1940 Supplement

To

Mason's Minnesota Statutes

1927

(1927 to 1940)

(Superseding Mason's 1931, 1934, 1936 and 1938 Supplements)

Containing the text of the acts of the 1929, 1931, 1933, 1935, 1937 and 1939 General Sessions, and the 1933-34, 1935-36, 1936 and 1937 Special Sessions of the Legislature, both new and amendatory, and notes showing repeals, together with annotations from the various courts, state and federal, and the opinions of the Attorney General, construing the constitution, statutes, charters and court rules of Minnesota together with digest of all common law decisions.

Edited by

William H. Mason

Assisted by

The Publisher's Editorial Staff

MASON PUBLISHING CO.
SAINT PAUL, MINNESOTA
1940
§5680-2. To be sold at cost.—Said book shall be offered for sale at a price sufficient to defray the cost of printing, publishing and distribution. (Apr. 24, 1937, c. 306, §2.)

5680-3. Dalry slogans to be printed.—On all printed matter hereafter printed, used, and distributed by the State of Minnesota and all departments and officials thereof there shall be printed thereon wherever practical, in as conspicuous a place, and in as prominent a type as may be consonant with good taste, the following words or slogan:

"DRINK MORE MILK
EAT MORE BUTTER
FOR YOUR HEALTH AND PROSPERITY"

(Act Feb. 24, 1938, c. 29, §1.)

Slogan should not be printed on medical forms printed and used only within institutions in keeping with medical records, such as temperature sheets, nurses' notes, etc. Op. Atty. Gen. (346a), May 23, 1939.

5680-1. Admission of attorneys to practice in certain cases.—Any adult resident of the State of Minnesota, who has completed the prescribed course of study for admission to the practice of law in any state of the United States where said prescribed course of study is for a period of not less than three years, and who has duly examined as to his qualifications by the law examining body of said state and admitted to the practice of law therein, and who has served as an official court reporter in the State of Minnesota for not less than five years immediately following said examination under appointment of a district judge of this state, and who is recommended for his character, ability and learning by said judge, shall upon furnishing proof of the foregoing facts and payment of the usual fee be on motion before the supreme court of this state admitted within six months after the passage of this act to practice law in all of the courts of this state without examination. (Act Apr. 25, 1929, c. 562.)

This act in invalid. 17M335, 27NW180.

5680-2. Admission to practice at law of certain persons.—Any person who has studied law in the office of a practicing attorney of this State for a period of at least three years in compliance with the rules of the State Board of Bar Examiners in force at the time of such study and who has been a student in the Academic College of the University of Minnesota for a period of more than one year and who has served in the military or naval forces of the United States during the World War and received an honorable discharge therefrom and who was disabled therein or thereby within the purview of the Act of Congress approved June 7th, 1924, known as "World War Veteran's Act, 1924" and whose disability is rated at least ten per cent therelover at the time of the passage of this act, shall on motion before the Supreme Court upon proof of such facts and that he is an active resident of the State of Minnesota of good moral character, recommended by two district judges of this State, be admitted to practice law without examination upon payment of the usual fee for such examination. (Act Apr. 27, 1929, c. 424, §1.)

5680-4. Definitions.—The term, printed matter, as herein used, shall include all letterheads, vouchers, motor vehicle application blanks, income tax blanks, and other like printed material used by the State of Minnesota and all departments and officials thereof. (Act Feb. 24, 1939, c. 29, §2.)

5680-5. State printer to designate where.—It shall be within the direction of the state expert printer, after consultation with the appropriate department heads, to determine upon what printed matter, as herein defined, it is reasonably and practicably possible to print said slogan and shall be the duty of said state expert printer to carry out the provisions of this law. (Act Feb. 24, 1939, c. 29, §3.)

5681. Publication of session laws.

Contract for printing regular session is not continuous for special session following, and state printer may advertise for bids for special session. Op. Atty. Gen., Nov. 25, 1933.

CHAPTER 35

Employments Licensed by State Boards or Officials

ATTORNEYS AT LAW


Where attorney accused of misconduct purposely abstains himself from appearing before referee so as to prevent prosecutor of charges from calling him for cross-examination under a statute, court will assume that those who secured personal injury cases for him were authorized, by him to do what was done to secure them. McDonald, 29M8577. See Dun. Dig. 275.

5680-1. Admission of attorneys to practice in certain cases. —Any adult resident of the State of Minnesota, who has completed the prescribed course of study for admission to the practice of law in any state of the United States where said prescribed course of study is for a period of not less than three years, and who has duly examined as to his qualifications by the law examining body of said state and admitted to the practice of law therein, and who has served as an official court reporter in the State of Minnesota for not less than five years immediately following said examination under appointment of a district judge of this state, and who is recommended for his character, ability and learning by said judge, shall upon furnishing proof of the foregoing facts and payment of the usual fee be on motion before the supreme court of this state admitted within six months after the passage of this act to practice law in all of the courts of this state without examination. (Act Apr. 25, 1929, c. 562.)

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officers or employees or anyone else, give or assume to give legal advice or counsel or perform for or furnish to another person or corporation legal services of any kind, either by word, sign, written or advertisement, and solicit the public or any person to permit it to prepare or cause to be prepared any will or testamentary disposition or instrument of trust serving purposes similar to those of a will, or hold itself out as desiring or willing to prepare any such document, or to give legal advice or legal services relating thereunto or to give general legal advice or counsel, or to act as attorney at law or as supplying or being in a position to supply the services of a lawyer or lawyers; or shall to any extent engage in or hold itself out as being engaged in the business of furnishing to another person or corporation legal services; or shall, by word, sign, letter or advertisement, solicit the public or any person to permit it to prepare or cause to be prepared any will or testamentary disposition or instrument of trust serving purposes similar to those of a will, or any other legal document for another person, firm or corporation, and receive, directly or indirectly, all or part of the compensation therefrom; or shall itself prepare, directly or through another, any such document for another person, firm or corporation, except as provided in (c) below.

The foregoing shall not prohibit anyone from drawing, without charge for so doing, any document to which the corporation is a party or wherein it is Interested personally or in a representative capacity (except wills or testamentary dispositions or instruments of trust serving purposes similar to those of a will), and shall not prohibit any person from drawing a will for another in an emergency where the deceased leaves insufficient time to have, the same drawn and its execution supervised by a licensed attorney at law, and shall not prohibit anyone acting as broker for the parties or agent of one of the parties to a sale or trade or lease or sale of property or to a loan, from drawing or assisting in drawing, with or without charge thereafter, such papers as may be incident to such sale, trade, lease, or loan; and shall not prohibit any insurance company from causing to be defended, or from offering to cause to be defended through lawyers of its selection, a party in whose behalf it may be lawfully charged to defend, any action or proceeding in which it is a party, or which it may be lawfully charged to prosecute, any document to which the corporation is a party or wherein it is Interested personally or in a representative capacity, except the payment of its ordinary compensation to be charged against the funds of the corporation.

The foregoing shall not prohibit any person from furnishing or assisting in furnishing to another person, firm or corporation from drawing, for or without compensation, any document to which the corporation is a party or wherein it is Interested personally or in a representative capacity (except wills or testamentary dispositions or instruments of trust serving purposes similar to those of a will), but any charge made for the legal work connected with preparing and drawing such document shall not exceed the amount paid to and received and retained by such attorney, without being directly or indirectly shared with or rebated to anyone else, and it shall be unlawful for any such attorney to make any showing that he has received such a fee unless he has received the same or to share with or rebate to any other person, firm or corporation such fee or any part thereof received by him; but such attorney may divide such fee with another licensed attorney at law maintaining his own place of business and not an officer or employee of the corporation, and shall not prohibit any person from furnishing or assisting in furnishing to another person, firm or corporation from drawing, for or without compensation, any document to which the corporation is a party or wherein it is Interested personally or in a representative capacity, except the payment of its ordinary compensation to be charged against the funds of the corporation.

It shall be unlawful for such attorney to represent in any manner that he has received any sum as a fee or compensation for furnishing or assisting in furnishing to another person, firm or corporation from drawing, for or without compensation, any document to which the corporation is a party or wherein it is Interested personally or in a representative capacity; and shall not prohibit a licensed attorney at law of Minnesota from rendering to a corporation legal services to itself at the expense of one or more of its bona fide principal stockholders by whom such employment and by whom no creditor in any case in which the attorney at law receives the entire compensation for such work, and shall not prohibit any regularly established farm journal or newspaper, devoted to general news, from publishing a legal advertisement and shall not prohibit the corporation from drawing, for or without a fee, a farm or ranch mortgage, farm or ranch chattel mortgages, bills of sale, deeds, leases, contracts of sale, assignments, indentures or any other conveyances except testamentary dispositions and instruments of trust; and shall not prohibit a licensed attorney at law of Minnesota from
upon conviction thereof shall be punished as by statute provided for the punishment of misdemeanors. It shall be the duty of the respective county attorneys in this state to prosecute violations of this act, and the county courts of this state shall have sole original jurisdiction of any such offenses under this act.

In lieu of criminal prosecution above provided for, such County Attorney or the Attorney General may, in the name of the State of Minnesota, or in the name of the State Board of Law Examiners, proceed in suit against any violator of any of the provisions above set forth to enjoin the doing of any act or acts violating any of said provisions.

(f) Any attorney or counselor at law residing in any other state or territory wherein he has been admitted to practice law, who shall attend any term of the supreme or district courts of this state for the purpose of trying or participating in the trial or proceedings of any act or proceedings there pending may, in the discretion of the court before whom he appears in such action or proceeding, be permitted to try, or participate in the trial or proceedings in such action or proceeding, without being subject to the provisions of this act, other than those set forth in sub-division (b) above.

(g) Any person who prior to the passage of this act, as of right or by consent, has served eight years or more as Judge of any Municipal Court of this state, and who for five years or more, prior to the passage of this act, has performed legal services in the Probate Courts of this state for himself, while acting as administrator, executor or guardian, shall be permitted to practice in any Municipal Court of this state, and also to perform necessary legal services in any Probate Court of this state for himself while acting as administrator, executor or guardian.

(h) Nothing herein contained shall be construed to prevent a corporation from furnishing to any person lawfully engaged in the practice of law, such information or such clerical service in and about his professional work as, except for the provisions of this section, may be lawful, provided that at all times the lawyer receiving such information or such services shall maintain full, professional and direct responsibility to his clients for the information and services so rendered.

(Act Apr. 4, 1931, c. 114, §1.)

In action by law school graduate who had not been admitted to the bar against attorney for services rendered in preparation of a case for trial, evidence held to support finding that defendant did not employ plaintiff in consideration of the employment of such attorney who shall violate Section 1 hereof and shall be punished by a fine of not less than $50, nor more than $100, or imprisonment in the county jail for not more than 30 days.

(b) Any person who shall violate Section 2 thereof shall be guilty of a misdemeanor and shall be punished by a fine of not less than $50, nor more than $100, or by imprisonment in the county jail for not to exceed 90 days.

(Act Apr. 23, 1929, c. 289, §3.)

5687-8. Soliciting of business by persons other than attorneys unlawful. It shall be unlawful for any person to solicit for himself or for any corporation or commission, in any manner whatsoever, any demand or claim for personal injuries or for death for the purpose of having an action brought thereon for the purpose of settling the same. Nothing in this act shall be construed to prevent any bona fide labor organization or any member thereof from advising or securing advice for any member of such organization in regard to his rights.

(Act Apr. 23, 1929, c. 289, §2.)

Statute creates assumption only, and it does not remain to create an issue of fact as against evidence in opposition thereto. Cosgrove v. S., 264N125, 283NW109. See Dun. Dig. 3409, 3403.

5687-9. Certain statements shall be presumed to be fraudulent. Any statement secured from an injured person at any time within 30 days after such injuries were sustained shall be presumed fraudulent for use in the trial of any action for damages for injuries sustained by such person or for the death of such person.

(Act Apr. 23, 1929, c. 289, §4.)

5687-10. Effective July 1, 1931. This act shall take effect and be in force from and after July 1, 1931, but shall not affect any action or proceeding now pending in any court.

(Act Apr. 4, 1931, c. 114, §4.)

5687-11. Attorneys shall not employ solicitors. No attorney-at-law shall, through any runner, agent or commission, in any manner whatsoever, any demand or claim for personal injuries or death, or soliciting or procuring such person who has such claim to employ such attorney to present such claim or to conduct or prosecute any action for its enforcement thereon.

(Act Apr. 23, 1929, c. 289, §1.)

Attorney employing other attorneys to solicit personal injury or death claims was guilty of unethical and unprofessional conduct. Greatircle, 189M1, 241NW125. See Dun. Dig. 674.

5687-12. Soliciting of business by persons other than attorneys unlawful. It shall be unlawful for any person to solicit for himself or for any corporation or commission, in any manner whatsoever, any demand or claim for personal injuries or for death for the purpose of having an action brought thereon for the purpose of settling the same. Nothing in this act shall be construed to prevent any bona fide labor organization or any member thereof from advising or securing advice for any member of such organization in regard to his rights.

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(Act Apr. 23, 1929, c. 289, §4.)

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5687-14. Effective July 1, 1931. This act shall take effect and be in force from and after July 1, 1931, but shall not affect any action or proceeding now pending in any court.

(Act Apr. 4, 1931, c. 114, §3.)
5697-9. This act shall take effect and be in force from and after December 31, 1929. (Act Apr. 23, 1929, c. 289, §5.)

5698. General duties.

Fact that defendant attorney had contracts with his clients for contingent fees did not render him a party to a default, with plaintiff in bankruptcy, in making assignments of bankrupt's estate in bulk, 171 M344, 214NW276.

A contract should not recover for legal services where there was no express contract therefor, nor a contract to accept a claim, where the claim had been rejected by the client. Anderson v. G., 183M272, 263NW546. See Dun. Dig. 668.

In action between attorneys growing out of alleged secret profits, finding of settlement and accounting held sustained by evidence. Dietzen v. C., 184M460, 288NW785. See Dun. Dig. 698a.

An attorney is bound by a contract, with propriety, adverting his talent, skill and ability. Greathouse, 189M51, 248NW785. An attorney stands in no better position in respect of authority to make service of summons on any other private citizen and he is not a statutory "officer" for the service of summons. Melin v. A., 181M322, 323NW616. See Dun. Dig. 674.

It is duty of court to declare void any contract to corrupt a public servant, but be held inadmissible in evidence. St. Paul v. H., 199M181, 273NW317. See Dun. Dig. 686.


A client may, without consent of his attorney, settle and compromise with his adversary in such manner as in the opinion of the client may seem necessary for protection of his interest, notwithstanding an express agreement with attorney that his client settle or compromise without the approval of attorney. Krippner v. V., 287NW19. See Dun. Dig. 669a.

4. Upon money or property in the hands of the adverse party to the action or proceeding in which the attorney was employed, from the time such party is given notice of the lien. If the client has an interest in any real or personal property, whether held by any bailee, pledgee, judgment creditor or otherwise, the attorney shall be entitled to a lien upon such property without notice to the holder of such lien for the value of his services, whether under a special agreement as to compensation or for the reasonable value thereof, and shall also have a lien for any contributions in excess of the compensation to be recovered, for the services therefore rendered. 

5699. Change of attorney.

A contract of employment between attorney and client may be cancelled by letter at will, with or without cause; in which event the attorney has right to recover reasonable value of services rendered but he cannot recover damages for breach of contract. Krippner v. V., 287NW19. See Dun. Dig. 669a.

5690. Lien for attorneys' fees extended. * * * * * 3. * * * * * 4. Upon money or property in the hands of the adverse party to the action or proceeding in which the attorney was employed, from the time such party is given notice of the lien. If the client has an interest in any real or personal property, whether held by any bailee, pledgee, judgment creditor or otherwise, the attorney shall be entitled to a lien upon such property without notice to the holder of such lien for the value of his services, whether under a special agreement as to compensation or for the reasonable value thereof, and shall also have a lien for any contributions in excess of the compensation to be recovered, for the services therefore rendered.

Subdivision 2. The lien for attorneys' fees extended shall be valid only where the client has a sufficient interest in the property.
In re Strong & Warner Millinery Co. (USDC-Minn.), 33F (2d) 1001.

Defendant is charged with constructive notice of lien of attorney's fees, and, although plaintiff and defendant may settle the litigation, such settlement would be subject to enforcement if the defendant's course of action which the defendant would be liable; and defendant could not interpose a collateral judgment obtained in another state to defeat the attorney's lien. Miner, (USCCAA), 47F(2d)112. Cert. den. 283US56, 51 S.Ct. 480. See Dun. Dig. 719.

Where action was dismissed because of such settlement the attorney was entitled to have the judgment vacated, for purpose of enforcing the lien. Id. See Dun. Dig. 710.

Expenses incurred by attorney is part of his "compensation" within the meaning of this section. Id. See Dun. Dig. 706.

Settlement of lien of attorneys on money paid in settlement is not divested merely by an order of court entitled Dun. Dig. 706.

In re Strong & Warner Millinery Co., (USDC-Minn.), 33F 1001. Expenses incurred by attorney is part of his "compensation" within the meaning of this section. Id. See Dun. Dig. 706.

Defendant not divested merely by an order of court entitled Dun. Dig. 706.

Parties to a cause may settle their differences notwithstanding the attorney is liable to the attorney for the amount of his lien if settlement is in disregard of attorney's rights. Id. See Dun. Dig. 706.

Where taxpayers brought action for benefit of school district against the wishies of the school board and recovered judgment, fees of attorney must be allowed and judgment prior to the decision of the judgment. Op. Att'y Gen. (77th), June 7, 1924.

Division of fee when attorneys act jointly. 22MinnLaw Rev. 5606.

Refusal to surrender property to clients.

Order for impounding attorneys' fees and requiring client to give security pending determination of dispute. 180M30, 210NW112.

Evidence held to show funds in attorney's hands which court rightly ordered him to turn over to clients. Gerlich v. R., 184M346, 289NW640.

Seeking in a summary proceeding to compel an attorney to disgorge embezzled funds is not inconsistent with holding bank upon a forged indorsement of client's name to a check of plaintiff. Rosacker v. C., 191M553, 254NW824. See Dun. Dig. 3914.

Removal or suspension of attorney. — 1. * * *

(A) Upon his being convicted of a felony, or of a misdemeanor involving moral turpitude; or (B) either of which cases the Board of Bar Examiners forms by conclusive evidence, — but this section shall not be construed to apply to a conviction for contempt of court. (As amended Mar. 14, 1933, c. 79.)

* * *

Attorney disbarred for making willful and known false representations to others than clients who, to his knowledge, trust to such representations. 171M437, 214 NW652.

Professional misconduct warranting disbarment, and limitations on time to proceed for disbarment. 171M434, 214NW645.

Deception of court and slanderous and contemptuous remarks by a female attorney held ground for disbarment. 171M435, 214NW646.

Retention of bail money as fees not to constitute misconduct requiring disbarment of attorney. 172M448, 215NW170.

Attorney receiving money from a client to be applied on a claim against the client, but failing to apply it, was disbarred. 172M548, 214NW142.

Attorney disbarred for withholding money of client. 172M347, 215NW245.

Attorney charged with having pleaded guilty to indictment for attempting to extort money by Revenue Act of 1912 (Massachusetts). Evidence held not to require disbarment. 172M285, 215NW274.

Evidence held insufficient to justify disbarment of attorney on ground of bad faith or intentional misconduct toward his client, though showing negligence in failing to ascertain state of account and to have proper settlement. 172M537, 215NW519.

Evidence held not to require disbarment. 173M274, 215NW142.

Conviction of attorney for attempt to evade federal income tax shows conviction of a "misdemeanor involving moral turpitude." 173M297, 217NW519.

Attorney admitting specific charges of bribing public official and simply asking leniency on ground of previous good character, not ground for disbarment. 173M445, 214NW572.

Evidence held insufficient to justify disbarment of attorney on ground of bad faith or intentional misconduct toward his client, though showing negligence in failing to ascertain state of account and to have proper settlement. 173M537, 215NW519.

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Evidence held not to require disbarment. 173M274, 215NW142.

Attorney receiving retainer and doing nothing, disbarred. 173M347, 215NW347.

Failure to account to client for money collected is ground for disbarment, and it is no defense that the attorney resort to dishonest methods to effect accounting, and agrees to stop the proceeding if the reprieve is paid. 173M435, 220NW519.

Suspension for 18 months imposed on attorney who pleaded guilty to grand larceny in second degree while 1046
acting in capacity other than attorney. Neumeister, 180 M 356. 234 NW 555.

Misappropriation of money of clients, held ground for disbarment. 180 M 145, 230 NW 555.

Attorney for misappropriating client's money. Kahner, 180 M 566, 231 NW 231(1).

Misappropriation failing to enter upon a count for crime against United States. Beach, 180 M 557, 231 NW 241(1).

Concealing collection and misappropriating client's money. 180 M 557, 231 NW 241(1).

Attorney held guilty of misconduct in taking employ-

ment, thereof. Kearney, 181 M 58, 231 NW 241 (1).

Use of criminal process by county attorney to collect civil claims was misconduct requiring discipline. Joyce, 181 M 566, 230 NW 269.

The embezzlement of funds coming into the hands of respondent, an attorney at law, as guardian of incompet-ent ex-service men, he evidently having been ap-

pointed such guardian only for the purpose of being used in general solicitation.

Attorney contended that he had brought out clearly any of the charges to be barred by the limitation provision of this section. Friedman, 182 M 356, 234 NW 705. See Dun. Dig. 678(95).

Questions of constitutionality of a statute or of con-

duct in manner of dealing with other attorneys held not applicable to misappropriation by an attorney of funds intrusted for investment, of perjury, and of knowingly filing in public offices forged instru-

ments. Friedman, 182 M 356, 234 NW 705. See Dun. Dig. 678.

Misappropriation of money belonging to the estate of an insane person was not a continuing misconduct and limitations did not bar proceedings. Fitz Gibbons, 182 M 373, 234 NW 637. See Dun. Dig. 678(95).

Attorney convicted of compounding a crime was dis-

barred. Ostencas, 182 M 595, 236 NW 521. See Dun. Dig. 678(95).

A lawyer's conviction of a felony is ground for dis-

barment. 182 M 566, 236 NW 521. See Dun. Dig. 678(94).

An attorney who appropriates his client's money and neglects to protect the client's interests, and who, when called to account, seeks to hide his wrong-
doing, is permanently disbarred. Severson, 182 M 226, 236 NW 234. See Dun. Dig. 678(95).

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duct in manner of dealing with other attorneys held not applicable to misappropriation by an attorney of funds intrusted for investment, of perjury, and of knowingly filing in public offices forged instru-

ments. Friedman, 182 M 356, 234 NW 705. See Dun. Dig. 678.

Misappropriation of funds collected, held to require disbarment. Severson, 183 M 310, 238 NW 233. See Dun. Dig. 678(95).

Misappropriation of funds collected, held to require disbarment. Severson, 183 M 310, 238 NW 233. See Dun. Dig. 678.

The conduct of an attorney in real estate business subjects him to discipline, though not arising out of relationship of attorney and client. Waleen, 190 M 312, 250 NW 417. See Dun. Dig. 678, n. 1.

When accused, in a disbarment proceeding, is de-

fense or want of desire to be disbarred, the burden of proof will be entered upon assumption that he is guilty as charged in accusation, if accusation states facts constit-
tuting misconduct. Stauning, 190 M 405, 252 NW 84. See Dun. Dig. 679a(16).

Misappropriation of money by attorney in guardian-

ship proceeding requires disbarment. Id. See Dun. Dig. 678.

An attorney who obtained money of client by forging mortgages and abstracts of titles and other papers and misappropriating moneys invested therein by client should be disbarred. 190 M 346, 250 NW 139. See Dun. Dig. 678.

An attorney failing to pay client small sum of money re-

ceived and failure to apply another small amount toward printing of brief, held guilty of misconduct, but in view of previous upheld findings of disbarment, the issue of disbarment was not renewed. Morton, 190 M 498, 252 NW 417. See Dun. Dig. 678.

Failure of an attorney at law under an order of pro-

ceedings to give possession as guardian of minor wards, failure to turn over residue of guardianship estate to a subsequent guardian, allowing money to accumulate to new guardian of amount in default and appropriation of same to his own use held to require disbarment. Ebert, 191 M 589, 255 NW 955. See Dun. Dig. 678.

In absence of a settled case, findings of fact, made in a proceeding for disbarment or discipline of an attorney are conclusive. Waters, 192 M 262, 255 NW 120. See Dun. Dig. 678.

An attorney who obtained money of client by forging mortgages and abstracts of titles and other papers and misappropriating moneys invested therein by client should be disbarred. Id. See Dun. Dig. 678.

Misconduct of attorney in obtaining mortgages and pa-

pers and obtaining money from a client making invest-

ment was a continuing misconduct and limitations did not begin to run until such misconduct was discovered. Mortenson, 192 M 510, 256 NW 417. See Dun. Dig. 678.

Failure of an attorney at law to account and pay over to clients proceeds of litigation or collections or to honestly transact business as agent for another is misconduct, warranting disbarment. Neumeister, 183 M 313, 255 NW 186. See Dun. Dig. 678.

For raising and use of small amounts attached to verified bills, upon which respondent, as county attorney, re-

ceived reimbursement from county for alleged expendi-

ture, a misapplication of funds, held ground for disbarment. Ebert, 191 M 589, 255 NW 955. See Dun. Dig. 678.

Attorney disbarred for conviction of a felony. Gisin-

berg, 192 M 547, 257 NW 237. See Dun. Dig. 678(34).

An attorney who received and used as his own a worthless note for money that he had taken from estate was morally unfit to practice law. Strand, 194 M 391, 260 NW 499. See Dun. Dig. 678.

Judgment of disbarment entered by supreme court of another state should not be enforced by statute of limitations. Gerlich, 187 M 88, 244 NW 414.
Attorney having agents engaged in solicitation of cases of persons desiring to obtain benefit of mortgage moratorium law is subject to discipline and disbarment.


ARCHITECTS, ENGINEERS AND SURVEYORS 5697-1. Registration required.—In order to safeguard life, health and property, any person practicing or offering to practice as an architect, a professional engineer or land surveyor in this State shall hereafter be required to submit evidence that he is qualified so to practice, and shall be registered as hereinafter provided; and from and after six months after this Act becomes effective, it shall be unlawful for any person to practice or to offer to practice in this State as an architect, a professional engineer (hereinafter called engineer) or a land surveyor except under the provisions of this Act.

No person shall practice or offer to practice as an architect, engineer or land surveyor, nor accept employment for compensation, in responsible charge of the preparation of plans and specifications for building, engineering or surveying work in this State unless he shall have registered under the terms of this Act, except that the provisions of this Act shall not apply to practice with regard to any single family or two-family dwelling not to exceed two stories in height, including accessory thereto, nor to any building work the total cost of which does not exceed $7,600, nor to the erection, enlargement or alteration of any building or structure, by any person, firm or corporation, or employees thereof, exclusively for their own occupancy and/or use, nor to any building or the plans or specifications therefor when such plans and specifications are prepared by an established contractor or builder in negotiating for employment as such or in detailing his proposal to or agreement with a person for whom he proposes to build as a contractor or builder or for use in obtaining a building permit in connection with such constructing or building work and that the same are signed by the authors thereof.
surveying for any public work or public improvement in this state.

