

CHAPTER 151

PHARMACY

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PHARMACY LAW OF 1937

151.01 DEFINITIONS. Subdivision 1. **Words, terms, and phrases.** Unless the language or context clearly indicates that a different meaning is intended, the following words, terms, and phrases, for the purposes of this chapter, shall be given the meanings subjoined to them.

Subd. 2. Pharmacy. The term "pharmacy" means 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.

Subd. 3. Pharmacist. The term "pharmacist" means a natural person licensed by the state board of pharmacy to prepare, compound, dispense, and sell drugs, medicines, chemicals, and poisons.

Subd. 4. Assistant pharmacist. The term "assistant pharmacist" means a natural person licensed as such by the state board of pharmacy prior to January 1, 1930, to prepare, compound, dispense, and sell drugs, medicines, chemicals, and poisons in a pharmacy having a pharmacist in charge.

Subd. 5. Drug. The term "drug" means all medicinal substances and preparations recognized by the United States pharmacopoeia and national formulary, or any revision thereof, and all substances and preparations intended for external and internal use in the cure, mitigation, treatment, or prevention of disease in man or 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.

Subd. 6. Medicine. The term "medicine" means any remedial agent that has the property of curing, preventing, treating, or mitigating diseases, or that is used for that purpose.

Subd. 7. Poisons. The term "poisons" means any substance which, when introduced into the system, directly or by absorption, produces violent, morbid, or fatal changes, or which destroys living tissue with which it comes in contact.

Subd. 8. Chemical. The term "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.

Subd. 9. Board or state board of pharmacy. The term "board" or "state board of pharmacy" means the Minnesota state board of pharmacy.

Subd. 10. Secretary. The term "secretary" means the secretary of the Minnesota state board of pharmacy.

Subd. 11. Person. The term "person" includes every individual, copartnership, corporation, or association.

Subd. 12. Wholesale. The term "wholesale" means and includes any sale for the purpose of re-sale.

Subd. 13. **Commercial purposes.** The phrase "commercial purposes" means the ordinary purposes of trade, agriculture, industry, and commerce, exclusive of the practices of medicine and pharmacy.

Subd. 14. **Manufacturing.** The term "manufacturing" in places other than a pharmacy, means and includes the production, quality control and standardization by mechanical, physical, chemical, or pharmaceutical means, packing, repacking, tableting, encapsulating, labeling, relabeling, filling or by any other process, of all drugs, medicines, chemicals, or poisons, without exception, for medicinal purposes.

Subd. 15. **Pharmacist intern.** The term "pharmacist intern" means (1) a natural person satisfactorily progressing toward the degree in pharmacy required for licensure, or (2) a graduate of the university of Minnesota college of pharmacy, or other pharmacy college approved by the board, who is registered by the state board of pharmacy for the purpose of obtaining practical experience as a requirement for licensure as a pharmacist, or (3) a qualified applicant awaiting examination for licensure.

Subd. 16. **Prescription.** The term "prescription" means a signed written order, or an oral order reduced to writing, given by a practitioner licensed to prescribe drugs for patients in the course of his practice, issued for an individual patient and containing the following: the date of issue, name and address of the patient, name and quantity of the drug prescribed, directions for use, and the name and address of the prescriber.

[1937 c 354 s 1; 1961 c 394 s 1; 1967 c 377 s 1, 2] (5808-1)

151.02 STATE BOARD OF PHARMACY. The Minnesota state board of pharmacy shall consist of five pharmacists actively engaged in the practice of pharmacy in this state, each of whom shall have had at least five consecutive years of practical experience as a pharmacist immediately preceding his appointment.

[1937 c. 354 s. 2] (5808-2)

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

[1937 c. 354 s. 3] (5808-3)

151.04 RECOMMENDED NAMES. The Minnesota state pharmaceutical association shall recommend five names for each appointment to be made, from which list the governor may select.

[1937 c. 354 s. 4] (5808-4)

151.05 ELECTION OF OFFICERS. The board shall annually elect one of its members as president and one of its members as vice-president, and a pharmacist, who may or may not be a member, as secretary.

