

MINNESOTA STATUTES 1953 ANNOTATIONS

145.49 PROVISIONS RELATING TO PUBLIC HEALTH

376

145.49 POWERS TRANSFERRED

HISTORY. 1949 c 405 s 3.

145.50 RESPONSIBLE TO LOCAL BOARD OF HEALTH

HISTORY. 1949 c 405 s 4.

145.51 FUNDS APPROPRIATED AND FEES COLLECTED

HISTORY. 1949 c 405 s 5.

145.52 COUNTY HEALTH DEPARTMENT; ORGANIZATION, DUTIES

HISTORY. 1949 c 405 s 6; 1951 c 530 s 1.

145.53 RULES AND REGULATIONS

HISTORY. 1949 c 405 s 7.

145.54 SUPERVISED BY STATE BOARD OF HEALTH

HISTORY. 1949 c 405 s 8.

Statutory travel allowances are payable to members of the board of the county department of health. OAG July 22, 1949 (104-A-6).

CHAPTER 146

BASIC SCIENCES

146.01 BASIC SCIENCES; PRACTICING HEALING AND PRACTICE OF HEALING

A hospital cannot be licensed to practice medicine. A board of education cannot employ a hospital to render services customarily rendered by a school physician. OAG Sept. 2, 1947 (156-A-3).

A board of education cannot employ a hospital to render services customarily rendered by a physician. A hospital is not licensed to practice medicine. OAG Sept. 2, 1947 (166-A-3).

The basic science board may control the certificate of registration of one to whom a basic science certificate has been issued when such person has been convicted of manslaughter in the first degree, following the death of a patient upon whom the certificate-holder had performed a criminal abortion. OAG Aug. 27, 1947 (303-B).

If an applicant desires to take the examination for registration in this state it is incumbent upon him to pass an examination in each of the basic sciences listed under the statutory definition of basic sciences. If an applicant desires to procure a certificate under the provisions of M.S.A., section 146.09, dealing with reciprocity, it is incumbent upon him to present to the board sufficient and satisfactory evidence of having passed examinations in the basic sciences as defined in Minnesota Statutes, which does not include the subject of pharmacology. OAG Aug. 2, 1948 (303-B).

The basic science board may accept grades of foreign state examiners in certain basic science subjects as evidence of applicant's qualification in those particular subjects for purposes of Minnesota examination. OAG Sept. 30, 1949 (303-B).

Examiners in basic sciences may accept the certificate of registration in basic science of the state of New York where the requisites of such examination are

equivalent to those of Minnesota. But if the applicant desires to engage in the practice of chiropractic in the state, he must take the examination provided in our state laws. OAG Sept. 30, 1949 (303-D).

146.05 ORGANIZATION OF BOARD

The state board of examiners in basic sciences is authorized to prescribe such reasonable rules and regulations relative to the examination of applicants in the basic sciences as may be found necessary for the performance of its duties. The administrative rule can neither enlarge upon nor delimit the right expressly conferred by the statute. The rules in question limit the exercise of the person applying for examination unreasonably and are invalid and must yield to the express revision of the statute. OAG March 30, 1949 (303-B).

Employees of the board are subject to civil service law. OAG April 2, 1952 (644-B).

146.06 EXAMINATIONS

No partial reciprocal arrangement providing for examination in subjects not required by other citizens can be made under the provisions of section 146.09; but under section 146.06 the board in its discretion may determine that the issuance of a signature by another state is a sufficient practical test of the proficiency of the applicant in those subjects for which examination is required by the sister state and in such case, the Minnesota board may limit its written and other tests to the subjects for which examination is not required by the sister state. OAG Dec. 2, 1948 (303-A-11).

The fee to be charged for examination of an applicant holding a certificate in basic sciences from another state limited to written and other tests and other subjects not required by the other state is \$15. If there has been an overcharge, refund should be made in accordance with section 6.136. OAG Dec. 21, 1948 (303-A-11).

The basic science board may accept grades of foreign state examiners in certain basic science subjects as evidence of applicant's qualification in those particular subjects for purposes of Minnesota examination. OAG Sept. 30, 1949 (303-B).