No plat, map or drawing of any survey or subdivision of lands required by law to be filed or recorded with the register of deeds or registered with the registrar of titles of any county, shall be filed, recorded or registered therein unless there shall be appended thereto a certificate by a registered land surveyor.

The provisions hereof shall not apply to any person holding an elective office when discharging the duties thereof such person is required to do work or perform service of the character of work or service usually done by or performed by an architect, engineer, or land surveyor. (21 c. 523, §2; Apr. 22, 1933, c. 404, §1.)


5697-9. Certificates of registration.—The Board shall, on application therefor, on prescribed form and the payment of a fee of not to exceed Ten Dollars ($10.00) issue a certificate of registration as an architect or engineer, and on the payment of a fee of not to exceed Five Dollars ($5.00) issue a certificate of registration as a land surveyor;

1. To any person over twenty-five (25) years of age, who is a citizen of the United States or Canada, or of any province of Canada, and has been satisfactorily completed, either as an employee or an employee for five or more years in the practice of architecture or engineering, or engaged in four or more years in surveying work. The character of such practice or work shall be equal to the standards fixed by the Board. Each year of teaching or of study satisfactorily completed, of architecture, engineering, or surveying in a school of architecture or engineering of a standard recognized by the Board, shall be considered as equivalent to one year of such active engagement.

2. To any person who holds a like unexpired certificate of registration issued to him by proper authority in the District of Columbia, in any state or territory of the United States, or in any province of Canada, in which the requirements for registration for the practice of architecture, engineering, or surveying are equal to those fixed by the board for this state, and in which similar privileges are extended to the holders of certificates of registration issued by this state.

3. To any person who prior to the passage of this act resided and practiced as an engineer, architect, or as a land surveyor.

When the evidence presented by an applicant for a certificate of registration shall not be conclusive or convincing as warranting the issuance of a certificate, the Board may require further evidence to be presented, or may subject the applicant to such examination as may be deemed necessary to establish his qualifications.

In determining the qualifications in such cases of applicants for registration as architects, a majority vote of the architect members of the Board only shall be required; in determining the qualifications in such cases of applicants for registration as engineers a majority vote of the engineer members of the Board only shall be required; and in determining the qualifications of applicants for registration as land surveyors the affirmative vote of the land surveyor member and of one engineer of the Board only, shall be required.

The board may make reasonable rules and regulations for classifying and registering engineers in divisions according to their qualifications to practice different classes of engineering work and shall, in such case, register qualified applicants in one or more such divisions in which they shall qualify under the terms of this act and shall, in any event, provide one such division for highway engineers.

Any person so qualified may be registered in two or all of the three professions covered by this act; but the aggregate fee for such registration shall not exceed $15.00.

In case the Board denies the issuance of a certificate to an applicant, the registration fee deposited shall be returned by the Board to the applicant.

Certificates of registration shall expire on the last day of the calendar year for which they are issued and shall become invalid on that date unless renewed. It shall be the duty of the secretary-treasurer of the Board to notify, by mail, every person registered hereunder of the date of the expiration of his certificate and the amount of the fee required for its renewal for one year; such notice shall be mailed at least one month in advance of the date of the expiration of said certificate. Renewal may be effected at any time during the month of December by the payment of a fee of $3.00 for an architect or any engineer, and $1.00 for a land surveyor.

Failure on any of the above to renew his certificate annually in the month of December as required above shall not deprive such person of his right of renewal thereafter, but the fees to be paid for the renewal of the certificate after the succeeding day of January shall be Five ($5.00) Dollars for an architect or an engineer, and Two ($2.00) Dollars for a land surveyor. The aggregate fee for renewal of registration in two or three of the professions shall be the same as the single renewal fee for registration as an architect or an engineer. (21 c. 523, §9; Apr. 22, 1933, c. 404, §2.)

5697-10. Revocation of certificates of registration, etc.


5697-12. Offenses.—Any person who is not authorized to practice in this State as an architect, engineer or a land surveyor, in any of the three professions covered by this act, who practices, teaches, or offers to practice, teaches or offers to teach, in this State, as an architect, engineer or a land surveyor without a certificate of registration issued under the provisions of this act, or who practices, teaches or offers to teach, in this State, as an architect, engineer or a land surveyor of like or different name, or who shall use or attempt to use an expired or revoked certificate of registration, shall be deemed guilty of a misdemeanor. (21 c. 523, §12; Apr. 22, 1933, c. 404, §3.)

5697-13. Persons exempt from registration.—The following persons shall be exempted from the provisions of this Act:

1. Practice as an architect, an engineer or a land surveyor in this State by any person not a resident of and having no established place of business in this State, or any person resident in this State, but whose arrival in the State is recent; provided, however, such person shall have filed an application for registration as an architect, an engineer or a land surveyor and shall have paid the fee provided for in Section 9 of this Act. Such exemption shall continue for only such reasonable time as the Board requires in which to consider and grant or deny the said application for registration; and provided such person is legally qualified to practice such profession in his own state or county in which the requirements and qualifications for obtaining a certificate of registration are not the same as provided in this Act: provided the non-resident is qualified for said application for registration; and provided such professional service in his own State or country.

2. Practice as an architect, an engineer or a land surveyor by any person not a resident of, and having no established place of business in this State, as a consulting associate of an architect, an engineer or a land surveyor registered under the provisions of this Act: provided the non-resident is legally qualified to practice such profession in his own state or county.

3. Practice as an architect, an engineer or a land surveyor solely as an officer or as an employee of the United States. (21, c. 523, §13; Apr. 22, 1933, c. 404, §4.)

5697-14. Corporations and partnerships.—A corporation or partnership may engage in work of an architectural or engineering character, or in land surveying, in this State, provided the person or persons connected with such corporation or partnership in responsible charge of such work is or are registered as herein required of architects, engineers and land surveyors, or is or are otherwise authorized or permitted to practice as an architect, engineer or land surveyor. The same exemptions shall apply to corporations and partnerships as apply to individuals under this Act. (21, c. 523, §14; Apr. 22, 1933, c. 404, §5.)

5697-10. May appeal to district court.—Any person aggrieved by any ruling or order of the Board made under the provisions of this act, may appeal therefrom to any district court of the state by serving within ten days after the receipt of such notice, a copy of the order or ruling or findings of the Board, specifying such court, within thirty days after the same is made. The secretary of the board, shall thereupon file with the clerk of such court, a certified copy of the order or rulings or findings of the Board, fact upon which the same are based, which shall be prima facie evidence of the facts therein stated. Thereupon the court shall summarily hear and determine the question involved on said appeal, such appeal to be heard at such time and place as the court shall order.

5697-17. Effective July 1, 1933.—This Act shall take effect and be in force from and after its passage but registrations required hereunder by persons heretofore practicing in this state may be made at any time before July 1, 1933. (Act Apr. 22, 1933, c. 404, §7.)

If an application for registration is made after July 1, 1933, the registration of such person shall be invalid if the person be over sixty years of age applies. Op. Att'y Gen. (10a-2), May 2, 1934.

CERTIFIED ACCOUNTANTS

5698. Board of accountancy.
Audit of affairs of municipality by certified public accountant not accepted in lieu of examination to be made by public examiner under laws 1929, c. 259, §3; Op. Att'y Gen., June 16, 1932.

If application is made to third persons for negligent certification by public accountant, 16 Minn.Law.Rev. 285.

5699. Officers.—Duties.—Examinations.—Report.

Board is without authority to promulgate rule requiring registration of all certified public accountants. Members of State Board of Accountancy are not entitled to traveling expenses and per diem out of state funds. Op. Att'y Gen. (882J-3), Sept. 28, 1934.

Attendance of members at national meetings of other state boards, and in going to and returning therefrom is not "performance of the duties under this act," and there is no statutory authority for payment of such traveling expenses and per diem out of state funds. Op. Att'y Gen. (882J-3), Nov. 10, 1934.

5700. Certificates granted to whom.—No certificate for a certified public accountant shall be granted to any person other than a citizen of the United States, or person who has in good faith fully declared his intention of becoming such citizen, and is over the age of twenty-one years and of good moral character and (except under the provisions of Section 5 (5704) of this act) who shall have successfully passed a examination in "Accounting," "Auditing" and "Commercial Law," affecting accountancy, and on such other subjects as the board may deem advisable. No license shall be permitted to take such examination unless he shall for a period of at least three years have been employed in the office of a "public accountant" as an assistant, or shall have been practicing as a public accountant on his own account, or who shall have served for a like period as an assistant, a child examiner or a senior examiner in the office of State Commissioner of Revenue, or as an Internal Revenue agent or collector of the Bureau of Internal Revenue of the United States or of one of the states, or of any country in which the requirements for renewal of license after Jan. 1, by payment of fees collected by State Board of Accountancy are state treasury pursuant to G.S. '13, §4694; Apr. 13, 1933, c. 236.)

A rule of board of accountants requiring that applicant have an established voting residence in the state or to have maintained a regular and regular place of business in the state for at least one year is unauthorized. Op. Att'y Gen., Nov. 25, 1933.


Conviction of a felony does not render certified public accountant ineligible to hold certificate. Op. Att'y Gen. (882J-3), Oct. 5, the second examination, shall be given in this state, who shall have the colors of said order or ruling or findings of the board. Such appeal to be heard at such time and place as the court shall order. Op. Atty. Gen. (882J-3), Nov. 1, 1934.

Attendance of members at national meetings of other state boards, and in going to and returning therefrom is not "performance of the duties under this act," and there is no statutory authority for payment of such traveling expenses and per diem out of state funds. Op. Att'y Gen. (882J-3), Sept. 28, 1934.


5703. Fee for examination and certificate. Members of State Board of Accountancy are not entitled to traveling expenses nor per diem while attending national meetings of other state boards. Op. Att'y Gen. (882J-3), Sept. 28, 1934.

Attendance of members at national meetings of other state boards, and in going to and returning therefrom is not "performance of the duties under this act," and there is no statutory authority for payment of such traveling expenses and per diem out of state funds. Op. Att'y Gen. (882J-3), Sept. 28, 1934.

Fees collected by State Board of Accountancy are state funds, and payment of authorized expenditures may be made from fees collected in lieu of fees paid to the treasury pursuant to G.S. '13, §4697. Op. Att'y Gen. (882J-3), Dec. 15, 1934.

5704. Revocation and reinstatement of certificates of certified public accountants.—Said state board of accountancy may revoke any certificate issued under this Act or may cancel the registration of any certificate issued under this Act for bad moral character, 1050
dishonesty, conviction of crime, incompetency or un-
professional conduct; provided, a written notice shall
have been mailed to the holder of such certificate at
least twenty days before any hearing thereon, stating
the cause for such contemplated action and appoint-
ing a place and time for such hearing by the state
board of accountancy, and further provided, that no
certificate issued under this Act shall be revoked until
an opportunity for such hearing shall have been
afforded. At all such hearings, the attorney general
shall attend. Certificates issued or registered
under this Act shall be surrendered to the state board
of accountancy on their revocation by said board.

Said state board of accountancy may reinstate a
revoked certificate upon a petition for reinstatement
by the former holder thereof presented within two
years after the date of revocation. Said board of
accountancy shall appoint a time and place for the
hearing on such petition and may prescribe any nec-
essary rules and regulations relating to such rein-
statement of a revoked certificate not inconsistent
with any provisions of the statutes relating to public
accountancy. (’93, c. 435, §7; G. S. ’13, §4968;
Apr. 15, 1933, c. 243.)

Section does not authorize board to dispose of cases
with a remand. Id.

BASIC SCIENCES AND PRACTICE OF HEALING

5705-1. Basic sciences defined—Practicing, etc.

For application of this act to persons licensed under
act regulating massage, see Laws 1929, c. 347, §15, post,
§5784-27.

Cook v. A., 190M274, 218NW225; note under
this section is constitutional. 1SSM41, 229NW617. See
Dun. Dig. 1677, 7483(26).


State v. State Board of Examiners, 189M1, 250NW363.
See Dun. Dig. 7483.

Said board may employ women to come to lecturers for
which she has charged a fee and for those who had secondary
anemia and menstrual troubles, suggested medicine and
t阶梯 which she had engaged in practicing healing,
which would require a license. State v. Mielke,
202M114, 277NW420. See Dun. Dig. 7483.

This act does not apply to the chemistry until after
Mar. 24, 1930.

Board of basic science may conduct examination on
Oct. 6, 1924.

It is unlawful for a fraternal corporation to employ
a doctor of medicine or an osteopath for treatment of
members on a salary basis, or on basis of percentage of
dues, or fees, so arranged equally distributed
between the two practitioners, and the practitioners are
1939.

5705-5. Same—Organization—Officers—General
powers.

Board has right to sell copies of past examination
Gen., May 27, 1933.

5705-6. Applications for examinations of persons
desiring to practice healing—Etc.

Receptacle and retaliatory legislation. 21MinnLawRev
371.

5705-8. Registration without examination—Fees.

Naturopathy restoring natural remedies was unlaw-
fully engaging in practice of medicine and was not en-
titled to benefit of registration without examination.
State v. State Board of Examiners, 189M1, 250NW354.
See Dun. Dig. 7483.

5705-9. Certificates without examination to practi-
tioners from other states, etc.

Certificate is permissible with a state giving an ex-
amination which the board is satisfied deals with sub-
ject matter substantially the same as that in our exam-
ination and an osteopathic subject matter treatment of
identical with the names of the parts of our exam-

Board cannot accept applications of national board of

5705-18. Annual registration of persons authorized
to practice healing—Etc.

Physicians and osteopaths must pay annual registra-
21, 1933.

5705-19. Other offenses—Penalty—Record of
registrations—Etc.

Board may cancel certificate voluntarily surrendered.

5704-34. Healers, etc., to report defective children.

Every duly licensed person practicing the art of
healing in any way and every person diagnosing hu-
man ailments within the state who shall attend or
at least twenty days before any hearing thereon, stating
a doctor of medicine and an osteopath for treatment of
a child of pre-school age or of school age who is not attending school, and every such person
who attends or treats any person for any cause, shall re-
port directly to the state department to which com-
unicable diseases are required to be reported, any
defect, injury or disease of a continuous nature or
which might permanently handicap the child, and
which comes under his/her observation provided such
child is not under the age of one year. He/she shall
also particularly indicate those cases in which the
parents or guardian of the child have not the knowl-
dge or means necessary to report all necessary
record of the treatment of the child. Provided, if there shall be
with the clerk or secretary of such department a
certificate of a reputable physician of the community
that a defect, injury or disease of a child is incurable or
in whom being cared for, further compliance with the
provisions of this act with respect to such defect or
disability does not require. (Act Apr. 24, 1926, c. 328, §1.)

5705-25. Reports to be available to Children’s
Bureau. —Such reports shall be made available to the
children’s bureau. The children’s bureau may sell copies
of past examination questions to prospective examinees

State v. State Board of Examiners, 189M1, 250NW363.
See Dun. Dig. 7483.

5705-26. State Board of Health to furnish blanks.

—The state board of health shall formulate and
furnish to such persons blanks on which such reports
may be made. (Act Apr. 24, 1926, c. 328, §2.)

UNFAIR PRACTICES AFFECTING PUBLIC
HEALTH

5705-31. Unfair competition and trade practices
prohibited.—That upon application to the Governor
of the State of Minnesota for relief from unfair com-
petition and unfair trade practices the state board of
health shall disseminate information designed to prevent the
permanent crippling or handicapping of children. (Act
Apr. 24, 1926, c. 328, §2.)
5705-32. Application—rules.—Such application shall be made by not less than sixty-five percent of all persons, firms and corporations engaged in such service trades in any municipality or subdivision of the state, to the board to which the rule, regulation or standard is to be addressed. Such rules, regulations or standards are not designed to promote monopolies or to eliminate or oppress such service trades and will not operate to discriminate against them and will tend to effectuate the policy of this act, (2) that such rules, regulations or standards are necessary for the stabilization of the business of such service trades, the Governor may, as a condition of approval of any such rules, regulations or standards, impose such conditions for the protection of consumers, competitors, employers and others, and in the furtherance of the public interest, and may provide such exceptions to and exemptions from the provisions of such rules, regulations or standards as in his discretion he deems necessary to effectuate the policy declared in this act. (Apr. 16, 1937, c. 235, §2.)

5705-33. Shall be bound by rules.—Upon the approval of any such rules, regulations or standards covering such service trades, all persons, firms or corporations engaged in such trade or business shall, as to the trade or business carried on by them, be bound by such rules, regulations or standards as adopted or approved by the Governor, subject, however, to modification, amendment or termination thereof as the Governor may deem necessary to effectuate the purpose of this act. (Apr. 16, 1937, c. 235, §3.)

5705-34. Assessments for expense.—Every rule, regulation or standard prescribed or approved by the Governor shall contain provisions for assessing against and collecting from all persons, firms and corporations, subject to the rules, regulations or standards as employer or employee, on a fair and equitable basis therefor, assessments sufficient for expenses incurred in connection with the promulgation of all rules, regulations or standards, and administration, to be paid to the State Treasurer as may be prescribed. (Apr. 16, 1937, c. 235, §4.)

5705-35. Orders of Governor to be reviewed by district court.—All orders of the Governor prescribing, approving, disapproving, modifying, amending or terminating rules, regulations or standards shall be subject to review by any District Court of the state. In any such action, no injunction suspending the operation of the rule, regulation or standard, or any part thereof, during the pendency of the action shall be granted except upon the filing or approval by the court of a good and sufficient bond, running to the state and enforceable by the Governor, on behalf of all parties in interest conditioned for the payment of all damages, losses of profits and of wages which may be sustained by any employer or employee affected by reason of such suspension, in the event the validity of the rule, regulation or standard shall be finally sustained. (Apr. 16, 1937, c. 235, §5.)

5705-36. District Courts may restrain and prevent violation of rules.—The District Courts of the state are hereby vested with jurisdiction to prevent and restrain violation of any rule, regulation or standard to prevent unfair competition and unfair trade practices approved under this act, and it shall be the duty of the County Attorney of any county having jurisdiction to institute proceedings in equity to prevent and restrain such violations. (Apr. 16, 1937, c. 235, §6.)

5705-37. Violation a misdemeanor.—Any person who violates any of the provisions of this act or who violates any duly adopted rule, regulation or standard, or who neglects, fails or refuses to comply with any duly adopted rule, regulation or standard prescribed or approved by him by this act, shall be guilty of a misdemeanor and be punished accordingly. (Apr. 16, 1937, c. 235, §7.)

5705-38. Governor may appoint enforcement agents.—The Governor may designate or appoint such agents, deputies, commissioners, or any department of the state, to administer and enforce every order, rule, regulation or standard prescribed or approved by him. (Apr. 16, 1937, c. 235, §8.)

5706. Board of medical examiners. board has no power to suspend a license. See Op. Att'y Gen., Aug. 29, 1929.

The compensation of the secretary-treasurer and the superintendent of the office of the Board of medical examiners is hereby fixed at $7,512 is within the control of the commission of administration and finance under Mason's Statutes, §53-7. Op. Att'y Gen., Aug. 20, 1929.

There is no incompatibility between the office of health officer of the City of Salt Lake and the duties of a member of state board or state employment on the other hand. Op. Att'y Gen., Mar. 10, 1931.

A member of State Board of Medical Examiners may accept employment as a physician and surgeon by the Board of Control for the care and treatment of inmates for the home school for girls. Op. Att'y Gen., Mar. 10, 1931.

A State board of medical examiners is not subject to supervision and control of department of administration and finance with respect to payment of attorney at law to procure evidence or fixing compensation. Op. Att'y Gen., Oct. 24, 1933.

5707. Examination and license—Revocation.—A person not already authorized to practice medicine in the state, and desiring so to do, shall apply to the secretary of the board for examination, and pay a fee of 20 dollars for the use of the board, which in no case shall be refunded. At a time appointed, or at the next regular examination, he shall prove that he is of good moral character and that he has completed four entire sessions of not less than 36 weeks each at a medical school recognized by the board, and has received the degree of M. D. or M. B. He shall be examined in surgery, medicine, obstetrics, eye, ear, nose and throat, and such other branches as the board shall deem advisable; after such examination, the board, if five members thereof consent, shall grant him a license to practice medicine. The examination shall be both scientific and practical, and shall thoroughly test the fitness of the candidate. The board may refuse to grant a license to, or may suspend or revoke the license of, any person guilty of immoral, dishonorable, or unprofessional conduct, but subject to the right of the applicant or licensee to appeal to the district court in the proper county on the question of law and fact involved.

The words "immoral, dishonorable or unprofessional conduct" as used in this section shall mean: (a) Procuring, aiding or abetting a criminal abortion; (b) advertising in any manner either in his own name or under the name of another person or concern, actual or pretended, in any newspaper, pamphlet, circular or other written or printed paper or document, professional superiority to or greater skill than that possessed by fellow physicians and surgeons, or the actual or pretended cure of any disease, or the curing of venereal diseases, the restoration of "lost manhood," the treatment of private disease, peculiar to men or women, or the advertising or holding himself out to the public as having any manner of skill or professional control over sexual organs, or diseases caused by sexual weakness, self abuse, or excessive indulgences, or the advertis-
A physician and surgeon is not an insurer of a cure or good result of his treatment or operation, but is only required to possess skill and learning for the number of his achievement of profession in good standing in his locality, and to exercise that skill and learning for the cure of the case. Yates v. G., 485M, 268NW470. See Dun. Dig. 7455.

Doctrine of res ipsa loquitur does not apply in malpractice cases for lack of evidence that injury was necessary to make out a case. Id. See Dun. Dig. 7491.

Evidences hold insufficient to sustain a finding that inference following operation was caused by any failure of defendant to exercise care and skill. Id. See Dun. Dig. 7452.

Proof of causal connection between injury and claimed negligence must be something more than consistent with plaintiff's theories of how injury was caused. Id.

Physician and surgeon is not insurer of a cure or good result of treatment or operation, but is only required to possess skill and learning possessed by average member of his school of profession in good standing in his locality, and to apply that skill and learning for the cure of the case. Williamson v. A., 195M54, 270NW15. Pub. Dig. Dig. 7455.

Proof of causation must be more than consistent with plaintiff's theories of how injury was caused. Id. See Dun. Dig. 7491.

In action for malpractice, charging three doctors who participated in a gall bladder operation upon plaintiff, negligence having left within his body a gauze pack, court erred in instructing jury that doctor was not itself negligent in selection of defendant for doctor who administered anaesthetic. Brossard v. K., 203M418, 274NW619. See Dun. Dig. 7456.

In malpractice case, burden is upon plaintiff to show that gauze pack remained in plaintiff's body because of defendant's negligence. Id. See Dun. Dig. 7494.

Where a person is injured by wrong of neglect of another, and is not himself negligent in selection of a person to repair his injuries, negligence of such person is not set up to avoid liability for all proximate results of his own act, although consequences of injury have been less serious than originally anticipated. Id. See Dun. Dig. 7495.

Mere fact injection of a solution of oxycyanide of mercury was made to treat a delirious patient in a hospital by applying restraints and administering hypodermic injections of morphine solution will not alone support finding that gauze pack remained in plaintiff's body because of defendant's negligence. Id. See Dun. Dig. 7494.

Proof of causation must be more than consistent with plaintiff's theories of how injury was caused. Id. See Dun. Dig. 7491.

Physician and surgeon is not liable for injuries unavoidably resulting in spite of exercise of due care. Id.

Proof of causation must be more than consistent with plaintiff's theories of how injury was caused. Id. See Dun. Dig. 7491.

Physician and surgeon is not liable for injuries unavoidably resulting in spite of exercise of due care. Id. See Dun. Dig. 7494.

Negligence will not be presumed from fact that treatment was insufficient or bad results to particular person did not prove that physician or pharmacist of clinic was negligent. Cassidy v. M., 268NW849. See Dun. Dig. 7491.


5712. Duty of secretary—Money how paid—et al.

The compensation of the secretary-treasurer and his stenographer or typist shall be paid by the commission of administration and finance under 1537-71. Op. Atty. Gen.

5718. Physicians and surgeons prohibited from splitting fees.

It is unlawful for a fraternal corporation to employ a chiropractor or osteopath and an exempt or an exempt member on a salary basis, or on basis of percentage of dues paid by members, money being equally divided between the two practitioners, and the practitioners are guilty of misconduct. Op. Atty. Gen. (126a-64), Apr. 11, 1938.

5719. Board may accept delinquent fees without reexamination.

During the subscriptions held unlawfully engaged in the practice of medicine. State v. State Board of Examiners, 1893M1, 250NW363. See Dun. Dig. 7483.

5720. Reciprocal and retaliatory legislation.

Reciprocal and retaliatory legislation. 21MinnLawRev 371.

5721. Board may not be suspended a license.


5722. Midwifery licenses.

Reciprocal and retaliatory legislation. 21MinnLawRev 371.

5723. Renewal fee—Fees to be paid to state treasurer.


5730. Examination of applicants.

Reciprocal and retaliatory legislation. 21MinnLawRev 371.

5731. Reporting of licenses—Rules and regulations.

Chiropractors not practice of medicine, surgery or osteopathy.


5732. Practice of osteopathy—Licenses—Penalties.


Welfare board may retain osteopaths for osteopathic services to relief clients, but treatments given and services rendered must be in strict accordance with laws defining duties and authority of an osteopath. Op. Atty. Gen. (1524a), Apr. 11, 1929.

5733. Application for license—Examination—Fees.

Reciprocal and retaliatory legislation. 21MinnLawRev 311.

5734. NURSES.

5741. Registration.


5742. Term—Bond—Oath.

nurse, provided, however, that any applicant who prior to the completion of the three year course of training required by this act passes said examination to the satisfaction of the board must, before he or she shall be granted a certificate of registration as a registered nurse present to the board satisfactory evidence that he or she has completed the full three years of training as required by this act. ( '07, c. 153, §7; G. S. '13, §5065; '23, c. 148, §5; Apr. 15, 1929, c. 193.)

Under this section as amended by Laws 1929, c. 153, one who has passed the state board examination prior to completion of a three-year course of training is not entitled to a certificate of registration until she has completed the three years of training, it not being necessary to issue a certificate to her and then revoke it. Op. Atty. Gen., July 5, 1930.

A holder of a Rochester diploma for nursing dated at a time when he or she has completed the three years of training, it not being necessary to issue a certificate to him and then revoke it. Op. Atty. Gen., June 29, 1933.


Board does not have authority to grant registration, education, or training to a graduate of one or two three-year courses in schools of nursing that were not accredited. Op. Atty. Gen. (905d), Dec. 22, 1938. (4.)

Applicant must attend school of nursing connected with hospital. (866a, c. 1, 1931.)

5753. Applicants registered in other states.

It is within the discretion of the board to grant an out-of-state applicant to take a post-graduate course, if she has received training prescribed in such course.