[1937 c. 354 s. 5] (5808-5)

151.06 POWERS AND DUTIES. The state board of pharmacy shall have the power and it shall be its duty:

- (1) To regulate the practice of pharmacy;
- (2) To regulate the sale of drugs, medicines, chemicals, and poisons;
- (3) To regulate the quality of all drugs and medicines dispensed in this state, using the United States pharmacopeia and the national formulary, or any revisions thereof, as the standard;
- (4) It may, by its duly authorized representative, enter and inspect any and all places where drugs, medicine, chemicals, or poisons are sold, vended, given away, compounded, dispensed, or manufactured; it shall be unlawful for any persons to refuse to permit or otherwise prevent such representative from entering such places and making such inspection;
- (5) To examine and register as pharmacists all applicants whom it shall deem qualified to be such;
- (6) To suspend or revoke pharmacist or assistant pharmacist licenses issued by it, upon any of the following grounds:
 - (a) Fraud or deception in connection with the securing of such license;
 - (b) Conviction of the holder in any court of a felony;

(c) Conviction of the holder in any court of an offense involving moral turpitude;

(d) Habitual indulgence in the use of narcotics or intoxicating liquors;

(e) Unprofessional conduct or conduct endangering public health;

(f) Gross immorality;

(g) Employing, assisting, or enabling in any manner an unlicensed person to practice pharmacy;

(h) For violation of any of the provisions of this chapter, provided that before the board shall order any such suspension or revocation it shall, on its own motion, cause an investigation to be made and shall issue a citation under the seal of the board and signed by the secretary directing and requiring the holder of the license to show cause on a certain day, why his license should not be suspended or revoked on the grounds specified therein; and the holder of the license shall be given 20 days notice of the hearing and the licensee shall be entitled to be represented by legal counsel; (A certified copy of the conviction of any pharmacist or assistant pharmacist shall be conclusive evidence of the conviction in any proceeding before the board. A stenographic record shall be kept of all proceedings. The action of the board in suspending or revoking a license hereunder shall be subject to review at the election of the licensee by a writ of certiorari brought in the district court of Hennepin county, or by appeal to that court or the district court of the county in which the licensee resides, in which event the matter shall be tried de novo. The action of the board shall stand until otherwise directed by the district court or the supreme court of the state upon appeal. Any pharmacist or assistant pharmacist whose license has been suspended or revoked may be reinstated or a new license issued to him, as the case may be, when in the discretion of the board the action is warranted, provided such pharmacist or assistant pharmacist shall pay all costs of the proceedings resulting in the suspension or revocation of the license and reinstatement of the new license and, in addition thereto, pay a fee of \$25);

(7) On or before October 1 in each even numbered year to make a biennial report to the governor with such information and recommendations as it deems proper, giving the names of all pharmacists registered during the two preceding fiscal years, and the items of its receipts and disbursements;

(8) To employ necessary assistants and make rules for the conduct of its business;

(9) To perform such other duties and exercise such other powers as the provisions of the act may require;

(10) For the purposes aforesaid it shall be the duty of the board to make and publish uniform rules and regulations not inconsistent herewith for carrying out and enforcing the provisions of this chapter.

[1937 c 354 s 6; 1941 c 78 s 1; 1955 c 847 s 16] (5808-6)

151.07 MEETINGS; EXAMINATION FEE. The board shall meet at least once in every six months to examine applicants for registration and to transact its other business, giving reasonable notice of all examinations by mail to known applicants therefor. The secretary shall record the names of all persons registered by the board, together with the grounds upon which the right of each to registration was claimed. The fee for examination shall be in such amount as the board may determine not exceeding the sum of \$50, which fee may in the discretion of the board be returned to applicants not taking the examination.

[1937 c 354 s 7; 1953 c 76 s 1; 1961 c 394 s 2] (5808-7)

151.08 COMPENSATION OF BOARD MEMBERS. Each member of the board shall receive compensation for his actual services as such in an amount to be determined by the board but not to exceed \$35 per day and his necessary expenses in attending meetings.

[1937 c 354 s 8; 1953 c 76 s 2; 1961 c 394 s 3] (5808-8)

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

[1937 c. 354 s. 9] (5808-9)

151.10 QUALIFICATIONS OF APPLICANT. 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 21 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 in good standing of which the board shall be the judge and shall have at least one year of practical experience in pharmacy. Any person who was qualified and lawfully entitled to be examined by the board as a pharmacist under the laws in force immediately prior to the enactment of Laws 1937, Chapter 354, and who had filed sworn statement of proof with the board prior to March 29, 1930, but was disqualified from taking such examination because of the enactment of Laws 1937, Chapter 354, may take such pharmacists' examination up to and including two years after March 28, 1941.

[1937 c. 354 s. 10; 1941 c. 78 s. 2] (5808-10)

151.11 REGISTERED ASSISTANT PHARMACIST TO CONTINUE IN CERTAIN CASES. It shall be lawful for all persons duly registered as assistant pharmacists prior to January 1, 1930, to continue to act as such and nothing herein shall prevent such persons from taking the examination for pharmacists upon proper application and payment of the examination fee.