The basic science board in determining whether an applicant meets the requirement of the reciprocal statute, section 146.09, need not require that he shall have passed examination in each subject in the other state with a 75 percent average. Unless the board determines that the applicant can be admitted under the provisions of section 146.09 then section 146.06 applies and an examination must be given and the charges limited to \$15. OAG Nov. 22, 1950 (303-B).

146.07 CERTIFICATES OF REGISTRATION

A statute authorizing the cancellation of a physician's license for failure to pay the annual registration fee for three consecutive years and requiring, as a condition precedent to reinstatement, that the physician make such a showing as would entitle him to issuance of an original license is illegal, the cancellation and reinstatement provisions of the law being harsh, unwarranted, and unreasonable. *Lipset v Davis*, 119 Col. 335, 203 P(2d) 730.

The basic science board may cancel the certificate of registration of one to whom a basic science certificate has been issued when such person has been convicted of manslaughter in the first degree, following the death of a patient upon whom the certificate-holder had performed a criminal abortion. OAG Aug. 27, 1947 (303-B).

146.09 CERTIFICATES WITHOUT EXAMINATION TO PRACTITIONERS FROM OTHER STATES

No partial reciprocal arrangement providing for examination in subjects nor required by other citizens can be made under the provisions of section 146.09; but under section 146.06 the board in its discretion may determine that the issuance of a signature by another state is a sufficient practical test of the proficiency of the appli-

MINNESOTA STATUTES 1953 ANNOTATIONS

146.12 BASIC SCIENCES

378

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If an applicant desires to take the examination for registration in this state it is incumbent upon him to pass an examination in each of the basic sciences listed under the statutory definition of basic sciences. If an applicant desires to procure a certificate under the provisions of section 146.09, dealing with reciprocity, it is incumbent upon him to present to the board sufficient and satisfactory evidence of having passed examinations in the basic sciences as defined in Minnesota Statutes, which does not include the subject of pharmacology. OAG Aug. 2, 1948 (303-B).

The basic science board in determining whether an applicant meets the requirement of the reciprocal statute, section 146.09, need not require that he shall have passed examination in each subject in the other state with a 75 percent average. Unless the board determines that the applicant can be admitted under the provisions of section 146.09 then section 146.06 applies and an examination must be given and the charges limited to \$15. OAG Nov. 22, 1950 (303-B).

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Examiners in basic sciences may accept the certificate of registration in basic science of the state of New York where the requisites of such examination are equivalent to those of Minnesota. But if the applicant desires to engage in the practice of chiropractic in the state, he must take the examination provided in our state laws. OAG Sept. 30, 1949 (303-D).

146.12 REGISTRATION IN BASIC SCIENCES REQUIRED FOR LICENSES

County public health nursing service. 33 MLR 50.

CHAPTER 147

PHYSICIANS, SURGEONS

147.01 BOARD OF MEDICAL EXAMINERS

Resident interne of hospital being a special employee of operating surgeon. 34 MLR 266.

Corporation in medicine; the medical cooperative. 35 MLR 373.

Where there was neither allegation nor proof by the buyer of damages for breach of contract or sale and the allegations and proof related only to consequential damages which were not recoverable under the terms of the contract, the breach if there was one, and the failure to grant any relief therefor presented no ground for reversal of judgment for the seller. An appellate court will not reverse where the appellant is entitled to nominal damages and nothing more unless the right asserted is such that it can be vindicated only by recovery of such damages or some sort of relief ancillary thereto. *Despatch Oven Co. v Rauenhorst*, 229 M 436, 40 NW(2d) 73.

A dismissal at the close of plaintiff's opening statement is rarely granted, and the power to dismiss in such a case is to be sparingly exercised. Such motion is only granted in those cases where counsel has deliberately conceded facts which, if proved, would not entitle plaintiff to a verdict, and then only after counsel has been given every opportunity to qualify, explain, and amplify his statements. *Johnson v Larson*, 234 M 505, 49 NW(2d) 8.