Any nurse who graduated prior to January 1, 1918, and has had fifteen (15) years or more of actual experience in nursing, and who has been employed under civil service regulations for fifteen (15) years or more as such nurse by the Board of Education of any city of the first class: who shall on or before July 1, 1935, make application and produce to the board evidence verified by the oath of the applicant that he is a legal resident of this state and a graduate of a school or schools of nursing, giving a course in nursing of not less than two (2) years; there shall be permitted to register and practice the profession of nursing without examination upon payment of the registration fee. (Act Apr. 5, 1935, c. 127.)

5754-5. Registration of nurses in certain cases.— Any nurse who graduated prior to January 1, 1918, and has had fifteen (15) years or more of actual experience in nursing, and who has been employed under civil service regulations for fifteen (15) years or more as such nurse by the Board of Education of any city of the first class: who shall on or before July 1, 1935, make application and produce to the board evidence verified by the oath of the applicant that he is a legal resident of this state and a graduate of a school or schools of nursing, giving a course in nursing of not less than two (2) years; there shall be permitted to register and practice the profession of nursing without examination upon payment of the registration fee. (Act Apr. 5, 1935, c. 127.)

5756. [Repealed.]

See note under §5757.

5757. [Repealed.]

See note under §5757.

DENTISTS

Sections 5757 to 5760, herein, are valid. 47SupCh122.

5757. [Repealed.]

See note under §5757.

5758. [Repealed.]

See note under §5757.

Board is without authority to create office of assistant secretary, but this does not mean that board may not incur such expenses as are necessary within the limit of funds. Op. Atty. Gen., Jan. 2, 1930.

5759. [Repealed.]

See note under §5757.

5760. [Repealed.]

See note under §5757.


5761. [Repealed.]

See §5762-2 herein.

It is mandatory that the board revoke license where fees are not paid. Op. Atty. Gen. (910b), June 29, 1933.


5762. [Repealed.]

See note under §5767.

5762-1. State Board of Dental Examiners created.

— There is hereby created a State Board of Dental Examiners (hereinafter called the Board) whose duty it shall be to carry out the purposes and enforce the provisions of this act. Said Board shall consist of five qualified resident dentists appointed by the Governor, within 60 days after this act shall take effect, in the manner hereinafter prescribed. The terms of office of the members first appointed shall begin when they are appointed and qualify and shall continue thereafter for the following periods: two members until October 1, 1936; two members until October 1, 1937; one member until October 1, 1938. Upon the expiration of such term or terms such member shall appoint a successor to the member whose term expires, for a term of three years and until his successor shall have qualified. For each of the above terms of the first Board to be appointed hereunder the Minnesota State Dental Association shall recommend to the Governor not less than two dentists qualified to serve on said Board, and from the list of persons so recommended the Governor may appoint one member to said Board for each of said terms of three years, said appointment or appointments however, to be made within 30 days after the expiration of said term or terms. Within 60 days after the occurrence of any vacancy in said Board, the said Minnesota State Dental Association shall recommend to the Governor not less than two dentists qualified to serve on said Board, and from the list of persons so recommended the Governor may appoint one member to said Board for each of said terms of three years, said appointment or appointments however, to be made within 90 days after the occurrence of such vacancy. Provided, however, that each Board member shall have been lawfully in active practice in this state for five years immediately preceding his appointment; and no Board member shall serve more than two consecutive terms. The members of the State Board of Dental Examiners heretofore appointed and now holding office shall continue in office until the appointment and qualification of the members of such Board as herein provided. (Act Apr. 1, 1935, c. 95, §1.)


There is no distinction between short terms and long terms and one serving two consecutive terms is not eligible for reappointment. Op. Atty. Gen. (910b), July 24, 1938.

5762-2. Board—officers—salaries and expenses.— The Board shall elect from its members a president, vice-president, and a secretary-treasurer. The Board shall have a common seal. The Board shall hold two regular meetings each year at times to be fixed by the board and special meetings at such other times as may be necessary, and as the Board may determine. All meeting of the Board shall be held in the State of Minnesota as the Board shall determine. Out of the funds coming into the possession of
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of said Board, the members thereof shall receive as compensation the sum of ten dollars per day and necessary traveling expenses for each day actually engaged in the duties of their offices. The said treasurer shall, in addition thereto, be paid a salary of not to exceed $1200.00 per year, the amount of said salary to be set by resolution of the Board, which shall be in full for all secretarial, clerical and stenographic services for said Board. All fees received by the State Board of Dental Examiners under this act shall be paid to the secretary-treasurer thereof who shall deposit the same each month with the State Treasurer, the said fees to be kept in a separate fund for and used only for the payment of all expenses and for the reimbursement for actual and necessary traveling expenses by such court.

Disobedience of a similar order or subpoena issued by the Board in carrying out the purposes of this act. Payments out of said fund shall be made only upon written orders issued and signed by the president of said Board and the secretary-treasurer thereof. No expense shall be incurred by said Board in excess of the revenue derived from such fees. The president and the secretary-treasurer of the Board shall give a bond in the amount of $10,000.00 and in form to be approved by the Attorney General and conditioned for the faithful performance for the aforesaid duties and liabilities. Before January 15th in each year the Board shall report its proceedings and the items of its receipts and disbursements to the Governor of the State of Minnesota. The Board shall have the power to expend its necessary funds for its officers and for materials and fixtures, and supplies. The Board in its discretion may affiliate with the National Association of Dental Examiners, as an active member and pay regular annual dues to said Association and may send a member of the Board as a delegate to the meeting of the said National Association of Dental Examiners. Such delegate may receive the per diem above provided for the time spent in attending such meetings and reimbursement for actual and necessary traveling expenses.

In all matters pending before it, the Board shall have the power to compel the attendance of witnesses, the production of all necessary papers, books, records, documents, evidence and materials, and an officer of the Board may in such matters administer an oath to witnesses or take their affirmation. If any person shall fail or refuse to appear or testify regarding any matter about which he may be lawfully questioned, or to produce any papers, books, records, documentary evidence or materials in the matter to be heard, after having been required by order or subpoena issued by the Board so to do, any judge of the District Court in any county of the state, on application of the Board shall compel obedience by attachment proceedings as for contempt, as in the case of disobedience of a similar order or subpoena issued by such court.

The Board shall have the power to make such rules and regulations as are reasonable necessary to carry out and make effective the provisions and purposes of this act.

(Act Apr. 1, 1935, c. 95, §2.)

5762-4. Who may practice.—Every person shall be deemed to be practicing dentistry within the meaning of this act: who is a manager, proprietor, operator or conductor of a place where the practice of dentistry is carried on, or who for a fee, gift, compensation or reward, or in expectation thereof, paid or promised to himself or to another, or who gratuitously performs or holds himself out to the public in any manner that he will perform dental operations of any kind, by who diagnoses or treats dental diseases, lesions, malocclusion or malposition of the human teeth or jaw mechanically or medically, or by the use of x-ray, or who attempts to correct malocclusion or malposition by operation incident to the replacement of the teeth, or who uses the word "Dentist," "Dental Surgeon," the letters "D.D.S.," "D.M.D.," or any other letters or title in connection with his name which in any way represent him as being engaged in the practice of dentistry.

Provided however, that this section:

(1) Shall not apply to the construction, making alteration or repairing of bridges, crowns, dentures, or other prosthetic appliances or orthodontic appliances when the costs of labor and materials for such work have been made or taken by a licensed dentist; provided however, a written authorization signed by a licensed dentist must accompany the order for such work or by the use of x-ray, or who attempts to correct malocclusion or malposition by operation incident to the replacement of the teeth, or who uses the word "Dentist," "Dental Surgeon," the letters "D.D.S.," "D.M.D.," or any other letters or title in connection with his name which in any way represent him as being engaged in the practice of dentistry.

(2) Shall not apply to students enrolled in and regularly attending any dental college recognized by the State Board of Dental Examiners, provided their acts are done in said dental college and under the direct supervision of their instructor.

(3) Shall not apply to a duly licensed physician and surgeon unless he practices dentistry as a specialty.

(4) Shall not apply to licensed or registered dentists of another state temporarily operating a clinic under the auspices of a duly organized and reputable dental college or reputable dental society, or to one lecturing before a reputable society composed exclusively of dentists.

(5) Shall not apply to licensed dental hygienists in the performance of their duties and all other duly licensed dental hygienists.

(6) Shall not apply to the practice of dentistry by full time dentists in the discharge of their official duties in the United States Army, the United States Navy, the United States Public Health Service, or the United States Veterans' Bureau.

(7) Shall not apply to any person who ministers or treats the sick or suffering or who treats for the purpose of preventing sickness or suffering by mental or spiritual means exclusively.

(Act Apr. 1, 1935, c. 95, §3.)

This section does not prevent a dental supply house from hanging out his sign over the sidewalk. Op. Att'y Gen. (139), July 12, 1936.

5762-4. Licenses—examinations.—A person not already a licensed dentist of the state desiring to practice dentistry therein, shall apply to the secretary-treasurer of the Board for examination and pay a fee of $25.00 for the first examination and $5.00 for each subsequent examination which in no case shall be refunded. At the next regular meeting he may present himself for examination and produce his certificate of good moral character and professional attainments with this state, and is a reputable dentist of good moral character and is desirous of removing to this state and deposits in person with the Board of Dental Examiners a certificate from the examining board of the state in which he is registered, certifying to the fact of his registration and that he is of good moral character, and professional attainments, and upon payment of a fee of $50.00 may, at the
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5762-5. Annual registration fee.—On or before the first day of May in each year every licensed dentist shall pay to the Board of Dental Examiners an annual registration fee of two dollars, and in default of such payment the Board may, upon hearing and upon 30 days notice revoke the license of the dentist, or, in the discretion of the Board, such action is warranted, provided such dentist shall pay all costs of the proceedings resulting in his suspension or revocation of license and reinstatement or new license and in addition thereto a fee of $25.00.

The secretary-treasurer of the Board shall notify the Secretary of State of all licenses issued, suspended or revoked within ten days after issuance, suspension or revocation. Said names of all persons licensed with the Secretary of State shall be listed by the latter in a book kept for that purpose. (Act Apr. 1, 1935, c. 95, §4.)

Reciprocal and retaliatory legislation. 21MinnLawRev 371.

5762-6. Certain acts unlawful.—It shall be unlawful for any person or persons to practice dentistry under the name of a corporation, company, association or trade name; or under any name except his or her own proper name which shall be the name used in his or her license as issued by the State Board of Dental Examiners; or to conduct, maintain, operate, own, or provide a dental office in the State of Minnesota either directly or indirectly or through agents or employees, or for any person or persons to hold themselves out to the public directly or indirectly, or through agents or employees, as soliciting patrons or as holding themselves out to practice dentistry in this State or to operate, manage or be employed in any room, office or place where dental service is rendered or contracted for, under the name of any corporation, company, association or trade name; provided, however, that any person or persons now practicing dentistry under any corporation, company, association or trade name may use his, her, or their personal names as such successor to the name now used until December 31, 1935, after which date the use of all corporation, company, association or trade names shall be discontinued, provided further that the provisions of this section shall not apply to any licenses who is an instructor in or under the University of Minnesota, or any other school of Dentistry in the State of Minnesota recognized by the State Board of Dental Examiners. Every person violating this section shall be guilty of a gross misdemeanor. (Act Apr. 1, 1935, c. 95, §6.)

Any stockholder may use the designation herein provided, but the group person to use the designation would have to be made from the stockholders. Op. Att'y Gen. (139), July 15, 1938.

5762-7. Corporations not to practice dentistry.—No corporation shall practice dentistry, or engage therein, or hold itself out as being entitled to practice dentistry, or furnish dental services or dentists, or advertise under or assume the title of dentist or dental surgeon; or to conduct, maintain, operate, or solicit through itself, or its agents, officers, employees, directors or trustees, to furnish dental service, dentists or dental surgeons or to advertise under or assume the title of any dentist or dental surgeon. Any corporation violating the provisions of this section shall be guilty of a gross misdemeanor, and shall be fined not more than $1,000.00 for each offense, and each day that this act is violated shall be considered a separate offense. (Act Apr. 1, 1935, c. 95, §7.)

5762-8. Unlawful advertising prohibited.—It shall be unlawful for any person, firm or corporation to publish, directly or indirectly, or circulate any fraudulent or misleading advertising matter as to the name or qualifications of any dentist or dental surgeon. Any corporation violating this section shall be guilty of a gross misdemeanor, and shall be fined not more than $1,000.00 for each offense, and each day that this act is violated shall be considered a separate offense. (Act Apr. 1, 1935, c. 95, §8.)
practitioners; or to publish reports of cases or certi-
cicates of same in any advertising media; or to ad-
vertise as using any anaesthetic, drug formula, ma-
terial, medicine, method or system; or to advertise
trees, doors; or to allow it to remain there; or to allow
any amount as a price or fee for the service of serv-
ces of any person engaged in the practice of dentist-
ry, or for any material or materials whatsoever used
or to be used; or to employ "cappers" or "steerers" to
distribute, give or hand out cards, letters, or pro-
dental work, posters, or any other media calling at-
tention of the public to any person engaged in the
practice of dentistry; or to give a public demonstra-
tion of skill or methods of practicing dentistry at any
place other than his office where he is known to be
regularly engaged in the practice of his profession;
and every person committing an offense against any of
the provisions of this section shall be guilty of a gross
misdemeanor, provided, that any licensed and reg-
istered dentist may announce by way of a profession-
card containing only the name, title, degree, office
location, office hours, phone number, and residence
address and phone number, if desired, and if he limits
his practice to a specialty he may announce it, but
such announcement shall be the greatest width not
more than fifteen inches, and such information may be
inserted in public print when not more than two columns
in width and four inches in depth; or announce his
office hours, address, telephone, or announce his
business in the same manner; or issue appointment
cards to his patients, when the information thereon
is limited to matter pertaining to the time and place
of appointment and that permitted on the profes-
sion card; or display the name of the licensee, on the
premises where engaged in the profession, upon the
windows thereof and by a door plate or name on office
directory when the information is limited to that of
the profession of which he is licensed; provided, that
the professional card shall not be displayed in let-
ttering larger than seven inches. (Act Apr. 1, 1935,
c. 95, §5.)

Section prohibits advertising by dentists in any manner
whenever, except as expressly allowed by proviso, and
advertisement announcing both a general and specialized
practice, was a violation. Building v. S., 200 Minn. 275
703, 249 N.W. 735.)

Dentists may use a sign suspended against the glass
Gen. (139), July 13, 1935.

Dentists may join together and maintain building di-
rectory where the owner of the building does not main-
tain one. (Act Apr. 1, 1935, c. 95, §8.)

Dentists do not have a right to allow signs larger than
seven inches now outside of buildings or overhanging
sidewalks then there. (Act Apr. 1, 1935, c. 95, §8.)

Act applies only to persons engaged in practice of
dentistry and does not prohibit a dental supply house
advertising dental materials.

Word "specialty" is used in its natural sense and legis-
lature did not intend that it take in the general practice
nor any dentist who does not limit his practice to a spe-

Section does not permit signs on outside of building
whether attached to building or overhanging street or
sidewalk. (Act Apr. 1, 1935, c. 95, §8.)

Recall cards, which are strictly limited to reminding
patients who have previously had work done by dentist
and who may be hereafter authorized under the provi-
sions of this act shall be exempt from service as jurers
in all of the courts of the State during the continuance
of the practice of their profession. (Act Apr. 1, 1935,
c. 95, §9.)

Exempt from jury duty.—All persons now
authorizes to practice dentistry in this State and those
who may be hereafter authorized under the provisions
of this act shall be exempt from service as juries in all
of the courts of the State during the continuance
of the practice of their profession. (Act Apr. 1, 1935,
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who may be hereafter authorized under the provisions
of this act shall be exempt from service as juries in all
of the courts of the State during the continuance
of the practice of their profession. (Act Apr. 1, 1935,
c. 95, §9.)

Viofation a gross misdemeanor.—Every
person who shall practice or attempt to practice den-
tistry in this State without being licensed or without
being registered for that purpose or who violates any
of the provisions of this act for which no specific
penalty is provided herein, shall be guilty of a gross
misdemeanor, and shall upon conviction be punished
by a fine of not more than $1000.00 or by imprison-
ment in the county jail for not more than one year,
or by both such fine and imprisonment. The Board
of Dental Examiners may, when it deems best for the
enforcement of this Section, and in making investiga-
tions, and in conducting hearings relative to the sus-
pected or pretended violation of, or refusal to take, of
licensing, employ such help as he deems necessary;
or in conducting hearings relative to the suspension
or revocation of any license issued under this act, or
whether attached to building or overhanging street or
lature did not Intent that it take In the general practice
sidewalks to remain there. Id.

Dentists may join together and maintain building di-
rectory where the owner of the building does not main-
tain one. (Act Apr. 1, 1935, c. 95, §8.)

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authorizes to practice dentistry in this State and those
who may be hereafter authorized under the provisions
of this act shall be exempt from service as juries in all
of the courts of the State during the continuance
of the practice of their profession. (Act Apr. 1, 1935,
c. 95, §9.)

Viofation a gross misdemeanor.—Every
person who shall practice or attempt to practice den-
tistry in this State without being licensed or without
being registered for that purpose or who violates any
of the provisions of this act for which no specific
penalty is provided herein, shall be guilty of a gross
misdemeanor, and shall upon conviction be punished
by a fine of not more than $1000.00 or by imprison-
ment in the county jail for not more than one year,
or by both such fine and imprisonment. The Board
of Dental Examiners may, when it deems best for the
enforcement of this Section, and in making investiga-
tions, and in conducting hearings relative to the sus-
pected or pretended violation of, or refusal to take, of
licensing, employ such help as he deems necessary;
or in conducting hearings relative to the suspension
or revocation of any license issued under this act, or
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sidewalks to remain there. Id.

Dentists may join together and maintain building di-
rectory where the owner of the building does not main-
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of this act shall be exempt from service as juries in all
of the courts of the State during the continuance
of the practice of their profession. (Act Apr. 1, 1935,
c. 95, §9.)

Viofation a gross misdemeanor.—Every
person who shall practice or attempt to practice den-
tistry in this State without being licensed or without
being registered for that purpose or who violates any
of the provisions of this act for which no specific
penalty is provided herein, shall be guilty of a gross
misdemeanor, and shall upon conviction be punished
by a fine of not more than $1000.00 or by imprison-
ment in the county jail for not more than one year,
in which she is licensed, certifying to the fact of her being licensed and that she is of good moral character and professional attainments, may upon the payment of a fee of $20.00, at the discretion of the Board, be granted a license to practice in this state without further examination. As to any person so applying and who has been licensed in a state maintaining an equal standard of laws with this state, the Board may license such persons upon the payment of the fee above provided for, furnishing the same evidence as to good moral character and professional attainments, and passing such further examinations as the Board of Dental Examiners shall deem necessary. (Act Mar. 29, 1935, c. 71, §4.)

5707-5. Provisions severable.—The various provisions of this act shall be severable and if any part or provisions shall be held to be invalid it shall not be held to invalidate any other part or provisions hereof. (Act Mar. 29, 1935, c. 71, §5.)

5707-6. Laws repealed.—Mason’s Minnesota Statutes of 1927, Sections 5764, 5765, 5766, as amended by Laws 1933, Chapter 5, and 5707 are hereby repealed. (Act Mar. 29, 1935, c. 71, §6.)

Sec. 7 of Act Mar. 29, 1935, cited, provides that the act shall take effect from its passage.

CHIROPODY


5709. Definition of “chiropody.”—The definition of the word “chiropody” shall be held to be the diagnosis or medical, mechanical, or surgical treatment of the ailments of the human hand or foot. It shall also include the fitting or recommending of appliances, devices, or shoes for the relief of minor foot ailments, except the amputation of the foot, hand, toes, fingers or the use of anaesthetics other than local. (17, c. 382, §2; Apr. 24, 1935, c. 256, §1.)


Cutting and trimming toe nails for a fee is not practice of chiropody unless the cutting or trimming is for purpose of treating a foot ailment. Op. Atty. Gen. (5460), May 12, 1938.

5711. Application for registration of chiropodists. Fines.—Application for registration shall be made upon blanks furnished by the board and shall be signed and sworn to by the applicant. All fees received by the board shall, once a month, be paid into the secretarial fund of the state. Sec. 2 of Act Dec. 27, 1933, cited, provides that the act shall take effect from its passage.


5712. Eligibility requirements—Fees—Examination—Designation of practitioners—Renewal of licenses. Any person entitled to registration, who shall furnish the board with satisfactory proof that he is 21 years of age or over and of good moral character and who shall provide documentary evidence of preliminary education received prior to entering the practice of chiropody in this state, shall be entitled to recognition. Any person entitled to registration, who shall furnish the board with satisfactory proof that he is 21 years of age or over and of good moral character and who shall provide documentary evidence of preliminary education received prior to entering the practice of chiropody in this state, shall be entitled to recognition. Any person entitled to registration, who shall furnish the board with satisfactory proof that he is 21 years of age or over and of good moral character and who shall provide documentary evidence of preliminary education received prior to entering the practice of chiropody in this state, shall be entitled to recognition.

An application for the examination of a practitioner shall be made upon blanks furnished by the board and shall be signed and sworn to by the applicant. All fees received by the board shall, once a month, be paid into the secretarial fund of the state. Sec. 2 of Act Dec. 27, 1933, cited, provides that the act shall take effect from its passage.

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refusal, to a re-examination at a meeting of the board called for the examination of applicants, upon payment of an additional fee of $2.00 for each such re-examination, but two such re-examinations shall exhaust his privilege under his original application. Any person, or a certificate of registration granted under the provisions of this act, shall designate himself as a doctor of surgical chiropody.

Before the first of June in each year every registered chiropodist shall pay to the board a license renewal fee of not less than $35.00, or in default thereof, the board may, upon hearing and notice, revoke the registration of the chiropodist in default, but the payment of such fee or on or before the time of hearing, together with a penalty of $5.00 shall make the default. Such fee may also be collected by the board in a civil action. (As amended Apr. 24, 1935, c. 266, §3; Apr. 8, 1939, c. 160, §2.)

Whether any one practicing chiropody at passage of act but failing to comply with priority statute is qualified to take examination is a question of fact and not law. Op. Atty. Gen., Dec. 21, 1933.

Applicant must be 21 years or over before he can take examination. Op. Atty. Gen., Feb. 18, 1934.

§5774. False registration—Practice without license—Advertising as practitioner—Penalties.—Any person who shall unlawfully obtain registration under this act, whether by false or untrue statements contained in his application to the board or by presenting to said board a fraudulent diploma, certificate or license or one fraudulently obtained, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than $35.00 or more than $100.00, or by imprisonment for not less than 30 days nor more than 90 days, and any person not being lawfully authorized to practice chiropody in this state and registered as aforesaid, who shall practice as a chiropodist, in advertising or holding himself out to the public as a chiropodist, or who, not being duly licensed to practice medicine, osteopathy or chiropractic in this state shall offer to diagnose or treat the ailments of the human foot by medicinal, mechanical or surgical means, shall be guilty of a misdemeanor and shall upon conviction thereof shall be punished by a fine of not less than $25.00 nor more than $100.00, or by imprisonment for not less than 30 days nor more than 90 days; provided that the fitting or recommending of appliances, devices or articles of a medicinal or mechanical nature, relief of feet ailments or troubles by shoe dealers or others not holding themselves out to the public as chiropodists shall not be considered the practice of chiropody under the terms of this act.

Any person, firm or corporation to publish, directly or indirectly, or circulate any fraudulent, false or misleading statements as to the skill or method of practice of any person or operator in the practice of chiropody, or in any way to advertise chiropody as to be practiced without pain, or to advertise in any manner with a view of deceiving the public, or to claim superiority over other chiropodists, or to publish reports of cases or cures of same in any advertising media, or to advertise as using any anesthetic, drug, formula, material, medicine, method or system, or to advertise free chiropody services or examination to advertise or give as a price or fee for the service of any person engaged in the practice of chiropody; provided, however, that any licensed and registered chiropodist may advertise by way of a professional card containing his name, title, degree, specialty, office location, office hours, phone number, and residence address and such information may be inserted in public print when not more than two columns in width and four inches in depth; outdoor or similar signs shall not exceed 12 by 18 inches and the text limited to the above qualifications. It shall not be considered unprofessional or unlawful to conduct an educational campaign to give information as to the practice of chiropody, providing such campaign is first approved by the Minnesota State Board of Chiropody Examiner under direction of chemotherapy osteopathy, or chiropractor. Op. Atty. Gen. (5466), Dec. 10, 1937.

§5775. Evidence of practicing.—It shall be deemed prima facie evidence of the practice of chiropody or of holding oneself out as a practitioner of chiropody within the meaning of this act, for any person to diagnose or treat in any manner the human hand or foot by medical, mechanical or surgical methods, or to use the title chiropodist or registered chiropodist or any other words, or letters which designate, or tend to designate to the public that the person so treating or holding himself out as a chiropodist, or who in manner shall publicly profess to practice or assume the duties incident to the practice of chiropody. (17, c. 382, §8; Apr. 24, 1935, c. 266, §5.)

§5776. May refuse or revoke licenses.—The board may, after hearing, refuse to issue a certificate to any person, or may revoke the certificate and cancel the registration of any person registered under the provisions of this act, who after investigation, shall be found by a majority vote of the board, guilty of gross unprofessional and dishonest conduct. The words "unprofessional and dishonest conduct" shall be held to mean within the provisions of this act:

(a) The willful betrayal of a professional secret.

(b) Having professional connection with, or lending the use of one's name to an unregistered chiropodist or having professional connection with anyone who has been convicted in court of any criminal offense whatsoever.

(c) Being guilty of offenses involving moral turpitude, habitual intemperance, or being habitually addicted to the use of morphine, opium, cocaine or other drugs having a similar effect, or for using, selling or giving away any substance or compound containing alcohol or drugs for other than legal and legitimate purposes.

(d) Violation of any of the provisions of this act.

(As amended Apr. 8, 1939, c. 160, §5.)

§5780. Registration of certificate by clerk of district court.

Board may not compel practitioner to comply with this act, there being no penalties provided. Op. Atty. Gen., Feb. 23, 1933.

§5781. Compensation and expenses.—Each member of the board shall receive ten dollars for every day actually spent in the performance of duty in connection with the provisions of this act and the necessary traveling expenses actually incurred, not exceeding five cents per mile each way. The said compensation and traveling expenses and any incidental expenses necessarily incurred by the board or any members thereof, shall, if approved by the board, be paid from the treasury of the state, but only from the fees received under the provisions of this act and not into the state general fund. (17, c. 382, §14; Apr. 24, 1935, c. 266, §6.)

§5782. Reciprocity.—The board may accept the certificate of license of the board of registration and examination of any other state or territory or any foreign country whose standards of qualifications and requirements for practice are equivalent to those of
this state on the payment of the required fee of $100.00 with the endorsement of the chairman and secretary of the state board of chiropody examiners. (17, c. 382, §15; Apr. 24, 1935, c. 266, §7; Apr. 8, 1929, c. 160, §4.)

MASSAGE

5784-1 to 5784-12. [Repealed].
Repeated by Laws 1929, c. 347, §21, post. 5784-33.