[1937 c. 354 s. 11] (5808-11)

151.12 RECIPROCITY; REGISTRATION FEE. The board may in its discretion grant registration without examination to any pharmacist licensed by the board of pharmacy or a similar board of another state which accords similar recognition to licensees of this state; provided, the requirements for registration in such other state are in the opinion of the board equivalent to those herein provided. The fee for registration shall be in such amount as the board may determine not exceeding the sum of \$50.

[1937 c. 354 s. 12; 1961 c. 394 s. 4] (5808-12)

151.13 ANNUAL RENEWAL FEE. 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 \$15 for a pharmacist and \$3 for an assistant pharmacist. It shall be unlawful for any such person who refuses or fails to pay such renewal fee to practice pharmacy in this state. Every certificate and every renewal shall expire at the time therein prescribed, not later than one year from its date.

[1937 c. 354 s. 13; 1961 c. 394 s. 5] (5808-13)

151.14 REINSTATEMENTS. Any person who has been registered by the board and has defaulted in the payment of the renewal fee may be reinstated within two years of such default without examination, upon payment of the arrears.

[1937 c. 354 s. 14] (5808-14)

151.15 COMPOUNDING DRUGS UNLAWFUL UNDER CERTAIN CONDITIONS. It shall be unlawful for any person to compound, dispense, vend, or sell at retail, drugs, medicines, chemicals, or poisons in any place other than a pharmacy, except as provided in this chapter.

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

[1937 c. 354 s. 16; 1967 c. 377 s. 3] (5808-16)

151.16 VIOLATION A GROSS MISDEMEANOR. Every person who violates any of the provisions of section 151.15, when the death of a human being results from such violation shall be guilty of a gross misdemeanor. This section is supplementary to existing laws relating to homicide and not a repeal thereof.

[1937 c. 354 s. 17] (5808-17)

151.17 UNLAWFUL USE OF "PHARMACIST." It shall be unlawful for any person to falsely assume or pretend to the title of pharmacist.

[1937 c. 354 s. 18] (5808-18)

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

[1937 c. 354 s. 19] (5808-19)

151.19 REGISTRATION OF PHARMACIES; LICENSE, FEE. The board shall require and provide for the annual registration of every pharmacy now or hereafter doing business within this state. Upon the payment of a fee, not to exceed \$20, 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 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.

[1937 c 354 s 20; 1953 c 76 s 3; 1961 c 394 s 6] (5808-20)

151.20 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 this chapter or for a felony, or, if a natural person, whose pharmacist license has been revoked under section 151.06, clause (6). 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 have the right of appeal to the district court of the proper county on the question of law and fact.

[1937 c. 354 s. 21] (5808-21)

151.21 DRUGS MUST BE LABELED. It shall be unlawful for any person who prepares prescriptions, drugs, medicines, chemicals, or poisons, to wilfully, negligently, or ignorantly omit to label the package or receptacle, label it falsely, substitute an article different from the one ordered, or deviate in any manner from the requirements of an order or prescription.

[1937 c. 354 s. 22] (5808-22)

151.22 LIABILITY FOR QUALITY OF DRUGS. 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.

It shall be unlawful for any person or his agent to adulterate any drug, medicinal substance, or preparation authorized by the United States pharmacopoeia or national formulary, or any revision thereof, or any drug, medicinal substance, or preparation used or intended to be used in medical practice.

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

Nothing in this chapter shall be construed to change any of the provisions of sections 152.01, 152.03 to 152.08, and 152.13.

[1937 c. 354 s. 23] (5808-23)

151.23 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.

[1937 c. 354 s. 24] (5808-24)

151.24 SALE OF POISONS MUST BE RECORDED. It shall be unlawful:

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

(2) To give a false name to be recorded;

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

[1937 c. 354 s. 25] (5808-25)

151.25 REGISTRATION OF MANUFACTURERS OR WHOLESALERS; LICENSE; FEE; PROHIBITION. The board shall require and provide for the annual

registration of every person engaged in manufacturing or selling at wholesale drugs, medicines, chemicals or poisons for medicinal purposes, now or hereafter doing business within this state. Upon a payment of a fee of \$50 the board shall issue a license in such form as it may prescribe to such manufacturer or wholesaler. Such license shall be exposed in a conspicuous place in such manufacturer's or wholesaler's place of business for which it is issued and expire on the 13th day of June following the date of issue. It shall be unlawful for any person to manufacture or sell at wholesale drugs, medicines, chemicals or poisons for medicinal purposes unless such a license has been issued to him by the board. It shall be unlawful for any person engaged in the manufacture or selling at wholesale, or his agent, to sell drugs, medicines, chemicals, or poisons to other than a pharmacy, except as provided in this chapter.

[1937 c 354 s 26; 1953 c 76 s 4; 1961 c 394 s 7] (5808-26)

151.26 EXCEPTIONS. Nothing in this chapter shall subject a person duly licensed in this state to practice medicine, dentistry, or veterinary medicine, to inspection by the state board of pharmacy, nor to 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.

