

road, and render his account therefor to the town board, in case of a town or county road, and to the county board in case of a state aid road."

Approved April 22, 1937.

CHAPTER 354—H. F. No. 1037

An act providing for the regulation of the practice of pharmacy; regulating the sale of drugs, medicines, chemicals and poisons; providing for a state board of pharmacy and defining its powers and duties; setting forth the requirements for registration and licensing of pharmacists, pharmacies, and other places; definitions and penalties.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. **Definitions.**—As used in this Act.

(a) The term "pharmacy" shall mean a drug store or other established place regularly registered by the State Board of Pharmacy, in which prescriptions, drugs, medicines, chemicals and poisons are compounded, dispensed, vended or sold at retail.

(b) The term "pharmacist" shall mean a natural person licensed by the State Board of Pharmacy to prepare, compound, dispense and sell drugs, medicines, chemicals, and poisons.

(c) The term "assistant pharmacist" shall mean a natural person licensed as such by the State Board of Pharmacy prior to January 1st, 1930, to prepare, compound, dispense and sell drugs, medicines, chemicals and poisons in a pharmacy having a pharmacist in charge.

(d) The term "drug" shall mean all medicinal substances and preparations recognized by the United States Pharmacopeia and National Formulary or any revision thereof, and all substances and preparations intended for external and internal use in the cure, mitigation, treatment or prevention of disease in man and other animal, and all substances and preparations, other than food, intended to affect the structure or any function of the body of man or other animal.

(e) The term "medicine" shall mean any remedial agent that has the property of curing, preventing, treating or mitigating diseases, or that is used for that purpose.

(f) "Poisons" shall mean any substance, which when introduced into the system, either directly or by absorption, produces violent, morbid or fatal changes or which destroys living tissue with which it comes in contact.

(g) "Chemical" means all medicinal or industrial substances, whether simple or compound, or obtained through the process of the science and art of chemistry, whether of organic or inorganic origin.

(h) The term "board" or "State Board of Pharmacy" shall mean the *Minnesota State Board of Pharmacy*.

(i) The term "secretary" shall mean the secretary of the *Minnesota State Board of Pharmacy*.

(j) The word "person" shall be construed to include every individual, copartnership, corporation or association, unless the context otherwise requires.

(k) Masculine words shall include the feminine and neuter and the singular includes the plural.

(l) The term "wholesale" shall mean and include any sale for the purpose of resale.

(m) The phrase "commercial purposes" shall mean the ordinary purposes of trade, agriculture, industry and commerce, exclusive of the practices of medicine and pharmacy.

Section 2. Minnesota State Board of Pharmacy formed.—The Minnesota State Board of Pharmacy shall consist of five pharmacists actively engaged in the practice of pharmacy in this State, each of whom shall have had at least five consecutive years of practical experience as a pharmacist immediately preceding his appointment.

Section 3. Members appointed by Governor.—The members of the board shall be appointed by the governor, one in each year, each to serve for a term of five years and until his successor shall have been appointed and qualified. Vacancies shall be filled by the appointment for the unexpired term. Any member of the board who, during his incumbency, ceases to be actively engaged in the practice of pharmacy in this State, shall be automatically disqualified from membership. Any member may be removed from office by the governor upon proof of malfeasance or misfeasance in office. The members of the Minnesota State Board of Pharmacy heretofore appointed and now holding office shall continue until their respective terms expire.

Section 4. Recommended names.—The Minnesota State Pharmaceutical Association shall recommend five names for each appointment to be made, from which list the governor may select.

Section 5. **Election of officers.**—The board shall annually elect one of its members as president and one of its members as vice-president, and a pharmacist, who may or may not be a member, as secretary.

Section 6. **Powers and duties.**—The State Board of Pharmacy shall have the power, and it shall be its duty:

- (a) To regulate the practice of Pharmacy.
- (b) To regulate the sale of drugs, medicines, chemicals and poisons.
- (c) To regulate the quality of all drugs and medicines dispensed in this State, using the United States Pharmacopeia and the National Formulary, or any revisions thereof, as the standard.
- (d) It may, by its duly authorized representative, enter and inspect any and all places where drugs, medicines, chemicals and/or poisons are sold, vended, given away, compounded, dispensed or manufactured. It shall be unlawful for any persons to refuse to permit or otherwise prevent such representative from entering such places and making such inspection.
- (e) To examine and register as pharmacists all applicants whom it shall deem qualified to be such.
- (f) Upon hearing, to temporarily or permanently revoke pharmacist or assistant pharmacist licenses issued by it; whenever the holder of such license has obtained same by false representation or fraud, or shall be an habitual drunkard or addicted to the use of narcotic drugs, or shall have been convicted of a felony, subject to the right of such holder to appeal to the district court of the proper county on the question of law and fact.
- (g) To report its proceedings annually to the governor with such information and recommendations as it deem proper, giving the names of all pharmacists registered during the year, and the items of its receipts and disbursements.
- (h) To employ necessary assistants, and make rules for the conduct of its business.
- (i) To perform such other duties and exercise such other powers as the provisions of the Act may require.
- (j) For the purposes aforesaid, it shall also be the duty of the board to make and publish uniform rules and regulations not inconsistent herewith, for carrying out and enforcing the provisions of the Act.

Section 7. **Meetings.**—The board shall meet at least once in every six months to examine applicants for registration and to

transact its other business, giving reasonable notice of all examinations by mail, to known applicants therefor. The secretary shall record the names of all persons registered by the board together with the grounds upon which the right of each to registration was claimed. The fee for examination shall be ten dollars, which fee may, in the discretion of the board, be returned to applicants not taking the examination.

Section 8. Compensation of members of board.—Each member of the board shall receive ten dollars a day for his actual services as such, and his necessary expenses in attending meetings.

Section 9. Salaries of secretaries.—The secretary shall receive a salary to be fixed by the board, and all expenses necessarily incurred by him in the performance of his duties. He shall give such a bond as the board may from time to time require, which bond shall be approved by the board and by the attorney general.

Section 10. Qualification of applicants.—To be entitled to examination by the board as a pharmacist, the applicant shall be a citizen of the United States, of good moral character, at least twenty-one years of age, and shall be a graduate of the College of Pharmacy of the University of Minnesota or of a college or school of pharmacy recognized and approved by, or a member, of the American Association of Colleges of Pharmacy, and shall have at least one year of practical experience in a pharmacy.

Section 11. Registered assistant pharmacist to continue in certain cases.—It shall be lawful for all persons duly registered as assistant pharmacists prior to January first, 1930, to continue to act as such and nothing herein shall prevent such persons from taking the examination for pharmacist, upon proper application and payment of the examination fee.

Section 12. May grant licenses without examination in certain cases.—The board, may, in its discretion, grant registration without examination, to any pharmacist licensed by the board of pharmacy or a similar board of another state which accords similar recognition to licensees of this State, provided the requirements for registration in such other state are, in the opinion of the board, equivalent to those herein provided. The fee for registration shall be Twenty-five Dollars.

Section 13. Annual renewal fees.—Every person registered by the board shall annually pay to the board, a renewal fee to be fixed by it, which fee shall not exceed five dollars for a pharmacist and three dollars for an assistant pharmacist. It shall be unlawful for any such person who refuses or fails to pay such renewal fee to practice pharmacy in this state. Every certificate and renewal shall expire at the time therein prescribed, not later than one year from its date.

Section 14. **Re-instatements.**—Any person who has been registered by the board and has defaulted in the payment of said renewal fee may be reinstated within two years of such default without examination upon payment of the arrears.

Section 15. **Exempt from jury duty.**—All persons licensed under this Act, or who have heretofore been licensed by the Board as pharmacists or assistant pharmacists, and are actively engaged in the practice of their profession, shall be exempt from jury duty in all the courts of this State.

Section 16. **Compounding unlawful under certain conditions.**
—(a) It shall be unlawful for any person to compound, dispense, vend or sell at retail, drugs, medicines, chemicals and/or poisons in any place other than a pharmacy, except as hereinafter provided.

(b) No proprietor of a pharmacy shall permit the compounding or dispensing of prescriptions or the vending or selling at retail of drugs, medicines, chemicals, or poisons in his pharmacy except under the personal supervisions of a pharmacist or of an assistant pharmacist in the temporary absence of the pharmacist.

Section 17. **Violations a gross misdemeanor.**—Every person who violates any of the provisions of section sixteen, when the death of a human being results from such violation, shall be guilty of a gross misdemeanor. Provided, however, that this section is supplementary to existing laws relating to homicide and not a repeal thereof.

Section 18. **Unlawful acts.**—It shall be unlawful for any person to falsely assume or pretend to the title of pharmacist.