5784-13. Definitions.—As used in this act, the term "massage" shall mean the method, art or science of treating the human body by physical or manual means for the purpose of relieving, alleviating and reducing affected parts thereof; the term "masseur" shall mean a male person and the term "masseuse" a female person who practices "massage" as hereinafter defined; the term "Board" shall mean the State Board of Medical Examiners as the same now is or hereafter may be constituted by law; the term "license" shall mean a certificate issued by the Board authorizing the holder thereof to practice "massage" in this State. The phrase "accredited school" or "accredited institution" shall mean one approved by the board. The word "reducing" as used hereinafter shall not be interpreted to include reducing a fracture or a dislocation. (Act Apr. 24, 1929, c. 347, §1.)


5784-14. What is massage.—The practice of massage is hereby declared to be distinct from the practice of medicine, surgery, osteopathy, chiropractic or chiropody, and persons duly licensed in this state to practice medicine, surgery, osteopathy, chiropractic or chiropody, nurses who work solely under the direction of any such persons, athletic directors and trainers are hereby expressly excluded from the provisions of this act. It is further provided that beauty culturists, barbers and bath parlor attendants who do not give or hold themselves out to give massage treatments, as defined herein, other than is customarily given in such shops or places of business, for the purpose of beautification only, shall be exempt from the provisions of this act. (Act Apr. 24, 1929, c. 347, §2.)

5784-15. Operators must be licensed.—No person shall for or in expectation of any fee, gift, compensation or reward of any kind engage in, or hold himself out as being engaged in, the practice of massage within this state, without having a license therefor as provided in this act. (Act Apr. 24, 1929, c. 347, §3.)

5784-10. State board of medical examiners to issue license.—The Board shall issue licenses to practice massage only to persons qualified therefor under the provisions of this act after examination as herein provided, upon application in manner and form as provided by the Board and on the payment of a fee of $50.00; provided however that licenses may be renewed by the Board without examination upon application and payment of a renewal fee of $3.00; and all persons so licensed pursuant to existing law and outstanding at the time of the passage of this act are hereby continued in force and effect until the same shall expire unless sooner revoked by the Board, as provided for in this act, and shall be renewed by the Board without examination upon application and payment of a renewal fee of $3.00, except as in this act otherwise provided for; application for renewal of license as herein provided for shall be made to the Board on or before May 31st and shall be accompanied by the renewal fee of $3.00; provided further that the Board in its discretion may without examination upon the payment of a fee of $50.00 issue a license to any person qualified to practice massage in any other state or territory whose requirements for such practice are equivalent to the requirements of this state, for such term of time as the Board shall determine to be in keeping with such form as the Board shall by rule prescribe; shall specify the name, residence and business location of the licensee and state that he is authorized to practice massage in the State of Minnesota; licenses shall bear the date of issuance and the date of expiration thereof and shall be signed by the President and trustee-Treasurer of the Board and bear its official seal. All licenses shall expire on May 31st next and after the issuance thereof unless sooner revoked as herein provided. (Act Apr. 24, 1929, c. 347, §4; Apr. 24, 1935, c. 245.)

5784-17. Qualifications of applicants.—Any person of good moral character who is 21 years of age or over and has completed a course of study in an accredited high school or who has completed the equivalent of such course of study to the satisfaction of the Board, and in addition to these requirements has received a diploma or certificate from an accredited school of massage or in lieu of such diploma or certificate has received credits in the subjects of anatomy, physiology, dermatology, histology and massage from an accredited educational institution shall be eligible to receive the license thereunder, otherwise he shall be ineligible therefor; and if upon such examination he shall have a general average of not less than 75% in the subjects of anatomy, physiology, dermatology, histology and massage and shall for or in expectation of any fee, gift, compensation or reward of any kind engage in, or hold himself out to give massage treatments, as defined herein, other than is customarily given in such shops or places of business, for the purpose of beautification only, shall be disqualified therefor. (Act Apr. 24, 1929, c. 347, §6.)

5784-18. Board may employ assistants.—The Board may employ an expert assistant or assistants who shall serve at and during the pleasure of the Board, to assist in conducting examinations herein provided for under the Board's supervision and direction. Such expert assistant or assistants shall be citizens and residents of this state; provided further, that at least one of such expert assistants shall be skilled in the art and science of massage, who shall be duly licensed to practice massage in this state, and who shall have practiced massage, either for at least five years immediately preceding his employment. Such examination shall be in the English language and shall be written, oral and/or practical as the Board may determine and shall embrace the subjects of anatomy, physiology, dermatology, histology and massage but shall be so limited in scope as to include only the minimum requirements for massage as herein provided and shall not require education in medicine or surgery. Such examination shall be held on the third Wednesday in each of the months of January, April, June and October of each year, at the seat of government and at such other times and places as the Board may determine. (Act Apr. 24, 1929, c. 347, §6.)

5784-19. Re-examinations.—Any person refused a license for failure to pass an examination to the satisfaction of the Board, shall be entitled to re-examination at any time within six months after such refusal upon payment to the Board of an additional fee of $5.00; provided that nothing in this act shall prevent any person from filing a new application at any time after one year from the date of his last application. (Act Apr. 24, 1929, c. 347, §7.)

5784-20. Licenses must be recorded.—Every person holding a license to practice massage under this act, shall, before commencing such practice in any county of this state, have such license recorded in the office of the County Auditor of such county and such Clerk shall in each case write or stamp thereon the date of such recording. The Clerk of the District Court shall keep in a book provided for...
such purpose by the county and open to the public inspection, a complete list of such licenses recorded by him and his predecessors in office, including the date of the issuance thereof, the name of the license thereof recorded, and the date of the recording thereof.

For each such recording the Clerk of the District Court shall receive from the person named in the license a fee of $1.00. After such recording the license shall be conspicuously displayed by the holder thereof in the office or place where he practices massage or by the county and open to the public inspection, and the clerk shall note such suspension, revocation or refusal to renew, on the record of such license. No license shall be issued to any person whose license has been revoked, nor to any person whose license the Board has refused to renew. (Act Apr. 24, 1929, c. 347, § 6.)

5784-21. Board may suspend or revoke licenses—Cause.—The Board may by order suspend, revoke or refuse to renew any license issued hereunder or hereafter and cause the cancellation and removal thereof from the records of the office of the Clerk of the District Court wherein the same is recorded upon: (a) False or deception in connection with the securing of such license; (b) habitual drunkenness or intemperance in the use of narcotics or stimulants; (c) conduct unbecoming to a person licensed to practice massage or inimical to the best interests of the public; (d) violation of any of the provisions of this act; (e) conviction of a crime involving moral turpitude; provided that before the Board shall order any such suspension, revocation or refusal to renew as herein provided for the holder thereof shall be entitled to have witnesses in his behalf subpoenaed by the Board. In case of suspension or revocation of, or refusal to renew a license, the Board shall at no time exceed the amount of the fund in the custody of the state treasurer to be kept by him in a separate fund, which shall be under the control and for the use of the Board in the administration of this act. And the amount of such fund is hereby appropriated to said Board for the purpose of defraying its expenses in carrying out the provisions of this act. The compensation and expenses of members of the Board, herein provided for, and the compensation and expenses of all persons employed by the Board hereunder, shall be paid out of said fund: in addition such fund shall be available to and may be used by the Board to defray the expenses of keeping proper officers, inspectors, and registers, furnishing licenses herein provided for, employing an Inspector or inspectors for procuring evidence of any violation of this act, and aiding in the enforcement thereof, and for such other expenses and purposes as may be deemed necessary by the Board to carry out the purposes of this act.
D.C., or any other word, abbreviation or title indicating or designed to indicate that he is engaged in the practice of healing as defined in Chapter 149, General Laws of 1927 [§§5705-1 to 5705-23], or any practice whatsoever other than massage, unless he is duly licensed for such practice within this state according to law. No person licensed under the provisions of this act to practice massage shall in, by, or through any newspaper, magazine, directory, pamphlet, poster, card, circular, or other writing or publication or by any advertisement whatsoever, state or represent either directly or indirectly that he has the ability or skill, or guarantees to cure, or that he has successfully treated any disease, injury, defect, deformity, ailment or affliction whatsoever. (Act Apr. 24, 1929, c. 347, §14.)

5784-27. Law not applicable.—Chapter 149, General Laws of 1927 [§§5705-1 to 5705-23], shall not apply to persons licensed under this act so long as such persons conform their activities within the scope of such license. (Act Apr. 24, 1929, c. 347, §15.)

5784-28. Prosecutions.—In the prosecution of any person for violation of this act, it shall not be necessary to allege or prove want of a valid license to practice massage, as required by this act, but all such matters shall be matters of defense to be established by the accused. (Act Apr. 24, 1929, c. 347, §16.)

5784-29. Violation a misdemeanor.—Any person not hereinbefore excepted from the provisions of this act who shall engage or attempt to engage in the practice of massage, as in this act defined, or hold himself out as being engaged therein, in violation of this act, without a valid existing license to practice massage issued to him pursuant to the provisions of this act, shall be guilty of a gross misdemeanor. (Act Apr. 24, 1929, c. 347, §17.)

5784-30. Violation a misdemeanor.—Any person not hereinbefore excepted from the provisions of this act who shall engage or attempt to engage in the practice of massage as in this act defined or hold himself out as being engaged therein, without having recorded his license to practice massage in the manner herein provided, or without displaying his license to practice massage as herein provided, shall be guilty of a misdemeanor. (Act Apr. 24, 1929, c. 347, §18.)

5784-31. Certain acts a gross misdemeanor.—Any person implicated in employing, fraud or deception in applying for or securing a license to practice massage under this act, or in passing an examination therefor, or in violation thereof, shall be guilty of a gross misdemeanor. It shall be the duty of the Clerk of the District Court where in any conviction is had under this section, to file a certified copy thereof with the secretary-treasurer of the Board and thereupon the secretary-treasurer of the Board shall cancel such license upon the records of his office and forthwith notify the respective clerks of the courts wherein such license is recorded, of such cancellation; and such clerks shall immediately note such cancellation on their respective records thereof. For filing a certified copy of any conviction as herein required, the clerk of the court shall charge a fee of One Dollar. (Act Apr. 24, 1929, c. 347, §19.)

5784-32. Provisions severable.—The various provisions of this act shall be severable and if any part or provisions shall be held to be invalid it shall not be held to invalidate any other part or provision hereof. (Act Apr. 24, 1929, c. 347, §20.)

5784-33. Law repealed.—Chapter 69, General Laws of 1927 [§§5784-1 to 5784-12], is hereby repealed and all monies, property and property rights under the control of the State Board of Massage Examiners created thereby are hereby transferred, and appropriated to the control and use of the Board hereunder. (Act Apr. 24, 1929, c. 347, §21.)

5785. State board of optometry.—Terms.—The state board of optometry shall consist of five qualified optometrists appointed by the governor, each for a term of three years, or such part thereof as will provide for the expiration of the terms of two members January 1st, 1932, and one member January 1st, 1935, and until their successors qualify. Vacancies in such boards shall be filled by like appointments for unexpired terms. (15, c. 127, §1; 25, c. 239; Apr. 27, 1929, c. 420, §1.)

5786. Powers of Board.— Said board of optometry shall have the power to make any rules and regulations and to do any and all things, not inconsistent with law, which it may deem necessary or expedient for the effective enforcement of this act or for the full and efficient performance of its duties thereunder. (15, c. 127, §2; 25, c. 239; Apr. 27, 1929, c. 420, §2.)

If employer of optometrist in any respect violates optometry statutes, board should proceed against offending employer, and not individual. (Act Apr. 24, 1929, c. 347, §23.)


5787. Compensation and expenses—etc... The board has authority to employ a secretary or investigator who may make recommendations to the board for the citation of persons violating the act, but without power in himself to initiate a proceeding. Op. Atty. Gen. (329a), Apr. 1, 1936.

5789. Who are optometrists.—Any person shall be deemed to be practicing optometry within the meaning of this act who shall display a sign, such as an eye, a pair of eyes, a pair of glasses or spectacles, or who shall in any way advertise himself as an optometrist, in such a manner as to be in the practice of optometry. It shall be unlawful for any person who is not licensed as an optometrist in this state to practice optometry for the benefit of the optometrists. Op. Atty. Gen. (329a), Sept. 7, 1934.


5794. Separate—Compensation and expenses—etc. The board has authority to employ a secretary or investigator who may make recommendations to the board for the citation of persons violating the act, but without power in himself to initiate a proceeding. Op. Atty. Gen. (329a), Apr. 1, 1936.

5795. Who are optometrists.—Any person shall be deemed to be practicing optometry within the meaning of this act who shall display a sign, such as an eye, a pair of eyes, a pair of glasses or spectacles, or who shall in any way advertise himself as an optometrist, in such a manner as to be in the practice of optometry. It shall be unlawful for any person who is not licensed as an optometrist in this state to practice optometry for the benefit of the optometrists. Op. Atty. Gen. (329a), Sept. 7, 1934.

5796. Violation of the dietetics laws. 5784-31. Certain acts a gross misdemeanor.—Any person implicated in employing, fraud or deception in applying for or securing a license to practice massage under this act, or in passing an examination therefore, or in violation thereof, shall be guilty of a gross misdemeanor. It shall be the duty of the Clerk of the District Court where in any conviction is had under this section, to file a certified copy thereof with the secretary-treasurer of the Board and thereupon the secretary-treasurer of the Board shall cancel such license upon the records of his office and forthwith notify the respective clerks of the courts wherein such license is recorded, of such cancellation; and such clerks shall immediately note such cancellation on their respective records thereof. For filing a certified copy of any conviction as herein required, the clerk of the court shall charge a fee of One Dollar. (Act Apr. 24, 1929, c. 347, §19.)

5797. Provisions severable.—The various provisions of this act shall be severable and if any part or provisions shall be held to be invalid it shall not be held to invalidate any other part or provision hereof. (Act Apr. 24, 1929, c. 347, §20.)

5798. Law repealed.—Chapter 69, General Laws of 1927 [§§5784-1 to 5784-12], is hereby repealed and all monies, property and property rights under the control of the State Board of Massage Examiners created thereby are hereby transferred, and appropriated to the control and use of the Board hereunder. (Act Apr. 24, 1929, c. 347, §21.)
colored lenses or ordinary colored glasses or to the replacement by duplication of broken lenses, nor to sales upon prescription from persons legally authorized by the laws of this state to examine eyes and prescribe glasses. If a person, nor shall it apply to regularly licensed physicians and other state licensed practitioners. Said course shall be unlawful for any person to engage in the practice of optometry without first procuring and filing for record a certificate of registration as a licensed optometrist pursuant to this subdivision. (16, c. 127, §5; '29, c. 332, §10.)

Section implicity authorizes any unlicensed party to sell at retail eye glasses, provided such sale is under supervision of the authority as does a medical doctor. Op. Atty. Gen., July 31, 1931.

An optometrist who may practice optometry.—The persons entitled to practice optometry in Minnesota who are not already registered shall be: Every person of a full age of 21 years who furnishes the board with satisfactory evidence of:

(a) His age and moral character.
(b) Has graduated from an accredited high school or its equivalent, and that he possesses the knowledge essential to the practice of optometry.
(c) That he shall be a graduate of an optometric school or college approved by this board, requiring an attendance of not less than two years' course. Such school shall give a course of instruction covering and including the following minimum requirements, to wit:

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In the course of study herein outlined, the hours required shall be actual work in the class room, laboratory, or clinic, and at least eighty per cent of actual attendance shall be required and said course of study herein outlined shall be so arranged as to require two years of actual attendance at said school for graduation.

(d) Having passed satisfactorily an examination by the board as to his qualifications for the practice of optometry, upon the completion of which, he shall receive from said board a licensed certificate entitling him to practice hereinafter provided for. Said board must fill out and swear to an application furnished by the board and must file the same with the secretary of the board at least two weeks prior to the holding of an examination, which the applicant is desirous of taking. The applicant shall pay to the board a fee of twenty dollars ($20.00) before examination and five dollars ($5.00) upon issuance of certificate. In the event of failure on the part of a candidate to pass the first examination, he may, within fifteen months, have another trial; upon the payment of five dollars ($5.00) additional. Any applicant may be registered and given a certificate of registration if he shall present a certified copy of certificate of registration, or license which has been issued to said applicant by any other state licensed practitioners. Said registration shall be deemed by said board to be equivalent to those of this act; provided that such state shall accord like privileges to holders of certificates of said board. The fee for registering such applicants shall be five dollars ($5.00).

The board upon hearing of which the accused shall have ten days' notice in writing may revoke the certificate of registration or suspend the right to practice of any person who has been convicted of any violation of this act; or if any other criminal offense or who is found by the board to be grossly incompetent, afflicted with contagious disease, a habitual drunkard, or, guilty of unprofessional conduct. "Unprofessional Conduct" shall be defined to mean any conduct of a character likely to deceive or defraud the public, including but not limited to deceiving or defrauding by advertisements, or free examination advertising, the loaning of his license or certificate by any licensed optometrist to any person; the employment of "cappers" or "steerers" to obtain business; "splitting" a fee; or dividing a fee with any person or persons; the obtaining of any fee or compensation for any work covered by this act by any suspended or unlicensed optometrist, to perform any work covered by this act; the advertising by any means whatsoever, of optometric practice or treatment outside of or away from his regular regular place of business; the publishing, selling at retail eye glasses, provided such sale is under supervision of the authority as does a medical doctor. Op. Atty. Gen., July 31, 1931.

In reviewing the determination of administrative boards such as the optometry board court will inquire no further than to determine whether board kept within to its Jurisdiction, whether it proceeded upon a proper theory of law, whether its action was arbitrary or unreasonable, and whether the evidence affords a reasonable and substantial basis for order sought to be reviewed. State v. Jensen, 286 NW 305. See Dun. Dig. 7483.

Evidence before board was sufficient to sustain board's action in revoking relator's license to practice optometry. Id. See Dun. Dig. 7483.

Complaint in a proceeding before state optometry board was sufficient to give board jurisdiction. Id. See Dun. Dig. 7483.

Under this section as amended by Laws 1929, c. 420, §4, a formal complaint to the board is not necessary to the institution of any hearing on charges against a violator. Op. Atty. Gen., Apr. 7, 1930.

Every practice of profession which a corporation cannot lawfully practice, and it is not lawful for a corporation to advertise that it shall, unlicensed and under its own corporate name, sell at retail eye glasses, provided such sale is under supervision of the authority as does a medical doctor. Op. Atty. Gen., July 31, 1931.

There is no right of appeal from findings and order of the board in proceedings to discipline a licenciate, but the order is reviewable on certiorari. Op. Atty. Gen., July 31, 1931.


Reciprocal and retaliatory legislation. 21 Minn. Law Rev 371.


Persons entitled to practice optometry—Examination—Fee—Registration and license—Etc. Clerk of district court may not remove name of optometrist because he moves away, becomes inactive, etc.


5792. Annual fees.

It is within power of board to require before issuance of renewal licenses answer under oath to question whether applicant practiced the profession during the last year in accordance with optometry act and the rules and regulations. Op. Atty. Gen. (329b), Dec. 22, 1938.

5794. Penalty for violations of law.

An optometrist employed by retailer of eye glasses should not be punished for misdeeds of employer. Wil- liam v. N., 283 Minn. 211, 278 N.W. 855.

5796. Laws repealed.—All acts and parts of acts so far as inconsistent herewith, are hereby repealed. (15, c. 127; §12; 25, c. 239; Apr. 27, 1929, c. 420, §8.)

5796-2. Effective Sept. 1, 1929.—This act shall take effect September 1st, 1929. (Laws 1925, c. 239, §14, added Apr. 27, 1929, c. 420, §6.)

PHARMACISTS

5797. [Repealed.]


Similar provisions of The Pharmacy Law, see §§5808-2 to 5808-6.

5798. [Repealed.]


Similar provisions of The Pharmacy Law, see §§5808-4, 5808-9.


5799. [Repealed.]


Similar provisions of The Pharmacy Law, see §§5808-7, 5808-18, 5808-21.


5799-1. [Repealed.]


5800. [Repealed.]


Similar provisions of The Pharmacy Law, see §§5808-10, 5808-11.


5801. [Repealed.]


Similar provisions of The Pharmacy Law, see §§5808-10. See §§5801-1.

5801-1. [Repealed.]


Similar provisions of former law, see §§5805.

5802. [Repealed.]


Similar provisions of The Pharmacy Law, see §§5808-12, reciprocity and retaliatory legislation. 21MinnLawRev 371.

5803. [Repealed.]


Similar provisions of The Pharmacy Law, see §§5808-20.

5804. [Repealed.]


Similar provisions of The Pharmacy Law, see §§5808-14.


5805. [Repealed.]


Similar provisions of The Pharmacy Law, see §§5808-1, 5808-2, 5808-27.

172M132, 214NW706; note under §§814.

Milk of magnesia, manufactured, distributed, and sold by manufacturer shown by the evidence to be such a proprietary medicine. State v. F. W. Woolworth Co., 184 Minn. 571, 237 NW 811. See Dun. Dig. 2846(31).

The pharmacy law is constitutional as applied to sale of harmless medicine sold in original package of manufacturer. State v. F. W. Woolworth Co., 184 Minn. 51, 237 NW 71. See Dun. Dig. 2846.

Whether cold tablets sold by drug company contained poison injurious to plaintiff held for jury. Tiedje v. H., 184 Minn. 255, 237 NW 17. See Dun. Dig. 2817b.

Whether by wholesale or retail sale, whether by purchase at auction or otherwise, whether by invoice or otherwise, where facts pleaded in complaint were admitted by defendant, but not pleaded by plaintiff, upon their allegation that plaintiff and principal defendant were engaged in selling drugs in violation of statute.


5806. [Repealed.]


Similar provisions of The Pharmacy Law, see §§5808-22, 23.

Drug company was negligent in selling barrel of raw linseed oil in response to an order for cod liver oil, and druggist was negligent in selling it to poultryman as cod liver oil. 172M 596, 225NW396.

5807. [Repealed.]


Similar provisions of The Pharmacy Law, see §§5808-25.

5808. [Repealed.]


Similar provisions of The Pharmacy Law, see §§5808-10, 11, 12.

(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 edition 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.

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

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

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

(f) "Person" Masculine words shall include the feminine and neuter and the singular includes the plural.

(1) The term "wholesale" shall mean and include any sale for the purpose of resale.
The legislature of the State of Minnesota has enacted laws that regulate the practice of pharmacy. One such law, which is relevant to the current discussion, is the Minnesota State Board of Pharmacy. This board is responsible for the enforcement of laws related to the practice of pharmacy within the state.

The board consists of five members appointed by the governor, one of whom is designated as vice-president and a pharmacist, who may or may not be a member, as secretary. Each member is appointed for a term of one year, and vacancies are filled by appointment for the unexpired term. Any member may be removed from office by the governor upon proof of malfeasance or misfeasance.

The board is empowered to make and publish uniform rules for the conduct of its business. It may, by its duly authorized representative, enter and inspect any and all places where drugs, medicines, and poisons are sold, vended, given away, compounded, dispensed, or manufactured. It may, for the purposes aforesaid, grant registration without examination, to any pharmacist or assistant pharmacist licenses that may be deemed proper, without regard to the nomination of pharmacists registered during the year, and the items of its receipts and disbursements.

This board is responsible for the regulation of the sale of drugs, medicines, and poisons. It is also responsible for the regulation of 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.

Similar provisions of former law, see §5797.

5808-10. 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 had at least one year of practical experience in a pharmacy. (Apr. 22, 1937, c. 354, §10.)

Similar provisions of former law, see 5808-11. Registered assistant pharmacist to continue in certain cases.—It shall be lawful for all persons duly registered as assistant pharmacists prior to January 1st, 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. (Apr. 22, 1937, c. 354, §11.)

Similar provisions of former law, see §5800. 5801.

5808-12. May grant licenses without examination in certain cases.—The board may, in its discretion, grant registration in such cases as it may deem proper, without regard to the nomination of pharmacists registered during the year, and the items of its receipts and disbursements.

5808-13. 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. (Apr. 22, 1937, c. 354, §12.)

Similar provisions of former law, see §5802.
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. Even if a certificate and renewal shall expire at the time therein prescribed, not later than one year from its date. (Apr. 22, 1937, c. 354, §13.)

Similar provisions of former law, see §5804.

5808-14. Re-instatement.—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. (Apr. 22, 1937, c. 354, §14.)

Similar provisions of former law, see §5804.

5808-15. 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. (Apr. 22, 1937, c. 354, §15.)

Similar provisions of former law, see §5793.

5808-16. Compounding unlawful under certain conditions.—(a) It shall be unlawful for any person to compound, dispense, vend, or sell at retail, any medicines, chemical 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 of medicines, chemicals, or poisons by his pharmacists in such manner as to prevent the personal supervision of a pharmacist or of an assistant pharmacist in the temporary absence of the pharmacist. (Apr. 22, 1937, c. 354, §16.)

Similar provisions of former law, see §5814.

5808-17. 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. (Apr. 22, 1937, c. 354, §17.)

Similar provisions of former law, see §5814.

5808-18. Unlawful acts.—It shall be unlawful for any person to falsely assume or pretend to the title of pharmacist. (Apr. 22, 1937, c. 354, §18.)

Similar provisions of former law, see §5814.

5808-19. 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 thereof; unless the place so conducted is a pharmacy. (Apr. 22, 1937, c. 354, §19.)

Similar provisions of former law, see §5814.

5808-20. 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 registration fee of not to exceed five dollars, the board shall issue a license in such form 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. (Apr. 22, 1937, c. 354, §20.)

Similar provisions of former law, see §5803.

5808-21. 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 false delivery, or, 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. (Apr. 22, 1937, c. 354, §21.)

Similar provisions of former law, see §5793.

5808-22. Drugs must be labeled.—It shall be unlawful for any person, who prepares prescriptions, drugs, medicines, chemicals or poisons to willfully, 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. (Apr. 22, 1937, c. 354, §22.)

Similar provisions of former law, see §5806.

5808-23. 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 Pharmacopedia 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 cheating 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. (Apr. 22, 1937, c. 354, §23.)

Similar provisions of former law, see §5813.

5808-24. 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. (Apr. 22, 1937, c. 354, §24.)

Similar provisions of former law, see §5809.

5808-25. Sale of poisons must be recorded.—It shall be unlawful for any person, either on his own behalf, or while in the employ of another, to sell or give away any poison, as defined 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) Nothing herein shall prevent the sale of drugs, medicines, chemicals or poisons, to other than a pharmacy except as herein provided. (Apr. 22, 1937, c. 354, §25.)

Similar provisions of former law, see §5808.

§5808-20. 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. (Apr. 22, 1937, c. 354, §26.)

§5808-27. 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 pharmacists, dentists and veterinarians for use in their practice, nor to hospitals for use therein.

(c) Nothing herein shall prevent the sale of drugs, medicines, 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, spieces, 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 pharmacies, in any township 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 of such hearing shall 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. (Apr. 22, 1937, c. 354, §26.)

