

# MINNESOTA STATUTES 1953 ANNOTATIONS

## 146.12 BASIC SCIENCES

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cant 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).

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).

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 examiners. 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).

## 146.12 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.

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PHYSICIANS, SURGEONS 147.07

Formal exception need not be taken to inadvertent omission or error in trial court's instructions, but such omission or error is not ground for granting a new trial unless court's attention has been seasonably directed thereto in some manner. *Chapman v Dorsey*, 235 M 25, 49 NW(2d) 4.

In a malpractice action, photographs showing the patient's injured foot were relevant on the issue of the extent of the patient's damage where there was no indication that the photographs were distorted or not an accurate representation of the foot at the time they were made. Such photographs are helpful as an aid to valuable description of objects and conditions provided they are relevant to some material issue. *Moeller v Hauser*, 237 M 368, 54 NW(2d) 639.

Where the sole reason for reversing and remanding on a prior repeal was the appellate court's inability to determine from the record whether the trial court had properly applied the law to the evidence, a subsequent appeal from an order predicated upon the same findings and the same evidence is dismissed, where the record reveals that the trial court properly applied the law in each instance. An adjudication on a first appeal is final and is the law of the case on all subsequent appeals in which the same facts are involved. *Cade v Hoff*, 237 M 313, 58 NW(2d) 57.

Where the trial court's instructions were not excepted to by either party they became "the law of the case" and the court of appeals must determine the question of sufficiency of the evidence by the law as so announced. Where the jury returned a general verdict in favor of the plaintiff the court of appeals must assume that the jury resolved all conflicts in the evidence in favor of the plaintiff. *Carter v Riley*, 186 F(2d) 148.

## 147.02 EXAMINATION; LICENSE; REVOCATION

HISTORY. 1887 c 9 s 3; 1895 c 89 s 3; 1909 c 474 s 1; 1927 c 188 s 2; 1937 c 203 s 1; 1953 c 290 s 1.

Malpractice; civil liability of physicians. 35 MLR 186.

An attending physician is not relieved of the duty to call upon a patient merely because he is receiving care in an excellent hospital under the care of a qualified physician and nurses. *Moeller v Hauser*, 237 M 368, 54 NW(2d) 639.

Admission of testimony in malpractice cases. See 74 ALR 1312; *Moehlenbrock v Parke, Davis Co.*, 145 M 100, 176 NW 169; *Harju v Allen*, 146 M 23, 177 NW 1015; *Prevey v Watzke*, 182 M 232, 234 NW 470; *Schmit v Esser*, 183 M 354, 236 NW 622.

A statute authorizing the cancelation 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 cancelation and reinstatement provisions of the law being harsh, unwarranted, and unreasonable. *Lipset v Davis*, 119 Col. 335, 203 P(2d) 730.

## 147.03 LICENSES; BOARDS OF OTHER STATES, NATIONAL BOARD

HISTORY. 1905 c 236 s 1; 1913 c 139 s 1; 1919 c 251 s 1; 1927 c 188 s 3; 1953 c 290 s 2.

## 147.05 SECRETARY; DUTIES, COMPENSATION, EXPENSES

HISTORY. 1905 c 236 s 1; 1913 c 139 s 4; 1921 c 68 s 2; 1949 c 424 s 1; 1953 c 290 s 3.

## 147.07 OFFENSES

HISTORY. 1911 c 260 s 1; 1917 c 362 s 1.