating and implementing sanitary regulations, and enforcing public quarantines. Significantly, the Illinois board was comprised of a mixture of regular, homeopathic, and eclectic physicians, unlike California, which established separate boards for each of the sects. Additionally, the ambiguous language of the statute permitted the Illinois Board of Health to aggressively prosecute physicians who violated the statute or the board’s code of ethics.

The Illinois legislature did not design the medical licensing act to marginalize or exclude irregulars from medical practice. The president of the Illinois State Medical Society argued that it was critical for regulars and irregulars to mend fences in order to pass a medical licensing law. While he demanded passage of such a law to protect the public from unqualified practitioners, he conceded that eclectic and homeopathic practitioners were, like regular physicians, “devoted to their patients and profession” [2]. He advocated détente between regulars and irregulars in Illinois and argued that the medical society should pass “wise and impartial legislation” that recognized only “well-educated men” but debarred incompetents, “whether regular or irregular” [2]. The Illinois statute reflected a much more conciliatory approach by the Illinois Medical Society. Instead of attempting to have state authorities weed out irregulars through a medical exam, the Illinois licensing act created the Illinois Board of Health, which had three responsibilities: creating and enforcing sanitary and quarantine policies, determining whether medical schools were in “good standing,” and testing applicants. Under the Illinois law, the only applicants tested were those who attended schools that were found inadequate. The Illinois board also steered clear of any attempts to invalidate degrees only from irregular medical schools and instead tried to develop sectarian neutral criteria to evaluate the quality of medical schools.

The Illinois medical practice act served as model for other states because it aggressively prosecuted physicians whom the Illinois board perceived to be either illegal or unethical. Soon after the legislature created the Illinois Board of Health, the board decided that it not only had the authority to prosecute physicians practicing without a license but could revoke the licenses of doctors it believed behaved unprofessionally. This forceful stance appealed to organized regulars and irregulars who sought to drive
unqualified physicians out of the state. The Illinois medical board adopted principles of professionalism from the organized regular and irregular medical societies. For years, state and local medical societies had expelled members who violated their code of ethics. The Illinois board sought to enact a similar code and enforce the principles that had governed medical societies for years.

Instead of targeting any specific medical sect, the Illinois board first focused on eliminating incompetents, regardless of their sectarian affiliation. The board hoped that its efforts would successfully reduce the number of physicians in the state and dramatically increase the percentage of physicians who had attended medical school. The Illinois law not only evaluated medical schools, but required an examination of both non-graduates and graduates of schools not in good standing. A large number of medical schools were encouraged to change their curricula and adopt the minimum standards advocated by the Illinois board. The medical practice act, the board believed, allowed it to prosecute both unlicensed and licensed physicians who violated the board’s code of ethics.

The Illinois State Board of Health argued in its first annual report that the licensing law already had made the state safer for its citizens. The board estimated that nearly 3,600 of the physicians practicing in the state were not graduates of a medical school before the law went into effect. The licensing act had forced almost 1,400 of these physicians to either stop practicing or leave the state [3]. Additionally, it clearly sought to communicate to the state and its citizens that medical licensing was essential. In addition to driving out non-qualifying physicians, complaints about physicians began pouring into the board’s offices. Though the board conceded that it did not have either the resources or the personnel to investigate each of grievances, the sheer volume of complaints indicated that the public was convinced the board was the primary check on dangerous or unethical doctors. Physicians from around the state also filed numerous complaints against other physicians. The board was deeply troubled, however, when it learned that physicians often took advantage of the new rules and discovered that many of the complaints filed against their competitors were ultimately “unreliable” [4].

In an attempt to subvert the new licensing rules, bogus medical diplomas began to be sold soon after the licensing law went into effect. The board reported that as many as “400 bogus diplomas” were submitted by applicants as evidence of a medical degree; “diploma shops” hoped the board would recognize them because they were “issued by legally chartered institutions.” These institutions were considered legally chartered because they were created under Illinois’s business law, but they did not possess any more gravitas than that. Unfortunately for the diploma mills, the Illinois licensing act gave the board the power to accept only diplomas from medical schools that were in “good standing.” The legislature strengthened this power by allowing the board to determine what “good standing” meant. During the first year of the act, the board was not able to develop explicit criteria for what qualified as “good standing,” but it determined that institutions that “sold their diplomas” would not qualify [4]. The board’s rejection of fraudulent diplomas was the first successful attempt to reform medical education by evaluating the merits of the medical education.