Kroc, being similar to "compound solution of cresol", labeled "poison" and sold as an antiseptic disinfectant for the "stick room, minor cuts, and general household use" can only be sold in pharmacies or by a person duly licensed to practice medicine, dentistry, or veterinary medicine. Op. Atty. Gen. (357c-2), Mar. 24, 1938.


§5808-28. 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. (Apr. 22, 1937, c. 354, §28.)

§5808-29. Board may turn over funds for advancement of science of pharmacy. — The board, 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. (Apr. 22, 1937, c. 354, §29.)

§5808-30. 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. (Apr. 22, 1937, c. 354, §30.)

§5808-31. 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. (Apr. 22, 1937, c. 354, §31.)

§5808-32. Registered pharmacists or assistants may re-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. (Apr. 22, 1937, c. 354, §32.)


§5808-34. Provisions severable. — If any section, subsection, clause or phrase of this Act shall be held invalid, such decision shall not affect 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. (Apr. 22, 1937, c. 354, §§4.)

§5808-25. Title of act.—The title of this Act shall be The Pharmacy Law of 1937. (Apr. 22, 1937, c. 354, §35.)

Sec. 35 of Act Apr. 22, 1937, cited, provides that the Act shall take effect from its passage.

§5810. Penalty for violation.


§5811. Duty of county attorney.

Similar provisions of The Pharmacy Law, see §5808-21.

§5812. Fines, how disposed of.

Cost of criminal cases against violators of pharmacy act are to be paid either by the county or by the defendant, and cannot be paid out of fund in hands of state board of pharmacy. Op. Atty. Gen. (1926-9), Mar. 18, 1936.

§5813. [Repealed.]

Repealed by Act Apr. 22, 1937, c. 354, §33. See §5808-33, post.

Similar provisions of The Pharmacy Law, see §5808-22.

W. T. Rawleigh Co. v. S., 192M483, 257NW102, note under §5813.

§5814. [Repealed.]

Repealed by Act Apr. 22, 1937, c. 354, §33. See §5808-33, post.

Similar provisions of The Pharmacy Law, see §5808-16 to 5808-19, 5808-30.

V. B. Rawleigh Co. v. S., 192M483, 257NW102, note under §5814.

§5815. [Repealed.]

Repealed by Act Apr. 22, 1937, c. 354, §33. See §5808-33, post.

Similar provisions of The Pharmacy Law, see §5808-23.


§5817. License required—what constitutes practice of embalming and funeral directing—apprentices.—

For the purposes of this Act, the following definitions shall be adopted and understood to be included within the meaning of this Act:

(a) Any person who shall embalm dead human bodies, or who shall take charge of the remains of those dead of any communicable disease, or prepare dead human bodies for shipment, or hold himself out to do any of the above acts by advertising or any other means, shall be defined as and construed to be practicing embalming;

(b) Any person who engages for compensation in the following practice, that of embalming, directing, or superintending funerals, or the business or practice of preparing dead human bodies for burial by means other than embalming, or the disposition of dead human bodies, or the provision or maintenance of a place for the preparation for disposition or for the care or disposition of dead human bodies, or the use in connection with such business of the word or term "funeral director", "undertaker", "mortician", or any other word or term from which can be implied the business of funeral directing, or that of holding out that one is a funeral director, shall be defined and construed to be practicing funeral directing, provided, however, that the word "person" as used herein shall apply only to a natural person.

(c) An "embalmer" is any person who has secured a license to engage in the practice hereinafter set forth:

(d) A "funeral director" is any person who has secured a license to engage in the practices hereinafter set forth;

(e) An "apprentice funeral director" is any person engaged in the learning of the practice of embalming under the instruction and personal supervision of a duly licensed and registered funeral director under the provisions of this Act, provided, however, that no person shall serve or attempt to serve as such apprentice funeral director under any such funeral director until he has filed a registration thereof with the board;

(f) An "apprentice embalmer" is any person engaged in the learning of the practice of embalming under the instruction and personal supervision of a duly licensed and registered embalmer under the provisions of this Act, provided, however, that no person shall serve or attempt to serve as such apprentice embalmer under any such embalmer until he has filed a registration thereof with the board;

(g) An apprentice funeral director and/or embalmer may serve his apprenticeship concurrently under the direction and instruction of any person duly licensed and registered as an embalmer and/or funeral director under the provisions of this Act, provided that such concurrent apprenticeship shall not be served unless such apprentice has filed a registration thereof with the board. (As amended Apr. 21, 1957, c. 417, §1.)

§5818. Examination by state board of health—license.—

The State Board of Health of the State of Minnesota is hereby authorized and empowered to examine all applicants for license to practice embalming and/or funeral directing, and to determine whether or not such applicants possess the necessary qualifications to practice embalming, and/or funeral directing; and, if upon such examination, said board shall determine that such applicant is properly qualified to practice embalming and/or funeral directing, it shall grant a license or licenses to such person to practice embalming and/or funeral directing for a
period ending the 31st day of December following; provided that licenses as embalmers and licenses as funeral directors shall be issued separately.

To assist the board in the holding of such examination and enforcement of the provisions of this act, such board shall appoint three examiners to be licensed, of whom two shall be licensed as embalmers and funeral directors who have had at least five years' experience immediately preceding appointment, in the preparation and disposition of dead human bodies and in the practice of such appraising, and the third examiner representative of the board, to be known and designated as a "Committee of Examiners", to serve for one, two and three years respectively, and thereafter each for a term of three years and until their successors qualify. Vacancies in such committee shall be filled by like appointments for unexpired terms, and members thereof may be removed by the board for cause. Each member shall receive such sum per diem, and be reimbursed his necessary expenses for each day of actual service rendered, as the board may determine by its order.

(As amended Apr. 24, 1937, c. 417, §2.)

The granting or refusing of a license must be the formal act of the board. It cannot delegate its duties to a committee or embryo. (Minn. Rev. Stat. 1935, c. 311, §3820.

§5819. Application for examination—affidavits—fees—qualifications of applicants—apprentices—assistant funeral directors.—No applicant for an examination for license as an embalmer and/or funeral director shall make application therefor in writing, verified on a form prescribed as to details and furnished by the board. Such application shall be accompanied by affidavits from at least two reputable residents of the county in which the applicant resides or proposes to carry on the practice of embalming and/or funeral directing, certifying that the applicant is of good moral character, and has been a resident of the county in which the applicant resides or proposes to carry on the practice of embalming and/or funeral directing, for a period of at least ten ($10.00) years. No person shall be granted a license unless he shall be twenty-one (21) years of age, and of good moral character and temperate habits; and has had at least one year of apprenticeship experience in embalming for an embalmer's license, and at least two years' apprenticeship experience in funeral directing for a funeral director's license; and such sufficient knowledge, experience and training as the board may determine to properly qualify an applicant for an embalmer's license. Provided that any holder of a license issued by the state may be removed by the board for cause. Each member shall receive such sum per diem, and be reimbursed his necessary expenses for each day of actual service rendered, as the board may determine by its order.


Assistent funeral director need not be a full time employee, but board may require applicant to have a minimum period of experience.

Funeral directors from other states may not be permitted to conduct funerals in this state without obtaining a license, there being no providing for reciprocity.

Board may issue licenses as assistant funeral directors, without examination, to persons engaged in burying the dead, either as owners or operators of establishments licensed in other states, providing that applicants are otherwise qualified. Id.

It is doubtful that legislature intended to provide that a person otherwise qualified and experienced should be required to register and serve two years as an apprentice before being eligible for examination as an assistant funeral director.

There is a strong presumption that one who has been engaged in business of a funeral director as an owner and operator of an establishment is entitled to a license without examination. Id. who applies for a funeral director's license without examination, being unfitted for the purpose, and the applicant should satisfy department of his eligibility. Op. Atty. Gen. (235n), Aug. 30, 1937.

§5820. Renewal—fee for.—Any license may be renewed from time to time and shall be in force after such renewal for a period of one (1) year from the 31st day of the preceding December upon the payment of a renewal fee of four ($4.00) dollars for a funeral director's license, and one ($1.00) dollar for an embalmer's license. The renewal fee for the practice of funeral directing in all its phases, as the board may require, shall be fifteen ($15.00) dollars. All fees received under this Act shall be paid by the State Board of Health to the State Treasurer, and an amount of money equal to the amount so paid over by the said board to the said treasurer is hereby appropriated, out of any money in the state treasury not otherwise appropriated, to said board for the purpose of carrying out the provisions of this Act. The salaries of the necessary employees of the board, and the per diem of the inspectors and examiners hereinbefore provided, their expenses and all incidental expenses of said board in carrying out the provisions of this Act, shall be paid on order of the board from such appropriation but no expense or claim shall be incurred or paid out of any amount received from the fees herein provided. (As amended Apr. 24, 1937, c. 417, §4.)

§5821. Denial of license—suspension or revocation—grounds.—court—and rules and regulations.—The board may refuse to grant, refuse to renew, or may suspend or revoke any such license or certificate for violation of any of the provisions of this Act.
The obtaining of, or attempt to obtain, a license by fraudulent representation;
(b) Conviction of a crime involving moral turpitude;
(c) Violation of the laws of this state relative to the burial or disinterment of dead human bodies, or of the rules and regulations of the board in relation to the care, custody or disposition of dead human bodies, or the disinfecting of premises where contagion exists;
(d) For incompetency or untrustworthiness in the practice of embalming and/or funeral directing;
(e) For a misleading or deceptive advertising;
(f) Upon satisfactory proof that the embalmer and/or funeral director, directly or indirectly, has paid or caused to be paid any sum of money or other valuable consideration for the securing of business or for obtaining authority to dispose of any dead human body;
(g) Upon satisfactory proof that an embalmer and/or funeral director has employed any person not registered or licensed under the provisions of this Act to perform the duties of an embalmer and/or funeral director.

Any action of the board in refusing to grant or renew a license, or in suspending or revoking a license, upon satisfactory proof to the contrary of any of the conditions set forth in this section, except for the violation of the board's rules and regulations, shall not affect the qualifications of any person for becoming an apprentice under a registered barber. (As amended Apr. 24, 1937, c. 417, §6.)

Barbers must be registered. — After July 1, 1927, no person shall practice or attempt to practice barbering without a certificate of registration as a registered barber issued pursuant to the provisions of this Act, by the Board of Barber Examiners hereinafter established.

After July 1, 1927, no person shall serve or attempt to serve as an apprentice under a registered barber until he has filed notice with the board of his intention of becoming an apprentice under a registered barber.

After July 1, 1927, it shall be unlawful to operate a barber shop unless it is at all times under the direct supervision and management of a registered barber. (27, c. 316, §1, eff. July 1, 1927; Apr. 20, 1929, c. 270, §1.)


What constitutes barbering. — Any one or any combination of the following practices when done directly or indirectly or without payment for the public generally constitutes the practice of barbering within the meaning of this Act; to shave, trim the beard, cut or bob the hair of any person of either sex for compensation or other reward, received by the person performing such service or any other person; to give facial and scalp massage or treatments with oils, creams, lotions or other preparations either by hand or mechanical appliances; to singe, shampoo the hair or apply hair tonics or to apply cosmetic preparations, antiseptics, powders, oils, clays or lotions to scalp, face or neck. (27, c. 316, §2, eff. July 1, 1927; Apr. 20, 1929, c. 270, §2; Apr. 22, 1935, c. 229, §1.)

Apprentices may be employed. — No registered apprentice may independently practice barbering until he has served the required apprenticeship or until the completion of the requirements of this Act applicable to such apprentice. (27, c. 316, §3, eff. July 1, 1927; Apr. 20, 1929, c. 270, §3.)

Exceptions. — The following persons are exempt from the provisions of this act while in the proper discharge of their professional duties:
1. Persons authorized by the law of this state to practice medicine, surgery, osteopathy, chiropractic and massage;
2. Commissioned medical or surgical officers of the United States Army, Navy, or Marine Hospital Service;
3. Registered nurses;

However, the provisions of this section shall not be construed to authorize any of the persons exempted to shave or trim the beard or cut the hair of any person for compensation purposes. (27, c. 316, §4, eff. July 1, 1927; Apr. 20, 1929, c. 270, §4.)

The last sentence is unconstitutional in so far as applied to licensed beauty culturists in that it deprives them of the right to pursue their calling in the same manner as any barber or beautician in the meaning and dressing women's hair. Johnson v. E., 286 N.W. 77.
3840-5. Who may receive certificates.—A person is qualified to receive a certificate of registration to practice barbering:
1. Who is qualified under the provisions of Section 6 of this act;
2. Who is at least 18 years of age;
3. Who is of good moral character and temperate habits and free from any contagious or infectious disease;
4. Who has practiced as a registered apprentice for a period of 18 months under the immediate personal supervision of a registered barber; and
5. Who has passed a satisfactory examination conducted by the board to determine his fitness to practice barbering.

An applicant for a certificate of registration to practice as a registered barber who fails to pass a satisfactory examination conducted by the board, must continue to practice as an apprentice for an additional six months before he is again entitled to take the examination for a registered barber. ('27, c. 316, §5, eff. July 1, 1927; Apr. 20, 1929, c. 270, §5.)

Reciprocal and retaliatory legislation. 21 Minn. Law Rev 271.

3840-6. Who may receive certificates of registered apprentice.—A person is qualified to receive a certificate as a registered apprentice:
1. Who has completed at least eight grades of a grammar school education; and
2. Who is of good moral character and temperate habits and free from any contagious or infectious disease; and
3. Who has graduated from a school of barbering approved by the board; and
4. Who has passed a satisfactory examination conducted by the board to determine his fitness to practice as a registered apprentice.

An applicant for a certificate of registration to practice as an apprentice who fails to pass a satisfactory examination conducted by the board, must continue to practice as an apprentice for an additional six months before he is again entitled to take the examination for a registered apprentice. ('27, c. 316, §5, eff. July 1, 1927; Apr. 20, 1929, c. 270, §5.)

Reciprocal and retaliatory legislation. 21 Minn. Law Rev 271.

3840-7. Qualifications of barber school students.—No school of barbering shall be approved by the board unless it requires as a pre-requisite to admission thereon, graduation from the eighth grade of a grammar school or its equivalent as determined by an examination conducted by the Minnesota Board of Education, who shall issue a certificate that the student has passed the required examination and unless it requires as a pre-requisite to graduation a course of instruction of not less than five hundred hours to be completed within three months, of not more than eight hours in any one working day, in a school of barbering approved by the board.

6. A certificate of registration of an apprentice shall be annulled three years after the person first makes his application as a student. ('27, c. 316, §6, eff. July 1, 1927; Apr. 20, 1929, c. 270, §6; Apr. 22, 1935, c. 229, §3.)


5. A person may not be issued a student permit under barber operating only in hairdressing parlor. Op. Att'y Gen., May 19, 1932.

3840-7. Qualifications of barber school students.—No school of barbering shall be approved by the board unless it requires as a pre-requisite to admission thereon, graduation from the eighth grade of a grammar school or its equivalent as determined by an examination conducted by the Minnesota Board of Education, who shall issue a certificate that the student has passed the required examination and unless it requires as a pre-requisite to graduation a course of instruction of not less than five hundred hours to be completed within three months, of not more than eight hours in any one working day, such course of instruction to include the following subjects:—Scientific fundamentals for barbering, hygiene, practical study of the hair, skin, muscles and nerves, structure of the head, face and neck, elementary chemistry relating to sterilization and antiseptics, diseases of the skin, hair, glands, massaging and manipulating the muscles of the face and neck, hair cutting, shaving and trimming the beard.

Provided, further, that it shall be permissible for barber schools and barber colleges teaching the occupation of barbering to make a reasonable charge for materials used and services rendered by students for work done in such schools or colleges by students and there shall be one instructor to every fifteen students or minor fraction in excess thereof. Barber colleges and schools shall open at 8 A.M. and close at 6 P.M., except on days preceding holidays when the hours shall be 8 A.M. and 6:30 P.M.

All barber schools or colleges shall each respectively be conducted and operated in one building, or in connecting buildings, and no barber school or college shall have any department or branch in a building completely separated or removed from the remainder of such barber school or college.

Any person may own and operate a barber college who has had ten years' continuous experience as a barber, providing such person shall first secure from the board a permit to do the same by making written application. An applicant for a certificate of registration to practice as a barber college or barber school and the student, that the student has completed 1,000 hours in a duly approved barber school or barber college of the State of Minnesota, upon the payment of one dollar. The permit shall expire at the next regular examination held by the Minnesota Barbers' Examining Board.

The examination of applicants for certificates of registration as registered barber and registered apprentice shall include both a practical demonstration and a written and oral test, and shall embrace the subjects usually taught in schools of barbering approved by the board. ('27, c. 316, §9, eff. July 1, 1927; Apr. 20, 1929, c. 270, §9; Apr. 22, 1935, c. 229, §4.)

3840-10. Certificates of registration.—Whenever the provisions of this act have been complied with, the board shall issue a certificate of registration as a registered barber or as a registered apprentice. ('27, c. 316, §10, eff. July 1, 1927; Apr. 20, 1929, c. 270, §10.)
5840-11. Permits to practice.—A person who is at least 18 years of age and of good moral character and temperate habits, and either
1. Has a license or certificate of registration as a practicing barber in another state or country, which, if the same is held by him as an apprentice as is provided by this act shall upon payment of the required fee be called by the board for examination to determine his fitness to receive a certificate of registration to practice barbering. (27, c. 316, §11, eff. July 1, 1927; Apr. 20, 1929, c. 270, §11; Apr. 22, 1935, c. 229, §5.)

Barber coming from state where barbering was deemed a state or country for at least five years immediately prior to making application in this state, shall upon payment of the required fee be called by the board for examination to determine his fitness to receive a certificate of registration to practice barbering. (27, c. 316, §13, eff. July 1, 1927; Apr. 20, 1929, c. 270, §11; Apr. 22, 1935, c. 229, §5.)

5840-12. Same. 1. A person who is of good moral character and temperate habits, and
2. Has a certificate of registration as an apprentice in a state or country which has substantially the same requirements for licensure as this state, or a registered barber or apprentice as is provided by this act shall upon payment of the required fee be called by the board for examination to determine his fitness to receive a certificate of registration to practice barbering. (27, c. 316, §12, eff. July 1, 1927; Apr. 20, 1929, c. 270, §12; Apr. 22, 1935, c. 229, §6.)

5840-13. Barber's license under present law to continue practice without examination.—Every barber in this state holding a certificate of registration as such, and every apprentice in this state holding a permit or certificate to practice as such, issued pursuant to the provisions of any statute repealed by this act, at the time of the taking effect of this act, shall be permitted to continue to practice as such barber or apprentice until December 31, 1927, without the payment of any fee or any other act and shall thereafter have the right to be registered and practice as such barber or apprentice upon payment of the registration fee or fees required by this act. (27, c. 316, §13, eff. July 1, 1927; Apr. 20, 1929, c. 270, §13.)

5840-14. Certificates to be displayed.—Every holder of a certificate of registration shall display it in a conspicuous place adjacent to or near his work chair. (27, c. 316, §14, eff. July 1, 1927; Apr. 20, 1929, c. 270, §14.)

5840-15. Certificates must be renewed annually.—All registered barbers and registered apprentices who continue in active practice or service shall on or before December 31, 1927, and thereafter annually, on or before December 31st of each year, renew their certificates of registration for the following year and pay the required fee. Every certificate of registration which has not been renewed during the month of December in any year shall expire on the 1st day of December in that year. Any registered barber or a registered apprentice who has defaulted in renewing his certificate of registration may be reinstated within one year of such default, without examination, upon the payment of the required fee. (27, c. 316, §13, eff. July 1, 1927; Apr. 20, 1929, c. 270, §15; Apr. 22, 1935, c. 229, §7.)

5840-16. Causes for revocation.—The board may either refuse to issue or renew, or may suspend or revoke any certificate of registration for any one or combination of the following causes:
(a) Gross malpractice or gross incompetency.
(b) Continued practice by a person having an infectious or contagious disease.
(c) Advertising by means of knowingly false or deceptive statements.
(d) Habitual drunkenness or habitual addiction to the use of morphia, cocaine or other habit-forming drugs.
(e) Immoral or unprofessional conduct or practice.
(f) The commission of any of the offenses described in sub-division c, d, e, f, g, or h of Section 19 hereof.
(g) The failure to practice for the period of one year prior to the date of application for issuance of renewal of license, or prior to such suspension or revocation of license.

5840-17. Board must give notice in writing.—The board may neither refuse to issue or refuse to renew, nor suspend, or revoke any certificate of registration, however, for any of these causes unless the person accused has been given at least five days' notice of writing of the charge against him and a public hearing by the board. Upon the hearing of any such proceeding, the board may administer oaths and may procure by its subpoena, the attendance of witnesses and the production of relevant books and papers (27, c. 316, §17, eff. July 1, 1927; Apr. 20, 1929, c. 270, §16; Apr. 22, 1935, c. 229, §8.)


5840-18. Fees.—The fee to be paid by an applicant for an examination to determine his fitness to receive a certificate of registration to practice barbering shall be $10.

The fee to be paid by an applicant for an examination to determine his fitness to receive a certificate of registration to practice as an apprentice is $2.00.

The fee to be paid for the renewal of a certificate of registration to practice barbering is $2.00, and for the restoration of an expired certificate, $5.00.

The fee to be paid for the renewal of a certificate of registration to practice as an apprentice is $10, and for the restoration of an expired certificate, $2.00.

The fees for examinations and certificates as required in this act shall be paid in advance to the secretary of the board of examiners and shall be deposited by him in the state treasury to be disbursed by the secretary on the order of the chairman in payment of expenses lawfully incurred by the board. (27, c. 316, §18, eff. July 1, 1927; Apr. 20, 1929, c. 270, §18.)

5840-19. Violations a misdemeanor.—Each of the following constitutes a misdemeanor:
(a) The violation of any of the provisions of Section 1 of this act.
(b) Permitting any person in one's employ, supervision or control to practice as a registered barber, registered apprentice or student unless that person has a certificate of registration as a registered barber, registered apprentice or student's permit.
(c) Obtaining or attempting to obtain a certificate of registration for money other than the required fee, or any other thing of value, or by fraudulent misrepresentation.
(d) Practicing or attempting to practice by fraudulent misrepresentation.
(e) The wilful failure to display a certificate of registration as required by Section 14, and
(f) The use of any room or place for barbering which is also used for residential or business purposes, containing any article of hairdressing, lotions, ointments, creams, cutlery, toilet articles, cigars, tobacco, candles in original package and such commodities as are used and sold in barber shops, and except that shoe-shining and an agency for the reception and delivery of laundry, or either, may be conducted in a barber shop without the same being construed as a violation of this section, unless a substantial partition of ceiling height separates the portion used for residential or business purposes and where a barber shop is situated in a residence, poolroom, confectionery, store, restaurant, garage, clothing store, liquor store, hardware store or soft drink parlor there must be an outside entrance leading into said barber shop independent of any entrance leading into such business establishment, except that this provision as to an outside entrance shall not apply to barber shops in operation at the time of the passage of this act, and except that a barber shop and beauty parlor may be operated in conjunction without the same being separated by partition of ceiling height.

(g) The failure or refusal by any barber or other person in charge of any barber shop or any person in barber schools or colleges doing barber service work, to supply clean and clean towels for each customer or patron, or to discard and launder each towel after once being used.

(h) The failure or refusal by any barber or other person in charge of any barber shop or barber school or barber college to supply clean hot and cold water in such quantities as may be necessary to conduct such shop, or the barbering service of such school or college in a sanitary manner, or the failure, or refusal of any such person to have water and sewer connections from such shop, or barber school or college, with lines. Such water and sewer systems where the latter are available for use, or the failure or refusal of any such person to maintain a receptacle for hot water of a capacity of less than five gallons.

(i) For the purposes of this act barbers, students, apprentices or the proprietor or manager of a barber shop or barber college or barber school shall be responsible for all violations of the sanitary provisions of this act, and if any barber shop or barber college or barber school, upon inspection, shall be found to be in unsanitary condition, the order of the present board of barber examiners shall immediately be issued an order to place the said barber shop or barber school or barber college in a sanitary condition in a manner and within a time satisfactory to the Board and for the failure to comply with such order the Board shall immediately file a complaint for the arrest of the persons upon which the order was issued and any licensed barber who shall fail to comply with the rules and regulations adopted by the Minnesota Barbers Examining Board with the approval of the Master Barbers Association of Minnesota, and competent to pass upon all matters likely to come before said board. One of said members shall be a member or recommended by a union of journeymen barbers which shall have existed at least two years, and one of said members shall be a member of or recommended by the Master Barbers Association of Minnesota.

The members of the first board appointed shall serve for three years, two years and one year, respectively, as appointed, and members appointed thereafter shall serve for three years. The governor may remove a member for cause.

Members appointed to fill vacancies caused by death, resignation or removal shall serve during the unexpired term of their predecessors. Provided, that the present members of the board of barber examiners shall remain in office until the completion of their respective terms. (27, c. 316, §21; Apr. 20, 1929, c. 270, §22.)

5840-22. Officers—Compensation.—The board shall elect a chairman and secretary. It shall adopt and use a common seal for the authentication of its orders and records. The secretary shall keep a record of all proceedings of the board and shall turn over to the treasurer of the state, all moneys collected, at least once a month.

Each member of said board shall give a bond in the sum of $5,000 with sureties to be approved by the secretary of state, conditioned for the faithful performance of his duties, and shall take the oath provided by law for public officers. Any member, including the secretary, when duly assembled, may perform and execute all the duties and powers devolving upon the board.

The compensation of the board shall receive as compensation $3,000 per annum, and the other members of the board shall receive a compensation of $10 per day for each (day) of actual service in the discharge of their duties as such, and in addition thereto, all members of the board, including the secretary, shall be reimbursed and receive their necessary traveling expenses incurred in the discharge of their duties, both salaries and expenses to be paid only and from the fund created by fees collected in the administration of this act. Each member of the board shall file monthly with the secretary of said board, a complete report showing his activities during the preceding month, and stating in detail the places, shops, schools or colleges visited or inspected by such board member. The board shall report annually to the governor, a full statement of the receipts and disbursements of said board, and also a full statement of its doings and proceedings during the year, with recommendations as it may deem necessary.

The board shall have authority to employ such inspectors, clerks, deputies and other assistants as it may deem necessary to carry out the provisions of this act.

Any funds in the state treasury to the credit of the present board of barber examiners shall be transferred to and made available for use by the board established under the provisions of this act. (27, c. 136, §20; Apr. 20, 1929, c. 270, §20.)
If a member of the board of barber examiners spends any part of the day in the discharge of his duties as such member, he is entitled to charge the full $10. Op. Atty. Gen., June 29, 1931.

A member of the board should not be permitted to charge a per diem while attending a national convention of barbers. Op. Atty. Gen., June 29, 1931.

Under Laws 1933, c. 413, salary of secretary of barber board must be reduced in a proportionate percentage as reductions made by heads of departments, while compensation of barber members of board are governed generally by rules set forth in opinion of June 28. Op. Atty. Gen., June 29, 1933.