Section 19. **Same.**—It shall hereafter be unlawful for any person to carry on, conduct or transact a retail business under a name which contains as a part thereof, the words, "drugs", "drug store", "pharmacy", "medicine", "apothecary", or "chemist shop", or any abbreviation, translation, extension or variation thereof; or in any manner by advertisement, circular or poster, sign or otherwise, describe or refer to the place of business conducted by such person by such term, abbreviation, translation, extension or variation, unless the place so conducted is a pharmacy.

Section 20. **Pharmacies shall be registered.**—The State Board of Pharmacy shall require and provide for the annual registration of every pharmacy now or hereafter doing business within this State. Upon the payment of a fee not to exceed five dollars, the board shall issue a license in such forms as it may prescribe, to such persons as may be qualified by law to conduct a pharmacy. Such license shall be exposed in a conspicuous place in the pharmacy for which it is issued and shall expire on the Thirtieth day of June

following the date of issue. It shall be unlawful for any person to conduct a pharmacy unless such license has been issued to him by the board.

Section 21. Suspension and revocation of registration.—The board may suspend, revoke or refuse to renew any registration obtained by false representation or fraud, or when the pharmacy for which the registration shall have been made is kept open for the transaction of business without a pharmacist in charge thereof, or when the person to whom registration shall have been granted has been convicted for violation of any of the provisions of the Act or for a felony, or, if a natural person, whose pharmacist license has been revoked under subsection (f) of Section 6 of this Act. Before any registration can be revoked the holder thereof shall be entitled to a hearing by the board, upon due notice of the time and place where such hearing will be held. The accused may be represented by legal counsel, shall be entitled to compulsory attendance of witnesses and shall have the right of appeal to the district court of the proper county on the question of law and fact.

Section 22. Drugs must be labeled.—It shall be unlawful for any person, who prepares prescriptions, drugs, medicines, chemicals or poisons to wilfully, negligently, or ignorantly omit to label the package or receptacle, label it falsely, substitute an article different from the one ordered or deviate in any manner from the requirements of an order or prescription.

Section 23. May be held liable for quality of drugs etc.—(a) Every proprietor or manager of a pharmacy shall be responsible for the quality of all drugs, medicines, chemicals and poisons sold therein, except proprietary medicines or other articles sold in the original package of the manufacturer.

(b) It shall be unlawful for any person or his agent to adulterate any drug, medicinal substance or preparation authorized by the United States Pharmacopeia or National Formulary or any revision thereof, or any drug, medicinal substance or preparation used or intended to be used in medical practice.

(c) It shall be unlawful to mix with any such article any foreign or inert substance for the purpose of weakening its medicinal effect or of cheapening it, or to sell the same knowing it to be adulterated or mixed.

(d) Nothing in this Act shall be construed to change any of the provisions of the Pure Drug Act of Minnesota, being Chapter 190, Laws of 1921.

Section 24. Poisons must be labeled.—It shall be unlawful for any person to sell at retail any poison without affixing to the

package or receptacle containing the same, a label conspicuously bearing the word "poison" and the name and the business address of the seller; and satisfying himself that such poison is to be legitimately used. This section shall not apply to the sale of poison on a physician's written prescription or in the original package of the manufacturer.

Section 25. Sale of poisons must be recorded.—It shall be unlawful

(a) For any person, either on his own behalf, or while in the employ of another, to sell or give away any poison, as designated by the board, without first recording in a book to be kept for that purpose, with an indelible pencil or ink, the date, the name and address of the person to whom and the amount and kind of poison delivered, except when such poison is sold on the written prescription of a physician.

(b) To give a false name to be recorded.

(c) For any person having custody of any such record book to refuse to produce it on demand for the inspection of any authorized agent of the board or other duly authorized officer.

Section 26. Selling at wholesale prohibited.—It shall be unlawful for any person engaged in the business of selling at wholesale, or his agent, to sell drugs, medicines, chemicals or poisons, to other than a pharmacy except as herein provided.

Section 27. Exceptions.—(a) Nothing in this act shall subject a person duly licensed in this state to practice medicine, dentistry or veterinary medicine to inspection by the Board nor prevent him from compounding or using drugs, medicines, chemicals or poisons in his practice nor prevent one duly licensed to practice medicine from furnishing to a patient such drugs, medicines, chemicals or poisons as he deems proper in the treatment of such patient.

(b) Nothing herein shall prevent the sale of drugs, medicines, chemicals or poisons, at wholesale, to licensed physicians, dentists and veterinarians for use in their practice, nor to hospitals for use therein.