INVESTIGATING ETHICAL VIOLATIONS

The Illinois board did not stop at rejecting fraudulent diplomas. It began conducting quasi-judicial hearings. In 1879, the board resolved to investigate physicians accused of “practicing specialties under assumed names” and of “defrauding” their patients [5]. By 1880, it was conducting public investigations of unprofessional conduct by both licensed and unlicensed physicians. Despite its limited resources, the board was committed to stamping out ethical violations by physicians. In 1880, the Illinois board reported that 93 suits had been filed under the medical practice act. While prosecutors dismissed most of the suits after
the defendants promised to vacate the state, Illinois courts convicted nine individuals under the law [6].

Glancing at these early proceedings reveals what type of behavior the Illinois board sought to eliminate. In 1880, the board conducted several hearings about the alleged transgressions of two licensed physicians, John Bate and Edward Osbourne. The board accused Bate and Osbourne of practicing medicine under assumed names. Bate, a graduate of Chicago’s Bennett Medical College, had run a medical practice under the name “Dr. A.G. Olin” before he attended medical school. Olin’s medical practice was well-known in the community because Bate extensively advertised in the Chicago newspapers. Bate was admitted to Bennett Medical College (an eclectic medical school in good standing) only after he had agreed to relinquish his fictitious name and medical practice. After completing the program at Bennett and receiving his diploma, he immediately went back to work as Dr. Olin [7]. Edward Osbourne, Bate’s nephew and another graduate of Bennett Medical College, was accused of being Bate’s associate, and Osbourne also claimed to be Dr. Olin. The Illinois board considered Bate’s practice offensive and illegal because “Dr. Olin’s Private Hospital” specialized in “chronic and sexual diseases of men and women,” “sexual debility, impotency, nervousness, seminal emissions, loss of memory from self-abuse or other cause.” Dr. Olin also provided marriage guides, “[r]eliable female pills[,]” “rubber goods[,]” and “special care … for ladies during confinement” [8]. Bate and Osbourne’s ultimate sin was that they were accused by the board of procuring abortions for their patients.

Bennett Medical College or Dr. Henry Olin, a Bennett Medical College professor, initiated the actions against Bate and Osbourne by contacting the Illinois board. Both the college and Olin believed that their good names were being tarnished by their association with the notorious “Dr. Olin.” Henry Olin offered $500 to Bate and later $250 to Osbourne to stop using the moniker “Dr. Olin.” Both Bate and Osbourne refused the offers and continued their practice.

Osbourne and Bate’s defense consisted of the contradictory claims that they had not practiced under assumed names, but they also argued that the marriage guides were not offensive, they had not sold rubber products for a year (their lawyer argued that the advertisements were erroneous), and their alleged abortion or “female” pills were ineffective because they were actually made of “brown bread” [8]. The Illinois board was unimpressed by these claims and found they were “guilty of gross professional misconduct” for practicing under assumed names and issuing grossly unprofessional circulars and advertisements [9]. The board revoked their licenses and later denied C. Pratt Sexton’s application for a license after learning that the notorious Dr. Olin employed Sexton [10]. While Sexton did not appeal the board’s decision, Illinois courts later questioned whether they had the authority to deny medical school graduates the ability to graduate if they attended a school in good standing.

Another physician, Generous L. Henderson, faced similar allegations. Henderson was a licensed physician, but he was accused of selling products “offered by the vilest class of specialists” and performing “an abortion for $5” [11]. Henderson sought to insulate himself from his alleged abortion practice not only by performing the abortions under the name “Dr. Stone,” but by adopting another moniker, “John Smith.” As Smith, Henderson would solicit and then refer potential clients to the fictitious Dr. Stone. As Dr. Stone, Henderson would perform the abortion and collect the $5 fee. The Illinois board revoked and canceled Henderson’s license for “dishonorable and unprofessional conduct” [8].

**EXAMINING AND ELIMINATING FRAUD**

In addition to licensed physicians practicing under assumed names, the Illinois board was concerned about the potential damage caused by untrained individuals who had stolen or bought valid medical school graduation certificates and practiced
under those names. One of the more egregious stolen identity cases prosecuted by the Illinois board involved a physician allegedly named Henry A. Luders. Luders was a graduate of the medical school at the University of Gottongen, and he submitted his certification of completion to the board. Despite Luders’ initial failure to submit any letters of recommendation from the faculty on his behalf, the Illinois board issued him a license after some “reputable practitioners” finally vouched for him. After stories regarding the quality of his practice circulated throughout his town, concerned physicians contacted the University of Gottongen. The university informed them that Luders had practiced in the Duchy of Braunschweig until his death a few years earlier [12]. Luders was not Luders; a man allegedly named Lambrecht had assumed his identity. Lambrecht, a barber, had fabricated the letters of recommendation and somehow came into possession of Luders’ diploma. The Illinois board revoked Luders’ license, but not before Lambrecht accidentally butchered and killed a woman and her child during a birth. After the local physicians learned of his deception, Lambrecht fled to Cincinnati before he could be prosecuted for violating the medical practice act [13]. In Cincinnati, Lambrecht enrolled in the Cincinnati College of Medicine and Surgery, but left suddenly after the Illinois board published its initial report describing his practice. He then moved to Cleveland and enrolled in the Keokuk College of Physicians and Surgeons and received a diploma in 1884. After graduating from Keokuk College, he moved to Bismarck, Dakota Territory, where he was using the alias William Lambert. The board cited Luders as the perfect illustration for “the necessity of the strict enforcement of matriculation requirements and of proof of previous study and college attendance” [14].