### Definitions

**5840-23. Board to make rules and regulations.—**

The board shall have authority to make reasonable rules and regulations for the administration of the provisions of this act and prescribe sanitary requirements for barber shops and barber schools, subject to the approval of the state board of health. Any member of the board or its agents or assistants shall have authority to enter upon and to inspect any barber shop or barber school at any time during business hours. A copy of the rules and regulations adopted by the board shall be furnished by the board to the owner or manager of each barber shop and barber school, and such copy shall be posted in a conspicuous place in each barber shop or barber school.

The board shall keep a record of its proceedings relating to the issuance, refusal, renewal, suspension and revocation of certificates of registration. This record shall also contain the name, place of business and registration number of each registered barber and registered apprentice and the date and number of his certificate of registration. This record shall be open to public inspection at all reasonable times. (27, c. 316, §28, eff. July 1, 1927; Apr. 20, 1929, c. 270, §24.)

Any ordinance of a city prescribing hours when barber shops may be open for business violates due process of law, as prescribed in Federal Constitution, State v. Johannes, 194 Minn., 250 N.W. 637. See Dun. Dig. 1647.

Barber board has power to revoke license of shop failing to comply with reasonable order given by inspector. Op. Atty. Gen., Apr. 19, 1933.

City of Austin may pass ordinance regulating barber and providing for inspection by local health officers and specifying hours during which shop may be open. Op. Atty. Gen. (33a-2), Nov. 13, 1934.

### Provisions set forth in opinion of June 28

**5840-24.** To not serve certain persons.—No person practicing an occupation of a barber in an barber shop, barber school, or college in this state shall knowingly serve a person afflicted in a dangerous or infectious state of the disease with syphilis, eczema, impetigo, scabies, tuberculosis, or any other contagious or communicable disease. Any person so afflicted is hereby prohibited from being served in any barber shop, barber school or college in this state. Any violation of this section will be considered a misdemeanor as provided in section 22, c. 270, July 1, 1927; Apr. 20, 1929, c. 270, §25.)

**5840-25.** Provisions set forth in opinion of June 28—If any portion of this act is declared unconstitutional by a court of competent jurisdiction, it shall not affect the validity of the remainder of the act which can be given effect without the invalid portion. (27, c. 316, §28, eff. July 1, 1927; Apr. 20, 1929, c. 270, §25.)

**5840-26.** Laws repealed.—Session Laws 1921, Chapter 424. Session Laws 1925, Chapter 252, and Session Laws 1926, Chapter 369. Definitions, of the statutes of Minnesota, 1923, and all other acts or parts of acts inconsistent with the provisions of this act are hereby repealed. (27, c. 316, §28, eff. July 1, 1927; Apr. 20, 1929, c. 270, §27.)

**5840-26a.** Governing body of municipality may regulate barber.—The governing body of any city or village of this state may regulate, by ordinance, the opening and closing hours of barber shops within its municipal limits. (Act Apr. 22, 1935, c. 229, §47.)


### Provisions set forth in opinion of June 28

**5840-27.** Unlawful to engage in occupation or conduct shops except as authorized.

Act does not provide that compensation to beauty culturists must come directly from one who receives treatment. Faustner v. Faustner, 183 Minn., 244 N.W. 644.

Caption of beauty culturist is a lawful occupation, but may not continue to that of barbering and subjected to regulation. Id. Section 354-4, constitutional. Id.


**5840-28.** Definitions—places where taught or practiced. For the purposes of this act, the following definitions shall be adopted and understood to be included within the meaning of the Act.

(a) Any person who engages in general public practice for compensation or other reward in any one or any combination of the following pursuits: haircutting, to-wit: arranging, dressing, curling, waving cleansing, singling, bleaching, coloring, or similar work upon the hair of any living person by any means, or slight hair trimming of women, as a part of women's hairdressing; the use of cosmetic preparations, including perfumes, lotions, creams, and for the purposes of beautification, shall be defined as and construed to be practicing hairdressing and beauty culture, provided, however, that no provision of this act shall in any manner be construed to apply to manufacturers of cosmetics, or their representatives or employees.

(b) An operator is any person who has secured a license to engage in and engages in and follows the practice as herein defined. Id.

(c) A manager-operator is any person of legal age who owns, operates, conducts or manages a hairdressing and beauty culture shop or school; or who instructs in practical hairdressing and beauty culture work; provided, however, that it shall be lawful for any person to own, operate, conduct or manage a hairdressing and beauty culture shop or school without being licensed as a manager-operator if such person does not instruct in or practice any of the practices as defined in this Act, and such shop does not serve as a school or shop to manage same or instruct therein.

(d) Hairdressing and beauty culture shall be practiced only in a room or rooms not used for sleeping or residential purposes and such rooms must be equipped with hot and cold running water and with sewer connections. Where water and sewer connections are not available, there must be maintained a proper receptacle for hot water of a capacity of not less than five gallons, and such cesspool or other method for the disposal of sewage and waste matter as may be approved by the local health authorities or local municipal ordinances.

(e) All beauty shops shall be registered with the board by the owners thereof, annually on or before the 31st day of December, upon blanks provided for such purposes by the Board showing the names of the owners and the location of their respective shops, and such shops shall be permitted to operate without such registration.

(f) Hairdressing and beauty culture shall be taught in a room or rooms not used for sleeping or residential purposes and such rooms must be equipped with hot and cold running water and with sewer connections to insure sanitation for all students in attendance. Text books and charts and proper equipment necessary to conduct a school efficiently must be maintained by the school.

(g) A school of hairdressing and beauty culture is a place where any person, firm or corporation operates and maintains a class to teach beauty culture as defined under this Act; or the individual dispensa-
tion of knowledge regarding hairdressing or beauty culture who is such person, firm, or corporation accepts compensation for not, shall be amendable to hairdressing and beauty culture. (27, c. 245, $2, eff. July 1, 1927; Apr. 16, 1933, c. 264, §1.)

Beauty operators are not authorized to cut bangs, thin hair, or to cut hair, neck, and shoulders, and shall not be confined to any specific system or method of hairdressing and beauty culture, and such examination shall be consistent with the practical and theoretical requirements as provided by this Act. If a student shall fail to pass such examination he shall be required to undergo further training before being admitted to another examination, such further training time shall be specified by the Board but shall not exceed two hundred (200) hours.

(a) A manager-operator may be licensed as such under this Act upon the payment of a fee of Ten Dollars ($10.00) provided that he or she has practiced as an operator under the supervision of a manager-operator in this state for at least one year, and upon complying with all other requirements applicable to a manager-operator as provided for in this Act.

(c) Renewal license fees shall be as follows: For Operator—$2.00.

For Manager-operator—$3.00.

(b) Laws 1933, c. 264, §2(b), imposes additional limitation upon manager-operator applicable to holders of manager-operator licenses under Laws 1937, c. 371; and also imposes additional limitation upon applicant for license or qualification for license. The following proviso shall be added to the act as aforesaid:

"Such applicant must have practiced as a manager-operator in the state of Minnesota for a period of at least one year before he shall be entitled to be licensed as a manager-operator under this Act."

§5840.32—Secretary-treasurer—Salary—Ex-

Bonds.

Law makes no provision for assistant to secretary-

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Board may refuse to grant or renew any such certificate to any individual, firm or corporation guilty of fraud in making application therefor or at any time after the same is issued for the purpose of securing the same, for theft, larceny, forgery, or other crime, or grossly unprofessional or dishonest conduct. Every beauty culture school in this state now holding a certificate of registration as such shall continue to practice as a registered beauty culture school without submitting a new application until such time as the Board shall request the same.

(a) The school shall maintain upon its staff one competent and qualified instructor for each thirty students or fraction thereof, and such instructor shall give and require a course of training and instruction of not less than one thousand (1,000) hours of class room work, divided into classified hours conformed with the curriculum issued by the Board, said hours not to exceed eight (8) hours per day, to include both practical instruction and students' work and lab work, except that said instruction shall contain clearly distinguish between two departments but outside separate entrances are not necessary. Op. Atty. Gen., Feb. 3, 1934.

Professional department must be separated from student section in such manner as to prevent customer to by mistake to be charged for a course of instruction or training, sterilization, and the use of antiseptic consistent with the practical and theoretical requirements as applicable to and as provided in this Act; and shall comply with all rules and regulations requiring to schools as the Act contains. Professional departments shall be separated from the student section of the school.

(b) No school, duly approved under this Act, shall refuse to accept any qualified or disqualified account of race, creed or color. (27, c. 245, §10, eff. July 1, 1927; Apr. 15, 1933, c. 264, §3.)

Board may reject approval for beauty school even though applicant has complied with all requirements under section. Op. Atty. Gen., Dec. 11, 1932.

Board may refuse permit where school refuses to submit name. (38b-6) Act of Apr. 1, 1935.


Professional department must be separated from student section in such manner as to prevent customer to by mistake to be charged for a course of instruction or training, sterilization, and the use of antiseptic consistent with the practical and theoretical requirements as applicable to and as provided in this Act; and shall comply with all rules and regulations requiring to schools as the Act contains. Professional departments shall be separated from the student section of the school.

In action for negligent failure of veterinarian to diagnose hog cholera, evidence held to be sufficient to establish fault. Bekkemo v. E., 186 Minn. 108. 242 N.W. 214. See Dun. Dig. 7488.

In action for negligent failure of veterinarian to diagnose hog cholera, evidence held to be sufficient to establish fault. Bekkemo v. E., 186 Minn. 108. 242 N.W. 214. See Dun. Dig. 7488.

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§5851-2 CH. 35—EMPLOYMENTS LICENSED BY STATE BOARDS OR OFFICIALS

and mileage shall be paid out of the funds of the board. The board shall have the power to provide for its office and necessary furniture, fixtures and supplies and to appoint and employ, and, at will, to remove and discharge such officers, agents and other employees of said board as it may deem necessary to perform its duties, and to fix the salaries and define the duties of such officers, agents and employees. The secretary shall conduct all correspondence necessary to carry out the provisions of this act; he shall also keep a record of all proceedings including the name of every applicant for registration or examination, which record shall show the age of the applicant, the extent of his study and practice, and the name of the veterinary college from which he has graduated and the date of such graduation. Such record shall be prima facie evidence of the matters therein contained. The secretary of the board shall receive such compensation as the board may provide.

The members of the state veterinary board heretofore appointed and now holding office, shall continue in office until the appointment and qualification of members of such board as herein provided. (Mar. 31, 1937, c. 119, §1.)


While board may employ an investigator to gather evidence of unlicensed practitioners. It is provided without authority to reimburse a local association of veterinarians for expenses incurred in investigations. Op. Atty. Gen. (466a), May 15, 1939.

§5851-2. Qualifications of Applicants for License; Form of Application.—Application for a license to practice veterinary medicine in this state shall be made to said board and shall be upon a form furnished by said board and shall be accompanied by satisfactory evidence that the applicant is at least 21 years of age, is of good moral character and has received a diploma conferring the degree of Doctor of Veterinary Medicine or its equivalent from some reputable veterinary school approved by the board. Such application shall contain any other information that the board may, in its sound judgment, require. If the board deems it advisable, it may require that such application be verified by the oath of the applicant. (Mar. 31, 1937, c. 119, §2.)

§5851-3. Application Fee; Examination.—Upon filing such application and any other papers, affidavits or proof that said board may require, together with the payment to said board of a fee of $25.00, the board, if satisfied, shall issue to the applicant for license, an order for examination. Every applicant for a license shall submit to a theoretical or practical examination, if satisfied, shall issue to the applicant for license, an order for examination. Every applicant for a license shall submit to a theoretical or practical examination, or both, as designated by the board. The examination may be oral or written or both. (Mar. 31, 1937, c. 119, §3.)

Original $25 fee for examination should also include license fee up to next annual date of registration, which is the May 1st succeeding date of examination and licensing. Op. Atty. Gen. (466c), July 20, 1939.

§5851-4. Board to Issue License.—The board shall issue to every applicant who has successfully passed the required examination and who shall have been adjudged to be duly qualified to practice veterinary medicine, a license to practice. (Mar. 31, 1937, c. 119, §4.)

§5851-5. License Subscribed by Board Members and Sealed.—The license shall be subscribed by the members of the board and shall be sealed and signed by the secretary-treasurer of said board. (Mar. 31, 1937, c. 119, §5.)

§5851-6. License to be Recorded.—The license, before issued, shall be recorded in a book to be kept in the office which the board shall establish for the purpose of carrying out the provisions of this act. The number of the book and the page therein containing the recorded copy of the license shall be noted upon the face of the license. These records shall be open to public inspection with proper restrictions as to their preservation. (Mar. 31, 1937, c. 119, §6.)

§5851-7. Annual Registration.—Each person now qualified to practice veterinary medicine in this state, or who shall hereafter be licensed by the board to engage in such practice, shall register with the board annually before the first day of May in each year, and thereupon the license of such veterinarian shall be renewed for such calendar year. The fee for such annual registration shall be $2.00 and shall be paid by each licensed veterinarian in this state to the secretary of said board before the first day of May in each year. Any such veterinarian failing so to register and pay the annual registration fee before May 1, in each year as hereinbefore provided, shall pay to the secretary-treasurer of said board the sum of $5.00 before his said license shall be renewed; provided, however, that in the event any such licensed veterinarian fails to register and to pay the registration fee provided herein within sixty days after May 1, in any such year, then and in that event said board shall revoke his or her license to practice veterinary medicine in this state. Any person who at the time of the passage of this act shall be legally licensed to practice veterinary medicine in this state shall be entitled to receive a license to continue such practice upon making application to the board and complying with the terms of this section for annual registration. (Mar. 31, 1937, c. 119, §7.)


All rights and privileges which may have accrued under former act were abrogated and discontinued. Op. Atty. Gen. (465a), Jan. 26, 1939.

§5851-8. Revocation of License.—On hearing, the board shall revoke any license or renewal which is obtained by fraud or when the holder is guilty of gross moral or professional misconduct. The board may deny a renewal of license, subject to review by the courts. (Mar. 31, 1937, c. 119, §8.)

§5851-9. License to be filed with clerk of district court; clerk to keep record.—Every veterinarian shall file a copy of the license with the clerk of the district court in the county in which he resides, within sixty days after the date that this act takes effect, and every person hereafter licensed by the board shall file said license for record with the clerk of District Court in the county in which he resides within sixty days after the date when he commences to practice veterinary medicine in such county. Upon removal to another county he shall file such license with the clerk of the record, and in January of each year shall furnish to the secretary of the board a list of licenses so filed. Upon notice from the clerk of the death or re- record of a license or of a revocation of a license, he shall note the same upon the record of such license. (Mar. 31, 1937, c. 119, §9.)

Such clerk shall keep, in the record book of such licenses, an index thereof, showing the date and page of the record, and in January of each year shall furnish to the secretary of the board a list of licenses so filed. Upon notice from the clerk of the death or record of a license or of a revocation of a license, he shall note the same upon the record of such license. (Mar. 31, 1937, c. 119, §9.)

Persons who had licenses recorded with clerks of district courts prior to taking effect of act need not re-record them, unless new licenses are issued. Op. Atty. Gen. (466a), June 17, 1937.

§5851-10. Unlawful to Practice Veterinary Medicine without License.—It shall be unlawful for any person to practice veterinary medicine or any branch thereof, in the state of Minnesota, without having first secured a license as provided in this act, and any person violating the provisions of this section shall be guilty of a gross misdemeanor and punishable therefore according to the laws of the state of Minnesota. (Mar. 31, 1937, c. 119, §10.)
5851-11. Corporations not to Practice Veterinary Medicine.—It shall be unlawful in the state of Minnesota for any corporation to practice veterinary medicine, or to hold itself out or advertise itself as entitled to practice veterinary medicine or to receive the fees, or portions of fees, or gifts or other emoluments or benefits derived from the practice of veterinary medicine or the performance of veterinary services by any person whether such person be licensed to practice veterinary medicine or not. Any corporation violating the provisions of this section shall be guilty of a gross misdemeanor and shall be fined not more than $1000.00 for each offense, and each day that this act is violated shall be considered a separate offense. (Mar. 31, 1937, c. 119, §11.)

5851-12. Definition of Practice of Veterinary Medicine.—The practice of Veterinary Medicine, as the term is used in this Act, shall include the act or acts of prescribing, or applying any drug, medicine, biologic, biochemical or other material agency for the treatment of any animal, or for the testing of any animal for the diagnosis of any disease, or for the vaccination of any animal for the prevention of transmissible disease or diseases, or performing any operation, including castration, evisceration, dehorning, or the castration of animals except the spaying of females; nor shall any provision of this Act prohibit anyone from rendering necessary gratuitous assistance in the treatment of any animal with the attendance of a licensed Veterinarian cannot be procured. The word "animal" as used in this act shall not include poultry and/or birds of any kind.

Any person who makes both a sale of and applies or offers to apply any drug, medicine, biologic, biochemical or other material agency for the treatment, vaccination or testing of any animal, belonging to or in the custody of the person to whom such sale is made, and from which sale he derives any profit, commission, discount or other emoluments or benefits derived from the practice of veterinary medicine or to hold itself out or advertise itself as entitled to practice veterinary medicine or to receive the fees, or portions of fees, or gifts or other emoluments or benefits derived from the practice of veterinary medicine or the performance of veterinary services by any person whether such person be licensed to practice veterinary medicine or not. Any corporation violating the provisions of this section shall be guilty of a gross misdemeanor and shall be fined not more than $1000.00 for each offense, and each day that this act is violated shall be considered a separate offense. (Mar. 31, 1937, c. 119, §11.)

5851-15. Laws Repealed.—Chapter 419 of the Session Laws of 1907 [§§5847 to 5851], and all amendments thereto are hereby repealed and any and all other laws inconsistent with the provisions of this act are hereby repealed, provided, however, that this act shall not repeal the portion of Chapter 112 of the Laws of 1923 [§§5432 to 5458]. If any part or portion of this act is declared invalid, such invalidity shall not affect the remaining portions of this act. (Mar. 31, 1937, c. 119, §14.)

5851-16. Act Effective May 1, 1937.—This act shall take effect on May 1, 1937. (Mar. 31, 1937, c. 119, §16.)

HORSESHOERS

5852 to 5854. [Repealed.]
Repealed by Laws 1939, c. 60.

STALLIONS

5855. Horses used for breeding purposes to be registered.

See §5853 for limits of services of stallions.


5868. Lien for service.—Every stallion or jack owner complying with the provisions of this act shall have a lien on each mare served and first lien on the offspring resulting from such service, the amount of the agreement fee, and all expenses. Said lien shall become effective upon the birth of the foal or upon the fulfillment by the owner of said stallion or jack of his contract, or in case of removal or attempted removal of the mare without consent of the person holding the lien, from the county wherein her owner resides at the time of service, and it shall remain effective for a period of twenty-four (24) months from the date of service. In case his right of action accrues, the owner of such stallion or jack may file with any justice of the peace in the county, a written statement containing his cause for action, amount of his claim and a description of the mare upon which he has a lien, and the justice shall thereupon issue a summons as in other cases and an order to the constable to take the animal and her offspring if there be an offspring, and hold (her) or them subject to the order of the court. If upon trial, judgment be rendered in favor of the owner, the court shall order a sale of the animal or animals to pay the judgment and costs. (As amended Apr. 8, 1937, c. 177, §1.)

Stallion owner's lien on mare does not have priority over previous mortgage on the same, but has priority over all other claims. Op. Atty. Gen. Mar. 19, 1939.


that the term "Master Electrician" for the purposes of this act shall be construed to mean a person having the necessary qualifications, training, experience, and technical knowledge to properly plan, lay out and supervise the installation of wiring, apparatus and equipment for electric light, heat, power and other purposes in accordance with the standard rules and regulations governing such work.

The term "Journeyman Electrician" for the purposes of this act shall be construed to mean a person having the necessary qualifications, training, experience, and technical knowledge to wire for, install and repair electrical apparatus and equipment in accordance with the standard rules and regulations governing such work.

The term "Special Electrician" for the purposes of this act shall be construed to mean a person having the necessary qualifications, training, experience, and technical knowledge to perform electrical work.

The term "Electrical Contractor" for the purposes of this act shall be construed to mean a person having the necessary qualifications, training, experience, and technical knowledge to wire for, install and repair electrical apparatus and equipment for electric light, heat, power and other purposes in accordance with the standard rules and regulations governing such work.

The board of electricity shall consist of five members, residents of the state appointed by the Governor, each for a term of five years, and until his successor qualifies, of whom two shall be master electricians, shall be contractors, two journeyman electricians and one consulting electrical engineer or electrical inspector of a city of the first class. Vacancies shall be filled in the same manner from the same class from which the retiring member belonged. The board shall select from its members a president, secretary and treasurer, prescribe rules for the management of its affairs and adopt a seal. Each member shall receive $100.00 a day for actual services rendered, and in addition thereto actual expenses for transportation, supplies, fees, services and prizes thereof. No individual, firm, corporation or partnership shall be employed by the board and the board may allow: all to be paid out of the treasury of the said board. The board shall meet at least once a month and may meet at any other time at places designated by the board, for the purpose of conducting examinations and transacting such other business as may be necessary in the conduct of its affairs. The present board of electricity shall be continued, and the Governor shall appoint new members as designated herein when the terms of the present members shall expire.

All fees collected under the provision of this act shall be devoted to the uses of the State Board of Education and before the second Monday in January, annually, the board shall report to the Governor in writing the items of its receipts and disbursements for the preceding year. The State Board of Electricity shall have jurisdiction, and is hereby empowered to enforce the provisions of this act. (As amended April 21, 1937, c. 144.)

Salary of secretary is subject to reduction under laws 1939, c. 1080, §S.1. Board may, so to it that provisions of law relating to minimum requirements for electrical work are complied with. Op. Atty. Gen. (188c), Oct. 14, 1937.

A lineman employed by village municipal light and power plant, who has successfully passed an examination, and holds special electrician's license, may perform work necessary to install electrical apparatus and equipment for electric light, heat, power and other purposes in accordance with the standard rules and regulations governing such work, if he has obtained such license. Op. Atty. Gen. (1835), April 1, 1939.

Electrical work done on a U. S. Postoffice, or other government property, is not subject to jurisdiction of either local inspection and such rules or the state laws. Op. Atty. Gen. (1883), Sept. 6, 1939.

§5873. Electrical contractor—journeyman or special electrician—licences—temporary practice.—No person shall operate as an electrical contractor unless such person be licensed as a Master Electrician. No individual, firm, corporation or partnership shall engage in business as Electrical Contractors unless they have a licensed Master Electrician in their employ.

No person shall work as a Journeyman or Special Electrician unless such person be licensed as such by the State Board of Electricity, except that a person who shall furnish evidence satisfactory to the Board as having the required experience as herein set forth may make written application and pay the required fee to the State Board of Electricity, and may work as a Journeyman or Special Electrician under the following examination, of which he shall be notified.


Persons working for a electrical contractor who do work ordinarily done by journeymen electricians must be licensed as such. Id.


No individual, firm, corporation or partnership shall engage as Electrical Contractors unless they have a licensed Master Electrician in the employ of the said. Op. Atty. Gen. (188c), Aug. 24, 1937.


A railroad company is not required to employ a master electrician, but journeymen electricians employed by railroad must be licensed, and men doing signal work are not required to be licensed unless they install or repair electrical apparatus or equipment. Op. Atty. Gen. (188c), Sept. 2, 1938.


Reciprocal and retaliatory legislation. MinnLawRev. 211.

§5874. Bond of Master electrician—qualifications and licensing of journeyman, special electricians, etc.—Every Master Electrician shall before receiving license as such give bond to the state in the penal sum of Five Thousand Dollars, which bond shall be approved by, and filed with said State Board of Electricity. This bond to be conditioned upon the faithful performance of all work entered upon or contracted for by said master.

An applicant for a "Master Electrician" license shall furnish written evidence that he is a graduate of a four year electrical course of an accredited university or college; or that he is a graduate of an electrical trade school approved by the State Board of Electricity and has had at least three years of practical experience in electrical work; or that he has at least five years of experience in planning, installing, wiring or installing wiring, apparatus or equipment for electric light, heat, power and fire, and shall pay an examination fee of Five Dollars. After six months' experience had left the person he shall be examined, and if he passes into effect, any person actually engaged in business as a Master Electrician at the time when this Act shall take effect, may, upon filing with said board a verified
statement signed by him, reciting said facts, and upon payment of a fee of Five Dollars obtain a license to engage as a Journeyman Electrician; provided, however, that said application is filed and said fee paid within six months after the time when this Act shall take effect.

An applicant for a "Special Electrician's" license shall furnish evidence in writing that he has had at least two years' experience in some special class of electrical work, and shall pay an examination fee of Three Dollars. Such special class of electrical work shall be specified on his license. After six months' experience had before the date when this Act shall go into effect, any person actually engaged as a Special Electrician at the time when this Act shall take effect may, upon filing with said board a verified statement signed by him, reciting said facts, and upon payment of a fee of Three Dollars, obtain a license to engage as a Journeyman Electrician; provided, however, that said application is filed and said fee paid within six months after the time when this Act shall take effect.

An applicant for a "Special Electrician's" license shall furnish evidence in writing that he has had at least two years' experience in some special class of electrical work, and shall pay an examination fee of Three Dollars. Such special class of electrical work shall be specified on his license. After six months' experience had before the date when this Act shall go into effect, any person actually engaged as a Special Electrician at the time when this Act shall take effect may, upon filing with said board a verified statement signed by him, reciting said facts, and upon payment of a fee of Three Dollars, obtain a license to engage as a Journeyman Electrician; provided, however, that said application is filed and said fee paid within six months after the time when this Act shall take effect.

A master electrician by registration within six months after the effective date of Laws 1937, c. 314, could within six months after passage obtain a master electrician's license by registration, but statute does not change provisions of ordinances of city containing more stringent requirements than those set forth in the act. Op. Atty. Gen. (188c), May 14, 1937.

Where master electrician's license expired prior to taking effect of Laws 1937, c. 314, and no application for renewal thereof filed before the date when this Act shall take effect, said applicant must pay fee provided for under new act, and new license will take effect as of date of its issuance. Op. Atty. Gen. (188c), July 20, 1939.

A person employed by state to do electrical work on state owned property must have license. Op. Atty. Gen. (188c), July 20, 1939.

Receipts of state board of electricity should be deposited with state treasurer from which disbursements must be made in payment of members of board and employees. Op. Atty. Gen. (290u), May 14, 1937.

5879-1. Second examination—time for—revocation of license—hearing—appeal. Any applicant who shall fail to pass the examination shall not be entitled to take another examination until at least six months thereafter, except that he may take an examination only once.

Upon written complaint against any licensed electrician the board shall hold a hearing, written notice of which shall be given to the complainant, and to such licensed Electrician at least ten days in advance of such hearing. After hearing the evidence of both parties the board shall have the power to revoke or suspend such license, subject to appeal before a court of competent jurisdiction. (Added Apr. 21, 1937, c. 314, §7.)