(c) Nothing herein shall prevent the sale of drugs, chemicals or poisons, either at wholesale or retail, for use for commercial purposes, or in the arts, nor interfere with the sale of insecticides as defined in section 3901 of Mason's Minnesota Statutes of 1927, and nothing in this act shall prevent the sale of common household preparations and other drugs, chemicals and poisons, sold exclusively for use for non-medicinal purposes.

(d) Nothing herein shall apply to or interfere with the manufacture, wholesaling, vending, or retailing of non-habit forming, harmless proprietary medicines when labeled in accordance with the requirements of the State or Federal food and drug act; nor to the manufacture, wholesaling, vending or retailing of flavoring extracts, toilet articles, cosmetics, perfumes, spices, and other commonly used household articles of a chemical nature, for use for non-medicinal purposes.

(e) The State Board of Pharmacy may upon application and the payment of an annual registration fee not to exceed one dollar, register stores, other than a pharmacy, in any incorporated or unincorporated village wherein no pharmacy is located, or in any township wherein may be sold ordinary household drugs, chemicals and poisons, for medicinal purposes designated by the board, prepared in sealed packages by a licensed pharmacist, qualified under the laws of the State wherein he resides. The name and address of such pharmacist or the manufacturer shall appear conspicuously on each package. It shall be unlawful for any such store to sell such medicinal drugs, chemicals or poisons without first having secured such license. It shall be lawful for a person engaged in the business of selling at wholesale, or his agent, to sell such articles to such registered places.

The board may suspend, revoke or refuse to renew any such registration if the holder thereof shall have been found guilty of violating any of the provisions of this Act. Before any registration can be revoked or renewal refused, the holder thereof shall be entitled to a hearing by the board upon due notice of the time and place where such hearing will be held. Notice must be given at least ten days prior to the hearing. He shall be entitled to be represented by legal counsel and to appeal to the district court of the proper county on the questions of law and fact.

Section 28. Deposit of fees.—All fees received by the State Board of Pharmacy under this Act shall be forthwith deposited with the State Treasurer, to be kept in a separate fund, which shall be under the control, and for the use of said board. All expenditures of said board and all expenses necessarily paid or incurred thereby, in the exercise of its powers or the performance of its duties under this Act shall be paid out of said fund. Payments out of said funds shall be made only upon written orders issued and signed by the secretary of said board. No expense shall be incurred by said board in excess of the revenue derived from such fees.

Section 29. Board may turn over funds for advancement of science of pharmacy.—The board may, in each year, turn over to the Minnesota State Pharmaceutical Association for the advancement of the science and art of pharmacy, out of the annual fees

collected by it, such sum as it may deem advisable, not to exceed one dollar for each pharmacist and assistant pharmacist who shall have paid his renewal fee during such year. Said Association shall annually report to the board on the conditions of pharmacy in the state.

Section 30. Violation a misdemeanor.—Any person violating any of the provisions of this Act or rules and regulations hereunder, shall be guilty of a misdemeanor, unless otherwise provided.

Section 31. County attorney to prosecute.—It shall be the duty of the county attorney of the county wherein any offense hereunder is committed, to prosecute the offender; except that when offenses hereunder are committed in cities of the first class it shall be the duty of the city attorney thereof to prosecute the offender. Such prosecutor is authorized to examine the books of any manufacturer or wholesale dealer within the State for the purpose of acquiring information to aid in the prosecution.

Section 32. Registered pharmacists or assistants may register.—Persons, who, at the time of the enactment of this law, hold certificates of registration as pharmacists, or assistant pharmacists, granted by the State Board of Pharmacy of this State, shall not be required to register under this law but shall apply for and secure annual renewals thereof as provided in this Act and in all other respects be amenable to the provisions of this Act.

Section 33. Laws repealed.—Sections 5797, 5798, 5799, 5800, 5801, 5802, 5803, 5804, 5805, 5806, 5807, 5808, 5813, 5814, 5815, 5816, of Mason's Minnesota Statutes of 1927 and Chapter 94 of the Laws of 1929, Chapter 103 of the Laws of 1929, Chapter 297 of the Laws of 1933 and Chapter 381 of the Laws of 1933 are hereby repealed.

Section 34. Provisions severable.—If any section, subsection, clause or phrase of this Act shall be held invalid, such decision shall not affect the validity of the remaining portions of this Act. It is hereby declared that this Act would have been passed irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases are declared unconstitutional or invalid.

Section 35. Title of act.—The title of this Act shall be The Pharmacy Law of 1937.

Section 36. This act shall be in full force and effect from and after the date of its passage.

Approved April 22, 1937.