The board also sought to eliminate the influence of the itinerant or traveling doctors. Before the Illinois legislature passed the medical practice act, the board stated that 78 itinerant doctors practiced throughout the state and fleeced its “sick, afflicted, and credulous” citizens of no less than $225,000 a year [15]. Of these 78 practitioners, only five were eligible for a license 10 years later. The remaining itinerants successfully had received licenses under the exemption for physicians who had practiced for at least 10 years [16]. These itinerants made a living by combining show business and drug sales. They would vend nostrums and cure-alls as “Indian Remedies” often during performances. These doctors would often accompany or organize “Wild West” concert troupes in order to facilitate sales. Some of these companies employed as many as 100 different people. These medical practitioners had more in common with a traveling church revival than a medical practice.

Still, the licensing act failed to eliminate itinerants and their shows altogether. An alleged “Indian medicine man” named James I. Lighthall accompanied a traveling show comprised of “40 to 100 persons.” Lighthall used a number of colorful aliases to establish his bona fides, including “Kansas Jim,” “Rastic Jack,” and “The Indian Medicine Men” [17]. Lighthall and his concert troupe appear several times in the board’s annual reports. As an itinerant medical man, he would return to the state and sell his wares and services, which included secret Indian cure-all remedies and teeth pulling. Instead of applying for a medical license, Lighthall circumvented the medical practice act in a number of ingenious ways. In 1883 and 1886, he hired licensed doctors “to shield himself from the law” [17]. In 1886, he even procured “an itinerant vendor” license from the county clerk in Peoria. A prominent local attorney convinced the clerk to give Lighthall a license, even though the clerk lacked the statutory authority to do so. The Illinois board quickly revoked the licenses of the two physicians who worked for Lighthall on the grounds of “unprofessional and dishonorable conduct” [18]. In 1883, local physicians complained to the board about Lighthall, and he was arrested for violating the practice act. In 1883, Lighthall left Illinois to avoid prosecution, but the Illinois board could not prevent his return in 1886. The board simply did not have the capital or manpower to successfully prevent
itinerants like Lighthall from conducting quick strikes into the state.

The Illinois board also actively investigated a number of physicians who sent allegedly false and potentially obscene materials through the U.S. mail. The board issued a resolution that classified advertising or circulating “marriage guides,” which described or illustrated pictures of venereal disease or offered to prescribe drugs designed to prevent conception or procure an abortion, as “grossly unprofessional” [19]. At the same time, the Illinois board settled on a fairly broad definition of unprofessional misconduct: taking part in fraudulent or deceptive transactions, practicing under false aliases, or distributing circulars or handbills that were false or deceptive to attract patients [20]. In one case, the James Medical Institute was accused of sending circulars by mail to public school girls. These circulars advertised nerve pills (pills of roots and herbs designed to cure “leucorrhoea or whites, nervous headaches, nervous debility, night sweats, melancholy feelings and general weakness” caused by “latent sexual feeling”), marriage guides, gentlemen’s and ladies’ rubber goods, and female pills [21].

COURT OUTRAGE

While physicians approved of the Illinois board’s pursuit of marginal physicians, the Illinois courts were outraged by the board’s prosecutions of physicians. In 1885, Justice McCalister of the Illinois Court of Appeals rendered a decision that narrowly construed the authority of the board and eliminated its ability to revoke licenses and conduct investigations. The court found that the medical practice act gave the board the authority to conduct only two types of activities: First, the board could carry out a simple verification of medical diplomas and the applicant’s identity. Once the board verified the diploma and the identity of the applicant, it had absolutely no discretion to take any other action, ever. After the Illinois board issued a certificate, “its power [was] exhausted and forever gone” [22]. Second, the board could administer medical examina-

tions to applicants who lacked a medical diploma. According to the court, the board was not authorized to conduct investigations, hold hearings, or revoke certificates from graduates of medical schools. Additionally, the court found that the board was authorized to consider the character only of the applicants who took an examination, not those who were automatically approved after graduating from a medical school in good standing [23]. The court rejected the principle that the board had any power to regulate graduates of medical schools after they received their certificates.