5879. Compliance with rules—electrical and safety codes as evidence—municipal requirements—certificates of inspection—penalty. All electrical wiring, apparatus and equipment for electric light, heat and power shall comply with the rules and regulations of the Railroad and Warehouse Commission of the State of Minnesota under the authority of the state statutes and in conformity with approved methods of construction for safety to life and property. The regulations as laid down in the National Electrical Code and in the National Electrical Safety Code, as approved by the American Engineering Standards Committee shall be prima facie evidence of such approved method or standard. Licenses and certificates herein contained shall prohibit any municipality from making and enforcing more stringent requirements.
than those set forth herein, and that such requirements shall be complied with by all licensed electricians working within the jurisdiction of such municipalities.

No electrical installation shall be connected for use until proof has been furnished to the person, firm or corporation supplying electrical energy for such installation that the regulations above recited have been complied with. Of such compliance shall consist of a certificate furnished by a municipal or other recognized inspection department or officer, or if there is no such inspection department or officer, it shall consist of an affidavit furnished by the contractor or person doing the wiring; certifying that there has been such compliance. For permanent projects requiring temporary electrical service or for projects in process of construction, the person, firm, or corporation furnishing electric current shall not be required to obtain a certificate of inspection or an affidavit as to qualifications than the state law. Op. Atty. Gen. (118d), Jan. 26, 1937.

Any person who shall engage for a valuable consideration in the business of installing or repairing electrical wire or apparatus without having complied with the inspection regulations and license, or who shall violate any of the provisions of this Act shall be guilty of a misdemeanor. (As amended Apr. 21, 1937, c. 314, §3.)

A state or local certifying of electrician does not affect city ordinances having more stringent requirements as to qualifications than the state law. Op. Atty. Gen. (290u), May 14, 1937.


PART 1

PRIVATE DETECTIVES

5880. License.—It shall be unlawful for any person to act as or to hold himself out to be a private detective, or to establish or engage in the keeping, maintaining or operating of any private detective agency, or to carry on any private detective work within this state, without having first obtained a license from the governor of the state of Minnesota upon application therefor on the payment of the fee and filing of the bond hereinafter provided for. Such application for license shall be granted or refused in the discretion of the Governor of Minnesota. (As amended Apr. 21, 1937, c. 314, §9.)

Sec. 2 of Act Apr. 20, 1935, cited, provides that the act shall not affect the practice of any court of competent jurisdiction, such invalidity shall extend only to the section or part thereof affected, and every other section and part thereof shall be continued in full force and effect. (Added Apr. 21, 1937, c. 314, §9.)


$5883. Employees of licensed detective.

No person employed by or acting for a licensed detective may operate in state in connection with cases originating outside state, but cannot otherwise operate without a license. Op. Atty. Gen. (876), May 5, 1939.

CHAIN STORES

$5887-1 to $5887-15. [Suspended.]


$5887-1a. Definition of "person."—The term "person" when used in this act shall include individuals, partnerships, trusts, associations, joint stock companies, corporations, and firms however organized or whatever be the plan of operation. (July 24, 1937, Sp. Ses., c. 93, §1.)

The title of the act reads: "A bill for an act imposing and collecting a tax on the conducting of business by the system of mail order establishments and by the system of chain stores, and repealing Laws 1933, c. 213, as amended by Extra Session Laws 1933-34, c. 15. While the title calls for a repeal of Laws 1933, c. 213, as amended by Extra Session Laws 1933-34, c. 15, the act as finally enacted is not a true repeal, but continues the operation of the old act, and section 11 of the new act (§5887-131) continues the operation of the old act after the year 1940. As to whether the separability provisions of section 10 (§5887-18g), will save the act is for a higher authority than this editor to determine, the title continues the operation of the old act after the year 1940. As to whether the separability provisions of section 10 (§5887-18g), will save the act is for a higher authority than this editor to determine.

$5887-1b. Tax imposed on certain chain stores.—There is hereby imposed upon every person engaged within the State of Minnesota in conducting a business by the system of chain stores from which are sold or otherwise disposed of at retail any goods, wares or merchandise, excepting any person selling building material, gasoline and oils and grain, if the gross sales by any such person of any particular kind of products shall, during any year for which the tax is imposed, equal or exceed 95 per cent of the total gross sales from all sources of any such person, and excepting, further, cooperative associations organized under the laws of this state in good faith and not for the purpose or with the intent of evading the tax hereby imposed, and excepting, further, any persons who within this state produces, manufactures, prepares, distributes and sells as retail only, food products which he himself produces, manufactures or prepares, where such retail sales are made only from stores owned, operated and controlled exclusively by and such person, or to such person and the purpose or with the intent of evading the tax hereby imposed, and excepting, further, any persons who within this state produces, manufactures, prepares, distributes and sells as retail only, food products which he himself produces, manufactures or prepares, where such retail sales are made only from stores owned, operated and controlled exclusively by and such person, or to such person, an annual tax for each calendar year during any part of which such taxpayer shall be so engaged which tax shall be computed at the rate provided in the following section. (July 24, 1937, Sp. Ses., c. 93, Pt. 1, §1.)

$5887-1c. Same—rates of tax.—The tax imposed by Section 1 shall be at the following rates upon each store or mercantile establishment within the state under a single or common ownership, supervision or management:

1. $10.00 on each of the first and second;
2. $20.00 on each of the third and fourth;
3. $30.00 on each of the fifth and sixth;
4. $40.00 on the seventh;
5. $50.00 on the eighth;
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§5887-18h. Same—rates of tax.—The tax imposed by this Part shall be at the following rates upon each mail order establishment within this state under the same general management, supervision, ownership or control; as such general management, supervision, ownership and control defined in Part I, Section 3.

- **1.** $200.00 on the first store;
- **2.** $300.00 on the second store;
- **3.** $400.00 on the third store;
- **4.** $500.00 on the fourth store;
- **5.** $600.00 on the fifth store;
- **6.** $700.00 on the sixth store;
- **7.** $800.00 on the seventh store;
- **8.** $900.00 on the eighth store;
- **9.** $1000.00 on the ninth store;
- **10.** $1100.00 on the tenth store;
- **11.** $1200.00 on each store thereafter.

§5887-18i. Same—computation of tax—common ownership—number of establishments.—The tax imposed by this Part shall be computed on the basis of the number of mail order establishments under a single or common ownership, supervision, management or control during each calendar year; provided, however, that if any such mail order establishment is established or is discontinued during any calendar year, the tax shall be computed in accordance with the number of establishments in operation before and after such change, and for the purpose thereof a fractional part of a month shall be disregarded unless more than one-half of a month, in which case it shall be considered as a month.

§5887-18j. Licensee to file annual statement with tax commission—payment—return—by commission.—Every person upon whom a tax is imposed by this Act shall make and file with the Minnesota Tax Commission on or before January 20 of each year, beginning with January 1938, on such forms as shall be prescribed therefor by said commission, showing the number of stores or mercantile establishments, or mail order establishments under such single or common ownership, supervision, management or control during the preceding calendar year. The tax imposed shall be paid to the commission at the time of the filing of such return.

If any persons subject to a tax hereunder shall fail to make and file a return and pay the tax as hereinbefore provided within the time specified therefor, the said tax commission shall make and file a return for such person, based upon the best information which it possesses or is able to obtain, and shall assess a tax upon the basis of such return and shall add thereto a specific penalty of 10 per cent of the tax assessed. The commission shall forthwith mail to such person, if his address is known, a statement of the tax and penalty so assessed, and such

**GENERAL PROVISIONS**

§5887-18k. Licensee to file annual statement with tax commission—payment—return—by commission—notice.—Every person on whom a tax is imposed by this Act shall make and file with the Minnesota Tax Commission on or before January 20 of each year, beginning with January 1938, on such forms as shall be prescribed therefor by said commission, showing the number of stores or mercantile establishments, or mail order establishments under such single or common ownership, supervision, management or control during the preceding calendar year. The tax imposed shall be paid to the commission at the time of the filing of such return.

If any persons subject to a tax hereunder shall fail to make and file a return and pay the tax as hereinbefore provided within the time specified therefor, the said tax commission shall make and file a return for such person, based upon the best information which it possesses or is able to obtain, and shall assess a tax upon the basis of such return and shall add thereto a specific penalty of 10 per cent of the tax assessed. The commission shall forthwith mail to such person, if his address is known, a statement of the tax and penalty so assessed, and such
person shall pay said tax and assessment, together with interest thereon from the time it should have been paid at the rate of six per cent per annum, through 30 days after the time such tax shall have become due and payable, an action shall be brought in the name of the state against such person for the collection thereof in the manner in which other general debts due the state are enforced by action. (July 24, 1937, Sp. Ses., c. 93, General Provisions, §1.)

5887-18k. Enforcement by action.—If any tax remains unpaid for more than 30 days after the same shall become due and payable, an action shall be brought in the name of the state against such person for the collection thereof in the manner in which other general debts due the state are enforced by action. (July 24, 1937, Sp. Ses., c. 93, General Provisions, §2.)

5887-18l. Refund—limitations—certificate—interest.—A taxpayer who has paid, voluntarily or otherwise, or from whom there has been collected other than by suit as aforesaid, an amount in excess of the tax legally due, may file with said commission a claim for the refund of such excess. No such claim shall be entertained unless filed within two years after such tax was paid or collected. If the commission finds that the taxpayer has paid more than was legally due, it shall issue its certificate for the refund of such excess, with interest at the rate of six per cent per annum, from the date of the payment or collection of the tax until the date of refund and the state auditor shall cause such refund to be paid out of the proceeds of the taxes imposed by this Act as other state moneys are expended. So much of the proceeds of the taxes imposed by this Act as may be necessary therefor are hereby appropriated for the purpose of such refundments. (July 24, 1937, Sp. Ses., c. 93, General Provisions, §3.)

5887-18m. False return or evasion—misdemeanor.—Any taxpayer who shall willfully make a false return with intent to evade the payment of any tax imposed by this Act shall be guilty of a misdemeanor. (July 24, 1937, Sp. Ses., c. 93, General Provisions, §4.)

5887-18n. Tax commission to make rules—forms.—The Minnesota Tax Commission shall administer this Act and enforce the collection of the taxes imposed hereby, and it may make and publish such rules, regulations, forms, and blank forms, not inconsistent with this Act, as it may deem necessary to the efficient enforcement of this Act. It shall prepare blank forms for the returns required hereby, and shall distribute the same throughout the state and shall furnish them upon application, but the failure to receive such blanks shall not relieve any person from the obligation of making any return required of him by this Act. (July 24, 1937, Sp. Ses., c. 93, General Provisions, §5.)

5887-18o. Commission empowered to examine books, papers, etc., summon witnesses—statements from licensees.—For the purpose of determining the correctness of any return or of determining whether any person should have made a return hereunder, the commission shall have power to examine or cause to be examined any books, papers, or records relevant to making such determinations. It shall further have power to require the attendance of any taxpayer or other person having knowledge or information relevant to such determination, to compel the production of books, papers or records, to take testimony in matters material to such determinations and to administer oaths or affirmations in any such connection. The commission may require any person or officer of any store in the state to file with it a statement under oath showing the ownership, management and control of such store for the purpose of determining whether such store is subject to the tax hereby imposed. (July 24, 1937, Sp. Ses., c. 93, General Provisions, §6.)

5887-18p. Proceeds to general revenue fund.—The revenue derived from taxes, interest, or penalties provided for in this act when collected shall be paid in to the general revenue fund of the state. (July 24, 1937, Sp. Ses., c. 93, General Provisions, §7.)

5887-18q. Suspension of Laws 1933, c. 218—credit of tax paid for 1937.—No taxes shall be levied or assessed under Laws 1933, Chapter 218, for the year 1937 or thereafter, and all shall remain in full force and effect with respect to any tax levied or assessed or which should have been levied or assessed thereunder for any year prior to 1937. If any taxes have been paid to the state under said law for the year 1937, the same shall be credited upon any tax for any year due under this Act from the taxpayer who made such payment. (July 24, 1937, Sp. Ses., c. 93, General Provisions, §8.)

5887-18r. One tax to exclude other tax.—Any store or establishment taxable under Part II as a mail order establishment shall not be included in computing the tax imposed by Part I, if otherwise taxable hereunder. (July 24, 1937, Sp. Ses., c. 93, General Provisions, §9.)

5887-18s. Separability of provisions.—If any part or provision of this Act shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not impair or invalidate any other part or provision in the remainder of the Act; and, if any part or provision of this Act shall for any reason be adjudged by any court of competent jurisdiction constitutionally inapplicable to any case or situation within the terms of such part or provision, such judgment shall not impair or invalidate such part or provision as applied to any other case or situation within their terms; and, if any exception from the tax hereby imposed shall for any reason be adjudged by any court of competent jurisdiction invalid, the tax shall be imposed upon the taxpayer subject as to the part or provision which such exception has thus been held invalid. (July 24, 1937, Sp. Ses., c. 93, General Provisions, §10.)

5887-18t. Secession of tax after 1940.—No tax shall be imposed or collected under this Act for the year 1941 and years subsequent thereto, but the provisions hereof shall remain in full force and effect with respect to any tax levied or assessed or which should have been levied and assessed for any year prior to 1941. (July 24, 1937, Sp. Ses., c. 93, General Provisions, §11.)

PLUMBERS

5887-19. State Board of Health to supervise plumbing—rules and regulations—standards—approval—inspectors—standards—approval—inspectors—(a) The State Board of Health may by regulation prescribe minimum standards which shall be uniform, and which standards shall thereafter be effective for all new plumbing installations, including additions, extensions, alterations and replacements connected with any water or sewerage disposal system, owned or operated by or for any municipality, institution, factory, office building, hotel, apartment building or any other place of business, regardless of location or the population of the city, village or town in which located. Such regulations, upon approval of the Attorney General and their legal publication, shall have the force of law, and the violation of any part thereof shall constitute a misdemeanor.

(b) The Board shall administer the provisions of this Act, and for such purposes may employ plumbing inspectors and other assistants. (Apr. 21, 1933, c. 348, §1; Apr. 25, 1937, c. 370, §1.)

§121 of the reciprocal and legislative regulations. 21 Minn. Law Rev. 371.

§5887-20. Cities or villages may adopt local regulations—State license to control.—Any city or village having a system of water works or sewerage, may, by ordinance, adopt local regulations providing for plumbing permits, bonds, approval of plans, and inspections of plumbing, which regulations are not in
conflict with the plumbing standards on the same subject prescribed by the State Board of Health. But no city shall prohibit plumbers licensed by the State Board of Health from engaging in or working at the business, except cities which prior to April 21, 1933, by ordinance required the licensing of plumbers. (Apr. 21, 1933, c. 349, §2; Apr. 23, 1937, c. 370, §5.) Evidence held to sustain finding that defendant violated city ordinance against covering and concealing plumbing pipes before inspection by proper city authorities. State v. Beery, 1935560, 270NW600. See Dun. Dig. 676.

Owner of premises may not do plumbing work therein without license unless he occupies it himself, nor can he employ an unlicensed person, but the state does not employ. Op. Att'y Gen. (333a), May 8, 1934. Cities and villages may incorporate by reference in an ordinance provisions of plumbing code formulated by state board of health. Id.

City of Worthington permits it to adopt an ordinance licensing plumbers and regulating plumbing in conformity with Minnesota plumbing code of minimum standards and requirements adopted by the Minnesota State Board of Health, though it has a population less than 6,000. Op. Att'y Gen. (477b-53), July 28, 1934.

City may require plumbers and electricians operating under a contract to take out license under city ordinances before performing work on a federal building. Op. Att'y Gen. (188c), Jan. 22, 1935.

Lake City under its charter may adopt an ordinance classifying plumbers and establishing minimum requirements in the issuance and sale. Op. Att'y Gen. (333a), Apr. 20, 1936.

Village may pass ordinance governing kind of material to be used in construction of building, requiring plumbers, plasterers and electricians to have license from village, require height of ceilings so long as would tend to protect health, safety and comfort. Op. Att'y Gen. (477b-11), Jan. 22, 1937.

5887-21. Violations to be reported to city board of health. Such city or village as may be designated by any such ordinance for the issuance of such plumbing permits and approval of such plans shall report to the State Board of Health persistent or willful violation of any of the same, or any incompetence of a licensed plumber observed by said local authority. (Act Apr. 21, 1933, c. 349, §3.)

5887-22. Plumbers must be licensed in certain cities or villages—master and journeyman plumbers—plumbing on one's own premises—rules for examination.—(a) In any city or village now or hereafter having 5,000 or more population, according to the last Federal or State census, and having a system of water works or sewerage, no person, firm or corporation shall engage in or work at the business of a master plumber or journeyman plumber unless licensed by the State Board of Health. Any master plumber may also work as a journeyman plumber. Provided, that anyone not so licensed may do plumbing work which complies with the provisions of the minimum standards prescribed by the State Board of Health on premises or that part of premises owned and actually occupied by him as his residence, unless otherwise forbidden to do so by a local ordinance.

(b) In any such city or village no person, firm or corporation shall engage in the business of installing plumbing or install plumbing in connection with the dealing in and selling of plumbing material and supplies unless at all times a licensed master plumber, who is responsible for proper installation, is in charge of the plumbing work of such persons, firm or corporation.

(c) The State Board of Health shall prescribe rules and regulations not inconsistent herewith for the examination and licensing of plumbers. (Apr. 21, 1933, c. 349, §4; Apr. 23, 1937, c. 370, §3.) Assistant superintendent of water department of Interlake, who need not have license. Op. Att'y Gen. (188c), Sept. 14, 1933.

Cities and villages of 5,000 or more population, may legally provide that local permits be issued only to those holding a license as master plumbers. Op. Att'y Gen. (188c), May 5, 1934.

Cities and villages of 5,000 or more population, which provide for the enforcement of this law, may provide for local plumbers' licenses or permits, can refuse a renewal of its own permits to a person not having a state license. Id.

State board of health has power to prescribe reasonable rules and regulations upon applicants for licenses, such as a certain period of experience or character of experience in connection with examination. Examination of plumbing work in connection with separately owned water and sewage system must be done by licensed plumbers. Op. Att'y Gen. (323a), Aug. 30, 1938.

A corporation cannot secure a license as a plumber, but must have its work done by a licensed plumber. Op. Att'y Gen. (333a), Aug. 30, 1938.

A journeyman plumber may perform ordinary repair work. Id.

Corporation selling plumbing supplies and installing same must have licensed master plumber in its employ or if outside help is employed for purposes. Op. Att'y Gen. (333a), Aug. 30, 1938.

5887-23. Definitions.—(a) A journeyman plumber is any other than a master plumber, who, as his principal occupation, is engaged as an employee of, or otherwise working under the direction of, a master plumber, in the practical installation of plumbing.

(b) A master plumber is any person possessing the knowledge of plumbing, superintending and the practical installation of plumbing and otherwise lawfully qualified to contract for plumbing installations and conduct the business of plumbing, and familiar with the laws, rules, and regulations which regulate the same.

(c) A plumber's apprentice is any person other than a journeyman or master plumber, who, as his principal occupation is engaged in working as an employee of a master plumber under the immediate and personal supervision of either a master or journeyman plumber in learning and assisting in the installation of plumbing. (Apr. 21, 1933, c. 349, §5; Apr. 23, 1937, c. 370, §4.)

5887-24. Examiners.—The State Board of Health shall appoint three examiners of whom one shall be a practical master plumber, one a practical journeyman plumber and one a representative of the Board, to be known as the plumbing examiners. Such master plumber and such journeyman plumber shall each receive his expenses and such sum per diem for each day actually engaged in carrying out the provisions of this Act as the Board shall fix by its order. (Act Apr. 21, 1933, c. 349, §6.)

5887-25. Applications.—(a) Applications for plumber's license shall be made to the State Board of Health, with fees. Unless the applicant is entitled to a renewal, he shall be licensed by the State Board of Health only after passing a satisfactory examination by the examiners showing fitness. Fees for journeyman shall be two dollars for examination and one dollar for renewal, and for the master plumber $5.00 for examination and $15.00 for renewal. Licenses shall expire December 31st but may be renewed upon application made the following January or February, but if in February only upon payment of an additional fee of one dollar for a journeyman and five dollars for a master plumber. (b) The Board may issue revocable permits pending examination, and to assist in this may appoint, without compensation, and may authorize one of its examiners or plumbing inspectors to hold a special brief examination, the results to be reported in writing.

(c) All persons—who shall furnish within ninety days after the passage of this Act satisfactory evidence to the Board that they were actually engaged in the business of plumbing as plumbers on January 1st, 1933, in any city or village of this state having 5,000 population or more, according to the last Federal or State census, shall be en-
titled to receive a license as such master plumber, or journeyman plumber, respectively, without examination, upon payment of the fees hereinbefore provided. (Act Apr. 21, 1933, c. 349, §7; Apr. 23, 1937, c. 370, §5.)

A plumber originally seeking a state license under examination clause and thereafter acting as a plumbing inspector without renewing his license may not be so licensed on any renewal basis. Op. Atty. Gen. (339a), May 5, 1934.

Board may not legally accept a fee of $10 for examination and then if examination test is satisfactory, require and accept an additional fee of $15, but full fee must be made at time of application. Id.

5887-26. Board may revoke licenses.—The Board may revoke any license obtained through error or fraud, or if the licensee is shown to be incompetent, and for a wilful violation of any of its rules and regulations, or of local ordinances applicable to such work, or of this Act, or for knowingly aiding or abetting one to do plumbing work who is not properly licensed, or the employing by a master plumber of an unlicensed person to do plumbing work in places where licenses are required. The licensee shall have notice in writing, enumerating the charges, and be entitled to a hearing by the Board upon at least five days' notice, with the right to produce testimony. The Board may appoint, in writing, any competent person to take testimony, who shall have power to administer oaths, issue subpoenas and compel the appearance of witnesses. The decision of the Board shall be based on the testimony and records. One year from the date of revocation application may be made for the revocation. (Act Apr. 21, 1933, c. 349, §§; Apr. 23, 1937, c. 370, §6.)

5887-27. Violation a misdemeanor.—Any person violating any of the provisions of this Act or who shall wilfully make any false representation to the Board of Health in applying for a license or permit shall be guilty of a misdemeanor. (Act Apr. 21, 1933, c. 349, §5.)

5887-28. Fees to be paid to state treasurer.—All fees received under this Act shall be paid by the State Board of Health to the State Treasurer and an amount of money equal to the amount so paid over by said Board to said Treasurer is hereby appropriated out of any moneys in the State Treasury not otherwise appropriated, to said Board for the purpose of carrying out the provisions of this Act. The salaries of the necessary employees of the Board and the per diem of the examiners and inspectors herebefore provided, their expenses and all incidental expenses, occasioned by said Board in carrying out the provisions of this Act, shall be paid on order of the Board from such appropriation, but no expense or claim shall be incurred or paid in excess of the amount received from the state as herein provided. (Act Apr. 21, 1933, c. 349, §10.)

5887-29. State license—examination—application of act.—The provisions of this Act which require state licenses to engage in the work or business of plumbing and the provisions which provide for the examination and licencing to do such work or business in cities, villages, or boroughs having a population of 5,000 or more. (Apr. 21, 1933, c. 349, §11; Apr. 23, 1937, c. 370, §7.)

5887-29a. Provisions severable.—A judicial determination that any section, paragraph, provision, clause or phrase of this Act is unconstitutional shall not in any way affect the constitutionality of any other section, paragraph, provision, clause or phrase thereof. (Added Apr. 23, 1937, c. 370, §8.)

STEAMFITTERS

5887-30. Definitions.—High pressure steam piping shall mean steam piping operating under a pressure of 15 pounds or more per square inch. (Apr. 22, 1937, c. 367, §1.)

5887-30a. Industrial commission to supervise steam piping.—(a) The State Industrial Commission shall supervise all high pressure steam piping in connection with all building in this state and may prescribe minimum standards which shall be uniform.

(b) The commission shall employ inspectors and other assistants to carry out this act. (Apr. 23, 1937, c. 367, §2.)

5887-30b. City or village may provide for inspection.—Any city or village may by ordinance prescribe rules and regulations for or certain construction and inspection of high pressure steamfitting and provide that it shall not be installed in any building except in accordance with plans approved or provided in said ordinances, and that no steamfitting shall be done except minor repairs upon prescribed conditions. (Apr. 23, 1937, c. 367, §3.)

5887-30c. Shall issue permit.—Such local authority as may be designated by any such ordinance for the issuance of such steamfitting permits and such approved plans shall report to the Industrial Commission persistent or wilful violations of the same and any incompetency of a licensed steamfitter observed by such local authority. (Apr. 23, 1937, c. 367, §4.)

5887-30d. Steamfitters must be licensed.—(a) No person, firm or corporation shall engage in or work at the business of a contracting steamfitter or journeyman steamfitter unless licensed to do so by the State Industrial Commission. But no license shall be required for minor repairs on existing installations providing such repairs shall be made in compliance with the prescribed minimum standards of the State Industrial Commission. A contracting steamfitter may also work as a journeyman steamfitter. (b) No person, firm or corporation shall engage in the business of installing high pressure steam piping, or install high pressure steam piping in connection with the dealing in and selling of high pressure steam material and supplies, unless at all times a licensed steamfitter, who shall be responsible for proper installation, is in charge of the high pressure steamfitting work of such person, firm or corporation. (c) The State Industrial Commission shall prescribe rules and regulations not inconsistent herewith for the examination and licencing of steamfitters. (Apr. 23, 1937, c. 367, §5.)

Unlicensed boiler company could be employed by local licensed contractor to fabricate and install new front in old boiler. State v. Bower Co., 201 W. 605, 279 NW 407. See Dun. Dig. 6744.


5887-30e. Definitions.—(a) A journeyman steamfitter is any other than a contracting steamfitter, who, as his principal occupation, is engaged in the practical installation of high pressure steam work. (b) A contracting steamfitter is any person skilled in the planning, superintending, and the practical installation of high pressure steamfitting, and familiar with the laws, rules and regulations governing the same.

(c) A steamfitter's apprentice is any person other than a journeyman or master steamfitter, who, as his principal occupation, is engaged in learning and assisting in the installation of high pressure steamfitting. (c) A steamfitter's apprentice is any person other than a journeyman or master steamfitter, who, as his principal occupation, is engaged in learning and assisting in the installation of high pressure steamfitting. (Apr. 23, 1937, c. 367, §6.)

5887-30f. Examiners.—The Industrial Commission shall appoint three examiners, of whom one shall be a practical contracting steamfitter, one a practical journeyman steamfitter and one a member or employee of the commission, to be known as the steamfitting examiners. Each examiner, except the regular employee or the secretary of the commission, shall receive his expenses and such sum per diem for each day actually engaged as the commission shall fix by its order. (Apr. 23, 1937, c. 367, §7.)
steamfitter’s license shall be made to the State Industrial Commission, with fees. Unless the applicant is entitled to a renewal, the commission may, if it determines that the applicant is qualified, license him on or after the 1st day of January, 1937, but may issue the license only after passing a satisfactory examination by the examiners showing fitness. Fees for journeymen shall be two dollars for examination and one dollar for renewal, and for contracting steamfitter $15.00 for examination and $10.00 for renewal. Licenses shall expire December 31st, but may be renewed upon application made the following January or February, but if in February only upon payment of an additional fee of one dollar for a journeyman and five dollars for a contracting steamfitter.