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

Nothing in this chapter shall prevent the sale of drugs, chemicals, or poisons either at wholesale or retail for use for commercial purposes, or in the arts, nor interfere with the sale of insecticides, as defined in section 24.069, and nothing in this chapter shall prevent the sale of common household preparations and other drugs, chemicals, and poisons sold exclusively for use for non-medicinal purposes.

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

The board may, upon application and the payment of an annual registration fee not to exceed \$5, register stores, other than a pharmacy, in any incorporated or unincorporated village wherein no pharmacy is located, or in any township wherein may be sold ordinary household drugs, chemicals, and poisons for medicinal purposes designated by the board, prepared in sealed packages by a licensed pharmacist qualified under the laws of the state wherein he resides. The name and address of such pharmacist or the manufacturer shall appear conspicuously on each package. It shall be unlawful for any such store to sell such medicinal drugs, chemicals, or poisons without first having secured such license. It shall be lawful for a person engaged in the business of selling at wholesale, or his agent, to sell such articles to such registered places.

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

[1937 c 354 s 27; 1953 c 76 s 5] (5808-27)

NOTE: Extra Session Laws 1967, Chapter 55, Section 5, reads as follows: "Sec. 5. Home remedies. The subject of the manufacturing, wholesaling, vending, or retailing of non-habit forming harmless proprietary medicines, popularly known as 'home remedies', will be subjected to further legislative inquiry and study before enacting laws or otherwise reaching a legislative conclusion on this subject. The legislature declares that it is the desire of the legislature that interested parties recognize the need for further consideration of the subject by the legislature and that interested parties maintain their relative positions existent on the effective date of this act and that they refrain from further litigation until such time as the legislature completes its further consideration and the legislature has had an opportunity to enact legislation based upon recommendations which may be forthcoming from this further consideration; and until such time no person selling harmless, proprietary and non-habit forming home remedies, as permitted by Minnesota Statutes 1965, Section 151.26, shall be subject to any action or claim, civil or criminal, of having violated the state pharmacy act. Nothing in this paragraph shall apply to or affect any pending litigation. The provisions of this section expire on July 1, 1969."

151.27 DEPOSIT OF FEES. All fees received by the board under this chapter

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 the board. All expenditures of the board and all expenses necessarily paid or incurred thereby, in the exercise of its powers or the performance of its duties under this chapter, shall be paid out of this fund. Payments out of the fund shall be made only upon written orders issued and signed by the secretary of the board. No expense shall be incurred by the board in excess of the revenue derived from such fees.

[1937 c. 354 s. 28] (5808-28)

151.28 BOARD MAY TURN OVER FUNDS FOR ADVANCEMENT OF SCIENCE OF PHARMACY. The board may 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 \$1 for each pharmacist and assistant pharmacist who shall have paid his renewal fee during such year. The association shall annually report to the board on the conditions of pharmacy in the state.

[1937 c. 354 s. 29] (5808-29)

151.29 VIOLATION A MISDEMEANOR. Any person violating any of the provisions of this chapter, or rules and regulations hereunder, shall be guilty of a misdemeanor, unless otherwise provided.

[1937 c. 354 s. 30] (5808-30)

151.30 COUNTY ATTORNEY TO PROSECUTE. It shall be the duty of the county attorney of the county wherein any offense under this chapter 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.

[1937 c. 354 s. 31] (5808-31)

151.31 REGISTERED PHARMACISTS OR ASSISTANTS MAY REREGISTER. Persons who, at the time of the enactment of this chapter, hold certificates of registration as pharmacists, or assistant pharmacists, granted by the board shall not be required to register under this chapter, but shall apply for and secure annual renewals thereof, as provided in this chapter, and in all other respects be amenable to the provisions of this chapter.

[1937 c. 354 s. 32] (5808-32)

151.32 CITATION. The title of sections 151.01 to 151.32 shall be the pharmacy law of 1937.

[1937 c 354 s 35] (5808-35)

CARELESS DISTRIBUTION OF DRUGS

151.33 CARELESS DISTRIBUTION OF DRUGS. Subdivision 1. **Prohibited.** No person, directly or indirectly, by agent or otherwise, shall scatter, distribute, or give away any samples of any medicine, drugs, or medical compounds, salve, or liniment of any kind unless the same is delivered into the hands of an adult person, or mailed to such persons through the regular mail service.

Subd. 2. **Penalty.** Any person violating any provision of this section shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not to exceed \$100 or by imprisonment in the county jail for not to exceed 90 days.

[1905 c 33 s 1, 2] (10275, 10276)