The court was angered particularly by the Illinois board’s actions against a Dr. Williams. Under the 1877 law, physicians such as Williams could not appeal any revocation of their certificates, but instead they would be required to resubmit their applications to the same board that revoked them. Justice McCalister stated it was “highly improbable that the Legislature” ever intended to give the Illinois board such “absolute power over the reputation and fortunes of ... graduates of medicine.” If the legislature had invested such powers in the board, it would have been “flatly against the teaching of the sages of the law and the best traditions of our revolutionary history; for it naturally leads to and terminates in favoritism, abuse and oppression …” [23]. The principle that the medical school graduate’s hard work and money could be invalidated was particularly offensive to the court. The court did not believe that it would ever be wise to give the board quasi-judicial enforcement powers.

Remarkably, this case was one of the few that rejected outright the ability of medical boards to prosecute physicians. The court’s decision forced the legislature to pass a new medical licensing bill, because the board probably did lack most of the authority originally granted to it by the 1877 statute due its poor construction. Despite the court’s strenuous objections to the board’s quasi-judicial authority, the new bill attempted to eliminate any potential technical objections that could be made regarding the board’s authority. Additionally, the 1887 bill clearly enumerated the powers possessed by
the board and the basis of its authority. It also sought to eliminate any ambiguous language contained in the first medical practice act. Otherwise, the only major difference between the two bills was that a physician could file an appeal with the governor if the board revoked his license.

CONCLUSIONS

The Illinois board achieved some of the goals sought by regular and irregular doctors after enforcing the medical practice act for 10 years. When the law went into effect, Illinois had approximately 7,400 physicians. Those physicians were almost evenly split between graduates of medical schools (48.6 percent) and non-graduates (51.4 percent). That number grew to 8,042 by 1880. In 1886, the number had fallen to 6,065. Over the next year, the number grew to 6,135 practicing physicians, 89.2 percent of whom were medical school graduates. Most of the physicians who were not medical school graduates were physicians originally exempted. Within three years of the law going into effect, 1,923 unqualified physicians left the state. Almost half of those physicians left within one year of the law being passed. Additionally, diploma mills ceased to be a major problem. The Illinois board identified 31 diploma mills and widely published their names throughout the country. Surprisingly, the board revoked only 41 licenses for unprofessional or dishonorable conduct, despite receiving more than 2,000 complaints. By 1887, the board had restored six of these diplomas after the physicians met conditions imposed on them [24].

After passage of the 1887 law, the Illinois board changed course and began in the 1890s to turn its attention toward other actions of other medical practitioners, including midwives, opticians, clairvoyants, Christian Scientists, and osteopaths. While midwives were licensed under both the 1877 and 1887 laws, the board began to slowly circumscribe the responsibilities of midwives. Additionally, it attacked these sects by constantly broadening the definition of the practice of medicine. By enlarging the definition of the practice of medicine, the board attempted to expand its jurisdiction to include these sects. In Illinois, and numerous states, clairvoyants, osteopaths, midwives, opticians, Christian Scientists, and electric and magnetic healers were prosecuted for illegally engaging in the practice of medicine. Only opticians and osteopaths were able to withstand these direct challenges. State appellate courts determined that opticians, for the most part, clearly did not practice medicine. Even osteopaths were successfully prosecuted for practicing medicine, but they quickly organized themselves and successfully lobbied legislatures for separate practice privileges. The other sectarians failed to organize and were crushed.

Between 1890 and 1900, other state legislatures passed medical licensing laws throughout the United States. During this decade, medical boards across the country confidentially began to attack illegal practitioners, frauds, and unorganized medical sects. This trend would continue during the early 20th century. While medical boards did not have the power to eliminate fraudulent physicians completely, they began to prosecute them frequently. Even though they could not guarantee convictions, marginal practitioners could no longer practice freely. If physicians performed abortions, they could lose their medical licenses. Additionally, as more states created medical boards, those boards became empowered to make increasingly specific demands of medical schools, and they pushed schools to meet their demands. Medical schools were going to have to cater to the demands of these boards to ensure the future employment of their graduates.

During the 20th century, medical boards became increasingly involved in reforming medical education. Initially, medical boards sought to eliminate diploma mills, but their requirements for medical schools soon expanded. Medical boards became increasingly interested in dictating the length and type of education at medical schools. These efforts were only marginally successful. Medical boards lacked the resources to carefully investigate the existing 160 medical
schools in the United States. While medical boards were not necessarily designed to reform medical education, they would play integral roles in the medical education reform movement in the early 20th century because they controlled access to the medical profession. By 1910, all but 12 states would exclude physicians from practicing in their state if their schools were not found to be in good standing. State after state would adopt the methods and criteria used by the Illinois medical board to evaluate medical school education. It would have been far more difficult to reform medical education in the 20th century without the creation of aggressive state medical boards.

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