(b) The commission may issue temporary revocable permits pending examination, and to assist in this may appoint agents, without compensation, and may authorize one of its examiners or high pressure steam inspectors to hold a special permit examination, the results to be reported in writing.

(c) All persons who shall furnish within 90 days after the passage of this act satisfactory evidence to the commission that they were actually engaged in the business of a contracting steamfitter or journeyman steamfitter on January 1st, 1937, shall be entitled to a license as contracting steamfitter or journeyman steamfitter, respectively, without examination, upon payment of the fees hereinafter provided. (Apr. 23, 1937, c. 367, §6.)

5887-30h. Commission may revoke licenses.—The commission may revoke any license obtained through error or fraud, or if the licensee is shown to be incompetent, or for a second willful violation of any of its rules and regulations applicable to such work. The licensee shall have notice in writing, enumerating the charges, and be entitled to a hearing by the commission within five days after notice, with the right to produce testimony. The commission may appoint, in writing, any competent person to take testimony, who shall have power to administer oaths, issue subpoenas and compel the attendance of witnesses. The decision of the commission shall be based on the testimony and records. One year from the date of revocation application may be made for a new license. (Apr. 23, 1937, c. 367, §9.)

5887-30i. Violations a misdemeanor.—Any person violating any of the provisions of this act or who shall willfully misrepresent himself to the Industrial Commission in applying for a license or permit shall be guilty of a misdemeanor. (Apr. 23, 1937, c. 367, §10.)

5887-30j. Fee to be paid to state treasurer.—All fees received under this act shall be paid by the State Industrial Commission to the state treasurer, and an amount of money equal to the amount so paid over by said commission to said treasurer is hereby appropriated, out of any funds in the state treasury not otherwise appropriated, to said commission for the purpose of carrying out the provisions of this act. The salaries and per diem of the inspectors and examiners hereinafter provided, their expenses and all incidental expenses of said commission in carrying out the provisions of this act shall be paid on order of the commission from such appropriation, but no expense or claim shall be incurred or paid in excess of the amount received from the fees herein provided. (Apr. 23, 1937, c. 367, §11.)

5887-30k. Industrial Commission of Minnesota to supervise painting.—(a) The Industrial Commission of Minnesota shall supervise painting, decorating, paperhanging, preparatory work incidental thereto, for the prevention of perpetration of fraud upon the public arising out of the failure to comply with specifications, substitution of inferior materials, for the protection of labor and materials, misrepresentation in the procuring of any contract for the furnishing of any painting or decorating, and incompetency upon the part of persons engaged in the conduct of such business or occupation as a Contracting or Journeyman painter, and may prescribe minimum standards which shall be uniform throughout the state.

(b) The Commission shall employ competent and experienced inspectors and other assistants to carry out this act. (Apr. 26, 1937, c. 425, §1.)


5887-30l. Cities or villages may adopt rules and regulations—work on one's own premises—farmers—"permanent employee".—Any city or village may by ordinance adopt the minimum rules and regulations of the Industrial Commission of Minnesota and prescribe rules and regulations in relation thereto, not however, inconsistent with any provision of this Act; provided however, that no such city or village shall prohibit painters registered by the Industrial Commission of Minnesota from engaging in or working at any business; and provided further, that this act shall not apply to any person in the performance, individually or by their permanent servants or other help of like character on the premises owned or occupied by them, of any of the services described herein as painting decorating and paperhanging or any such person performing such services, by his permanent employees, and not for hire, on or in buildings or structures owned, controlled or occupied by him, be deemed to be included within any part of this act, and provided further that this act shall not apply to any person, engaged in the business of farming, in the performance, individually, or by such farmers' hired help, on any premises owned or occupied by him, any of the services described herein as painting, decorating and paperhanging. The term “Permanent Employee” shall mean and include any employee who is given regular and continuous employment for six months or more, except that as to farmers, the term shall mean and include any person working as hired help for a definite or indefinite period. (Apr. 26, 1937, c. 425, §2.)

Employers of electric company who occasionally paint lamp posts are not required to have license. Op. Atty. Gen. (63Ga-7), July 14, 1937.

Employees to do painting for real estate firm having buildings under its control should be registered, even where period of employment is longer than six months. Op. Atty. Gen. (63Ga-15), July 16, 1937.


While it is probable that a city is impliedly authorized to require apprentices to be registered with a local authority, it is doubtful if authority exists for city to require apprentices to be licensed. Op. Atty. Gen. (63Ga-7), July 14, 1937.

Painters employed as such by railroad company to do painting on property owned by railroad should be registered. Op. Atty. Gen. (63Ga-14), July 21, 1937.


5887-30m. Local authorities to report to Industrial Commission.—Such local authority as may be designated by any such ordinance shall report to the Industrial Commission of Minnesota persistent or willful violation of the same, and any incompetency of a registered painter or his representative by said local authority. (Apr. 26, 1937, c. 425, §3.)

Responsibility for inspection in cities of the first, second and third class is with the industrial commission, and not in local authorities in such cities. Op. Atty. Gen. (63Ga-10(e)), May 4, 1937.


5887-30n. Painters must be registered.—(a) No person, firm or corporation shall engage in or work at any business or occupation as a Contracting or Journeyman painter, and shall not be licensed to do so by the Industrial Commission of Minnesota. A Contracting painter may also work as a journeyman.
(b) No person, firm or corporation shall engage in the business of painting, decorating, paperhanging, providing guard, or any incidental thereto, unless at all times registered hereunder.

(c) The Industrial Commission of Minnesota shall prescribe rules and regulations not inconsistent herewith for the examination and registration of painters and shall require contracting painters to file a surety bond of $250 to secure the payment of wages, for fraud, incompetent painting and the good faith compliance of all contracts said Contracting painter. (Apr. 26, 1937, c. 428, ss.)


A building contractor cannot take a general contract for building a house which would include painting and decorating, and do the painting work himself or through an employee, unless he is registered as a contracting painter, but he may enter into a general contract and subcontract painting to a painting contractor. Op. Atty. Gen. (63Ca-17(c)), July 12, 1937.


Journeyman painters who take occasional contracts are subject to the provisions of this act. Op. Atty. Gen. (63Ca-18(a)), Nov. 7, 1938.


A painter apprentice is any person other than a Contracting painter or Journeyman painter, not less than sixteen years of age who as his principal occupation is engaged in the practical work of painting, decorating and/or paperhanging, in the mixing and tinting of paints and painting materials, planning, designing, superintending, and estimating.

(b) A Journeyman painter is any other than a Contracting painter or apprentice, who has as his principal occupation is engaged in the practical work of painting, decorating and/or paperhanging, and in the mixing and tinting of paints and painting materials. (d) Nothing in this act shall be construed to prevent a Journeyman painter from taking an occasional contract, (Apr. 26, 1937, c. 428, §6.)

Sign painters, automobile painters, etc., are entitled to license as journeymen if they qualify under statutory license as journeymen if they qualify under statutory

Registration of any contract for the furnishing of painting or decorating, gross incompetency, and for willful violation of any of its rules or regulations or local ordinances applicable to such work. The registered shall have notice in writing enumerating the charges preferred, and shall be entitled to a hearing by the Commission upon at least five days' notice and the right to produce testimony in defense thereof. Applicant may appeal from any decision of said Commission to the District Court. The Commission may appoint, in its discretion, any competent person to take testimony, who shall have power to administer oaths, issue subpoenas, and compel the attendance of witnesses. The decision of the Commission shall be based upon the testimony and records. Application may be made for a new registration after revocation. (Apr. 26, 1937, c. 428, §§.)

Board may revoke registration—appeals—new registration. The Commission may revoke any registration obtained through error or fraud, or if the registrant has perpetrated fraud or breach of contract, including failure to comply with specifications, substitution of inferior materials, refusal to pay for labor and materials, misrepresentation in the procuring of any contract for the furnishing of painting or decorating, gross incompetency, and for willful violation of any of its rules or regulations or local ordinances applicable to such work. The registered shall have notice in writing enumerating the charges preferred, and shall be entitled to a hearing by the Commission upon at least five days' notice and the right to produce testimony in defense thereof. Applicant may appeal from any decision of said Commission to the District Court. The Commission may appoint, in its discretion, any competent person to take testimony, who shall have power to administer oaths, issue subpoenas, and compel the attendance of witnesses. The decision of the Commission shall be based upon the testimony and records. Application may be made for a new registration after revocation. (Apr. 26, 1937, c. 428, §§.)

Board should not revoke registration of a contracting painter for failure to pay for labor or materials unless judgment has been rendered by a court against contractor. Op. Atty. Gen. (63Ca-10(e)), May 4, 1937.

May revoke registration—appeals—new registration. The Commission may revoke any registration obtained through error or fraud, or if the registrant has perpetrated fraud or breach of contract, including failure to comply with specifications, substitution of inferior materials, refusal to pay for labor and materials, misrepresentation in the procuring of any contract for the furnishing of painting or decorating, gross incompetency, and for willful violation of any of its rules or regulations or local ordinances applicable to such work. The registered shall have notice in writing enumerating the charges preferred, and shall be entitled to a hearing by the Commission upon at least five days' notice and the right to produce testimony in defense thereof. Applicant may appeal from any decision of said Commission to the District Court. The Commission may appoint, in its discretion, any competent person to take testimony, who shall have power to administer oaths, issue subpoenas, and compel the attendance of witnesses. The decision of the Commission shall be based upon the testimony and records. Application may be made for a new registration after revocation. (Apr. 26, 1937, c. 428, §§.)
rrier shall transport or receive or have in possession for transportation any green pine, cedar, spruce, balsam, fir, hemlock, or other evergreen or coniferous tree intended for use as a Christmas tree, for decorations, or for other purposes unless the same has attached thereto an official tag issued by the director of the division of forestry, department of conservation, in accordance with the provisions of this act; and the provisions of this act shall not apply to nursery stock nor to trees cut or used by the state or Federal government for any lawful public purpose; and provided, further, that any person may cut within the state or import from without the state and may transport, possess within the state for his or its own use not to exceed three such trees in a single lot in one year without having the same tagged as herein provided. Provided further, that permits may be issued to dealers in such trees provided in paragraph (b) of this section, in which case the provisions hereof, except those contained in said paragraph (b), shall not apply to such permittees or trees handled by them. The term “processed,” as used herein, shall mean to the conservation of evergreen and coniferous trees, for decorations, or for other purposes may apply to the director of the division of forestry of the state, the number and character of trees intended to be dealt in as may be required by the director. With such application the applicant shall submit a fee of $200.00 payable to the state treasurer. In addition to the permit fee required hereby, such permittees shall be required to purchase tags and/or labels or stickers, and affix the same to all trees or shipments sold, or transported by them, except trees shipped out of the state of Minnesota. Under this section, the time and method of the attachment, use, and the kind of tag, label or sticker are to be prescribed by the director of forestry. Such permittee shall pay a fee at the rate of two cents for each tree required to be tagged under this section. The term “processed,” as used herein, shall mean the treatment of any tree by a chemical bath, either through dipping or spraying, for the purpose of fixing, intensifying or changing the color thereof and/or to prevent the falling off of needles therefrom. Each permittee shall display on all vehicles used in the transportation of trees handled by him, from the place of cutting to the place where such trees are processed, a copy of his permit as a permittee; he shall affix to each tree, crate or carton, for which a fee is required hereunder, such tag, label or sticker before such tree is sold, shipped, or transported by him. (Act Apr. 26, 1937, c. 470, §2.)

35887-32. What are trees.—All tops cut from trees of the kinds aforesaid and all bushes, shrubs, saplings, and seedlings of such kinds, when such trees or plants shall be destined to be trees within the meaning of the provisions of this act, but slashings or side branches cut from such trees shall not be so regarded. The fact that any such tree has been removed in a wholly or partly untrimmed condition from the immediate premises where cut shall be prima facie evidence that it is intended for transportation or sale and for use as a Christmas tree for decorations, or for other purposes, and the burden of proving the contrary shall be upon the defendant or other party so asserting in any criminal or civil action involving the provisions of this act. (Act Apr. 29, 1935, c. 331, §2; Apr. 26, 1937, c. 470, §3.)

35887-33. Tags.—Every such tag shall have printed thereon the words, “State of Minnesota, Director of the Division of Forestry, Department of Conservation, Evergreen Tree Tag,” together with the year of issue in prominent letters, and such permittee as the director may require for the name and address of the person attaching the same, and may otherwise be in such form and may have printed thereon such appropriate statements or devices as the director may prescribe, subject to the provisions of this act. (Act Apr. 29, 1935, c. 331, §3.)

35887-34. Issuance of tags.—Such tags shall be issued by the director of the division of forestry, department of conservation, or by any officer or agent authorized by him, to any person, or by any officer or agent authorized by him, to any person, or by any officer or agent authorized by him, to any person required or entitled to obtain and use the same as herein provided, upon written application made by such person or by his authorized agent as hereinafter provided, and upon payment of a fee of two cents per tag. Such application shall be in such form as to describe, subject to the provisions hereof. It shall state the name and address of the applicant and the number and kind of trees to be tagged, and shall state generally how and where the same are to be disposed of. In the case of trees cut on or to be cut within the state, the application shall set forth a description of the trees, including the number, kind, and character of the same, with the name and address of the person from whom obtained. The application shall give such other pertinent information as the director may require. The applicant shall submit with the application proof that he is the lawful owner of the trees therein referred to and has lawful authority to dispose of the same as proposed and that all the provisions of the laws of the state relating thereto have been complied with. And, in the case of imported trees, that all the provisions of the laws of the state or country wherefrom the same were obtained relating thereto have been complied with. The director or authorized officer or agent receiving the application may request further investigation as he deems necessary for the purpose of verifying the statements of the application and determining the sufficiency of the proof submitted therewith. The applicant may be required to verify upon oath the statements of the application or accompanying proof, or any part thereof. If the director or authorized officer or agent receiving the application is satisfied that the facts therein stated are true and that the proof submitted therewith is sufficient and that the applicant is entitled to receive the tags applied for under the provisions of this act, he shall affix the tags and, upon payment of the fee hereinbefore prescribed. (Act Apr. 29, 1935, c. 331, §4; Apr. 26, 1937, c. 470, §4.)

35887-35. Owner to affix tags.—(a) Before any such tree cut within the state is removed from the premises where cut, whether intended for transportation, sale, or use within or without the state, it shall be the duty of the owner of such tree to affix or cause to be affixed one of such tags thereto, and to have his name and address plainly written, printed or stamped upon such tag. (b) Before any such tree imported from without the state is shipped or transported within the state after arrival at its initial destination where it was imported or is separated from the original lot shipment or consignment in which it was imported, or is offer-
ed for sale, or is used, the owner shall affix or cause to be affixed one of such tags thereto; provided, that by insertion in the discretion of the owner, or any officer or agent authorized to issue tags hereunder, any unbroken lot, shipment, or consignment of imported trees may be reshipped or transported from its initial destination to any other point within the state without tags. Such reshipment shall be granted upon the charge upon like application and showing as herein provided for the issuance of tags, but such permission shall not relieve the owner from the obligation to tag such trees as herein provided after the termination of such reshipment or transportation.

(c) Each tag shall be affixed as herein provided by securely fastening the same to the trunk or stem of the tree with wire at a point above the lowest branch or branches, unless some other method shall be prescribed by the director of forestry by instructions printed upon the tag, in which case the method so prescribed shall be followed.

(d) No person shall remove any such tag from any tree until such tree has actually been placed in use by the ultimate purchaser or user thereof, or until it is no longer required or available for such use, or, in the case of a tree shipped or transported out of the state, until it has left the state.

(e) All trees which do not conform with the provisions already declared to be contraband and subject to seizure and confiscation as hereinafter provided, (Apr. 29, 1935, c. 331, §5; Apr. 26, 1937, c. 470, §7.)


§5887-36. Powers and duties of directors, forest rangers, etc.—In addition to other powers and duties herein prescribed, the director, and any forest ranger, forest patrolman, game warden, or other officer of the department of conservation, in the exercise of the power to seize and hold, and to dispose of any tree, until it is no longer required or available for such use, or, in the case of a tree shipped or transported out of the state, until it has left the state.

(f) All trees which do not conform with the provisions already declared to be contraband and subject to seizure and confiscation as hereinafter provided, (Apr. 29, 1935, c. 331, §5; Apr. 26, 1937, c. 470, §7.)

Confiscation of coniferous trees under this act may include two or more trees when packed, banded, dried, or preserved together, or when packed in crate, box, or other receptacle or otherwise commingled and when one or more thereof are contraband, then and in such case the whole bundle or parcel thereof shall be deemed contraband, although a part of the trees in such bundle or parcel may have tags affixed thereto. (Apr. 29, 1935, c. 331, §5; Apr. 26, 1937, c. 470, §6.)

Sec. 6 of Act Apr. 26, 1937, cited. amends only paragraph (b) of this section.

§5887-37. Main issue search warrants.—Any court or magistrate having authority to issue warrants in criminal cases may issue a search warrant in like manner as provided by law for search warrants for stolen property to search for and seize any trees alleged upon sufficient grounds to have been affected by or involved in any offense under this act. Such warrant may be directed to and may be executed by any officer herein authorized to make arrests and seizures. (Act Apr. 29, 1935, c. 331, §7.)

§5887-38. Officers may make complaints.—Any officer discovering or having knowledge of offense under this act shall make forthwith complaint to the officer discovering or having knowledge of offense uninvolved in any offense under this act. Such complaint shall be directed to the court or magistrate having authority to issue search warrants in such cases, and shall be transmitted through the director to the state treasurer. All such complaints are hereby appropriated as under Section 6 of Act Apr. 29, 1935, c. 331, §6.

§5887-39. Records.—Records shall be kept by the director and by every officer and agent authorized by him to issue tags under this act, by showing the dates of issue of all such tags, the persons to whom issued, the number issued, the amount of fees received, and such other pertinent information as the director may prescribe. The director may require such reports from such officers and agents as he deems necessary. Such reports and records shall be filed in the office of the director. (Act Apr. 29, 1936, c. 331, §9.)

§5887-40. Fees to be paid into State Treasury.—All fees received from the issuance of such tags, labels or stickers and the sale of permits shall be promptly transmitted through the director to the state treasurer. All such fees are hereby appropriated to the director for salaries and other expenses incurred in connection with the enforcement of this act, subject to the provisions of Law 1925, Chapter 426 [§§53-1 to 53-52], and acts amendatory thereof. (Act Apr. 29, 1935, c. 331, §10; Apr. 26, 1937, c. 470, §8.)

§5887-41. False statements a gross misdemeanor.—(a) Any person who shall make any false statement in any application or other statement for the purpose of obtaining any such tag shall be guilty of a gross misdemeanor.

(b) Any person who shall affix any such tag to any such tree other than a tree covered by the application upon which the tag was issued, or who shall remove, ship, transport, offer for sale, sell, purchase for re-sale, or have in possession for transportation or sale any such tree bearing any such tag other than a tag issued upon an application covering such tree, knowing that such tag was not issued for such purpose, shall be guilty of a gross misdemeanor.

(c) Any person who shall without lawful authority place upon any such tag any name being or purporting to be the name of a person authorized to receive and affix such tag as herein provided, or who shall place upon any such tag any false, forged, or fictitious name purporting to be the name of a person authorized to receive and affix such tag as herein provided, shall be guilty of a gross misdemeanor.

(d) Any person who, with intent that the same shall be affixed to any tree required to be tagged as herein provided, shall forge or counterfeit any tag....
issued hereunder, or make any tag substantially simul-
tated, counterfeit, or simulated, or issued hereunder, or make any tag substantially simu-
... of a gross misdemeanor.

Such bond shall be conditioned that the obligor will
faithfully conform to and abide by the provisions of this act and will pay to the state and to any such per-
son or persons, any and all monies that may be due,
owing to the state or to such person or persons from said obligor under and by virtue of the provi-
sions of this act.

If the secretary of state shall find at any time that the bond is insecure or exhausted, or otherwise
doubtful, an additional bond, to be approved by him, with one or more sutures, and of the character spec-
ified herein, in the sum of not more than $5,000.00, shall be filed by the obligor within 10 days after writ-
ten demand upon the obligor by the secretary of state.

§5887-54. Secretary of State may examine records.
—Upon written complaint of any person feeling ag-
grieved and for the purpose of recovering violations of this act or securing information lawfully required by him hereunder, the secretary of state may at any time, either personally or by a person or persons duly designated by him, examine the bonds, accounts, rec-
ords and files used therein, as to the accounts of the
complaining party, of every obligor and of every per-
son, co-partnership, association and/or corporation
which shall be engaged in such business, whether such
person, co-partnership, association or corporation
shall act or claim to act as principal or agent under
or without the authority of this act. Or, the secre-
tary of state may forward such complaint to the coun-
ty attorney of the county in which such business is
situated and the county attorney of such county shall
examine into such matters as heretofore enumerated and make report thereof to the secre-
tary of state. The secretary of state and such county at-
torney, with all persons duly designated by them,
shall have the authority to require the attendance of,
and to examine under oath all persons whose testi-
mony he may require, relative to such business.

It shall be the duty of the county attorney, either
before or after making such report to the secretary of
state, to prosecute any such person, co-partnership,
association or corporation found to have violated
the provisions of this act, or any other law of the state of
Minnesota, in the sum of not more than $5,000.00,
doubtful, an additional bond, to be approved by him,
with one or more sutures, and of the character spec-
ified herein, in the sum of not more than $5,000.00,
shall be filed by the obligor within 10 days after writ-
ten demand upon the obligor by the secretary of state.

§5887-55. Shall keep accounts.—The obligor shall
keep and use in his business such books, accounts and
records as will enable the secretary of state and/or the
county attorney in such county to determine whether
such obligor is complying with the provisions of this act.
Every obligor shall preserve such books, ac-
counts and records, including cards used in the card
system, if any, for at least two years after making
the final entry on any contract recorded therein.

§5887-56. Shall make statement of account.—Every obligor shall
make a statement of account.

Deliver to any debtor at the time the contract is
made, a statement in the English language showing in
clear and distinct terms, the amount of the indebted-
ess claimed by the debtor to be owing to his credit-
ors, the date of the contract and its maturity, the
nature of the security, if any, for the contract, the
name and address of the debtor and of the obligor
and of the agreed total charges for the service ren-
ders, and the date of the contract.

Within 35 days after the payment of any monies by
the debtor to the obligor, the obligor shall pay to the
creditors of the debtor their proportionate share
due them in accordance with the contract.

Give to the debtor a plain and complete receipt
for all payments made on account of such contract at
the time such payments are made.
§ 5887-57. Certain acts a misdemeanor.—Any person, co-partnership, association or corporation and the several members, officers, directors, agents and employees thereof who shall violate or participate in the violation of any of the provisions of this act shall be guilty of a misdemeanor.

§ 5887-58. Application of act.—This act shall not apply to any attorney-at-law duly authorized to practice in this state and resident herein, nor to any person, co-partnership, association or corporation doing business under the laws of any state or of the United States relating to banks, savings banks, trust companies, building and loan associations or credit unions, and nothing in this act contained shall permit or be construed as authorizing any person, not otherwise duly admitted to practice law in this state, to engage in the practice of law. (Act Apr. 29, 1935, c. 347, §7.)

§ 5887-59. Provisions severable.—If any clause, sentence, section, provision or part of this act shall be adjudged to be unconstitutional or invalid for any reason by any court of competent jurisdiction, such judgment shall not impair, affect or invalidate the remainder of this act, which shall remain in full force and effect thereafter. (Act Apr. 29, 1935, c. 347, §8.)

POULTRY FLOCK INSPECTORS

§ 5887-60. Poultry flock inspectors.—For the purpose of this act, any persons who, for compensation or without compensation, shall cull poultry flocks, other than those belonging to himself, for production or for standard of perfection or merit; and any person who shall, for compensation or without compensation, engage in or purport to be engaged in the culling of poultry, or holds himself out as a culler of poultry and who, at the same time, is engaged in the production and for standard of perfection or merit; and any person, not otherwise duly admitted to practice law in this state, to engage in the practice of law. (Act Apr. 29, 1935, c. 347, §6.)

§ 5887-61. Application of act.—This act shall not apply to any attorney-at-law duly authorized to practice in this state and resident herein, nor to any person, co-partnership, association or corporation doing business under the laws of any state or of the United States relating to banks, savings banks, trust companies, building and loan associations or credit unions, and nothing in this act contained shall permit or be construed as authorizing any person, not otherwise duly admitted to practice law in this state, to engage in the practice of law. (Act Apr. 29, 1935, c. 347, §7.)

§ 5887-62. Must be licensed.—No person shall act or hold himself out as a poultry flock inspector, as defined and limited in this act unless he shall be licensed to act as such by the Minnesota poultry improvement board. (Act Apr. 29, 1935, c. 226, §2; Jan. 24, 1936, Ex. Ses., c. 91, §1.)

§ 5887-63. Qualifications.—Licenses to act as a poultry flock inspector shall be issued by the Minnesota poultry improvement board to such reputable persons as shall apply therefor, pay the prescribed fee and comply with the conditions herein specified to wit:

(a) 21 years or more of age;
(b) A citizen of the United States;
(c) Of good moral character;
(d) Shall have passed an examination given by said board;
(e) Shall have paid a fee of five dollars. (Act Apr. 20, 1935, c. 226, §3.)

§ 5887-64. Application—Licenses—Fees.—Any person desiring a license as a poultry flock inspector shall file his application to take an examination therefor, together with his license fee of five dollars, with the board, on such application form as the board shall prescribe. (Act Apr. 20, 1935, c. 226, §4.)

§ 5887-65. Examinations.—The board shall conduct examinations for poultry flock inspectors at least twice a year and at such other times as it deems necessary and advisable. Such examinations shall be in such form as the board shall determine. (Act Apr. 20, 1935, c. 226, §5.)

§ 5887-66. May revoke licenses.—The board shall have the authority to revoke a license after hearing and for cause and upon ten days' written notice of hearing served either personally or by registered mail upon the licensee. (Act Apr. 20, 1935, c. 226, §6.)

§ 5887-67. Renewals.—Every such license shall be renewed on or before December 31st of each year and for renewal shall cost five dollars. If such license is not renewed on or before such date a penalty of two dollars shall attach and if not renewed within three months from such date, the holder of such license may be compelled by the board to take another examination before his license is renewed. (Act Apr. 20, 1935, c. 226, §7.)

§ 5887-68. Fees to general revenue fund.—The fees herein provided for shall be deposited in the general revenue fund. (Act Apr. 20, 1935, c. 226, §8.)

§ 5887-69. Board to make rules.—The board shall have the authority to make reasonable rules and regulations to enforce the provisions of this act. (Act Apr. 20, 1935, c. 226, §9.)

§ 5887-70. Violations a misdemeanor.—Anyone acting as a poultry flock inspector within the meaning of this act without a license therefor, shall be guilty of a misdemeanor and it shall be the duty of the county attorney of each county to prosecute all violations of this act within his county. (Act Apr. 20, 1935, c. 226, §10.)

§ 5887-71. Application of act.—The provisions of this act shall not apply to any poultry flocks, or to approved poultry extension specialists or county agricultural agents or home demonstration agents. (Act Apr. 20, 1935, c. 226, §11.)