

CHAPTER 151

PHARMACY

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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.

Subd. 17. Legend drug. "Legend drug" means a drug which is required by federal law to bear the following statement, "Caution: Federal law prohibits dispensing without prescription."

Subd. 18. Label. "Label" means a display of written, printed, or graphic matter upon the immediate container of any drug or medicine; and a requirement made by or under authority of Laws 1969, Chapter 933 that any word, statement, or other information appearing on the label shall not be considered to be complied with unless such word, statement, or other information also appears on the outside container or wrapper, if any there be, of the retail package of such drug or medicine, or is easily legible through the outside container or wrapper.

Subd. 19. Package. "Package" means any container or wrapping in which any drug or medicine is enclosed for use in the delivery or display of that article to retail purchasers, but does not include:

(a) shipping containers or wrappings used solely for the transportation of any such article in bulk or in quantity to manufacturers, packers, processors, or wholesale or retail distributors;

(b) shipping containers or outer wrappings used by retailers to ship or deliver any such article to retail customers if such containers and wrappings bear no printed matter pertaining to any particular drug or medicine.

Subd. 20. Labeling. "Labeling" means all labels and other written, printed, or graphic matter (a) upon a drug or medicine or any of its containers or wrappers, or (b) accompanying such article.

Subd. 21. Federal act. "Federal act" means the federal food, drug, and cosmetic act, 21 U.S.C. Section 301, et seq., as amended.

Subd. 22. Pharmacist in charge. "Pharmacist in charge" means a duly licensed pharmacist in the state of Minnesota who has been designated in accordance with the rules and regulations of the state board of pharmacy to assume professional responsibility for the operation of the pharmacy in compliance with the requirements and duties as established by the board in its rules and regulations.

Subd. 23. Practitioner. "Practitioner" means a licensed doctor of medicine, licensed doctor of osteopathy duly licensed to practice medicine, licensed doctor of dentistry, licensed podiatrist, or licensed veterinarian.

[1937 c 354 s 1; 1961 c 394 s 1; 1967 c 377 s 1, 2; 1969 c 933 s 1-7] (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. Subdivision 1. 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 manufacture, wholesale, and retail sale of drugs or medicines within this state;
- (3) To regulate the identity, labeling, purity, and quality of all drugs and medicines dispensed in this state, using the United States pharmacopoeia and the national formulary, or any revisions thereof, or standards adopted under the federal act as the standard;
- (4) It may, by its duly authorized representative, enter and inspect any and all places where drugs or medicines are sold, vended, given away, compounded, dispensed, manufactured, wholesaled or held; it may secure samples or specimens of any drug or medicine after paying or offering to pay for such sample; it shall be entitled to inspect and make copies of any and all records of shipment, purchase, manufacture, quality control, and sale of drugs or medicines provided, however, that such inspection shall not extend to financial data, sales data, or pricing data;
- (5) To examine and register as pharmacists all applicants whom it shall deem qualified to be such;
- (6) To deny, suspend, revoke, or refuse to renew any registration or license required under chapter 151, to any applicant or registrant or licensee upon any of the following grounds:
 - (a) Fraud or deception in connection with the securing of such license;
 - (b) In the case of a pharmacist, conviction in any court of a felony;
 - (c) In the case of a pharmacist, conviction in any court of an offense involving moral turpitude;
 - (d) Habitual indulgence in the use of narcotics, stimulants, or depressant drugs; or habitual indulgence in intoxicating liquors in a manner which could cause conduct endangering public health;
 - (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) Conviction of theft of drugs, or the unauthorized use, possession, or sale thereof;
 - (i) Violation of any of the provisions of this chapter or any of the rules or regulations of the state board of pharmacy;
 - (j) In the case of a pharmacy license, operation of such pharmacy without a pharmacist present and on duty;
 - (k) In the case of a pharmacist, physical or mental disability which could cause incompetency in the practice of pharmacy;
- (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.

Subd. 2. The provisions of subdivision 1 shall apply to an individual owner or sole proprietor and shall also apply to the following:

(1) In the case of a partnership, each partner thereof;

(2) In the case of an association, each member thereof;

(3) In the case of a corporation, each officer or director thereof and each shareholder owning 30 percent or more of the voting stock of such corporation.

Subd. 3. The board shall comply with the provisions of chapter 15, before it fails to issue, renew, suspends, or revokes any license or registration issued under chapter 151.

Subd. 4. Any license or registration which has been suspended or revoked may be reinstated by the board provided the holder thereof shall pay all costs of the proceedings resulting in the suspension or revocation, and, in addition thereto, pay a fee of \$25.

[1937 c 354 s 6; 1941 c 78 s 1; 1955 c 847 s 16; 1969 c 933 s 8] (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 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 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)

151.101 INTERNSHIP. The board may register as an intern any natural person who has satisfied the board that he is of good moral character, not physically or mentally unfit, and who has successfully completed the educational requirements for intern registration prescribed by the board. The intern's experience shall be supervised by a pharmacist preceptor in a licensed pharmacy in which the quantity and variety of drugs dispensed meet or exceed standards prescribed by the board for intern training purposes.

The board in its discretion may accept internship experience obtained in another state provided the internship requirements in such other state are in the opinion of the board equivalent to those herein provided.

[1969 c 933 s 9]

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 \$25 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; 1969 c. 486 s. 1] (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 \$40, 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; 1969 c. 486 s. 2] (5808-20)

151.20 [Repealed, 1969 c 933 s 22]

151.21 SUBSTITUTION PROHIBITED. It shall be unlawful for any pharmacist, assistant pharmacist, or pharmacist intern who dispenses prescriptions, drugs, and medicines to substitute an article different from the one ordered, or deviate in any manner from the requirements of an order or prescription without the approval of the prescriber.

[1937 c 354 s 22; 1969 c 933 s 10] (5808-22)

151.211 RECORDS OF PRESCRIPTIONS. All prescriptions dispensed shall be kept on file in the pharmacy in which such dispensing occurred for a period of at least three years. No prescription shall be refilled except with the written or verbal consent of the prescriber; provided that the date of such refill must be recorded upon the original prescription by the pharmacist, assistant pharmacist or pharmacist intern who refills the prescription and initialed by him.

[1969 c 933 s 11]

151.212 LABEL OF PRESCRIPTION DRUG CONTAINERS. Drugs dispensed pursuant to a prescription shall bear a label permanently affixed to the immediate container in which the drug is dispensed. Such label shall bear all information required by law and by regulations of the board.

[1969 c 933 s 12]

151.213 COPIES OF PRESCRIPTIONS. Prescriptions on file in a pharmacy are not a public record. A person having custody of or access to such prescription orders shall not divulge the contents thereof or provide a copy thereof to anyone except to:

- (1) The patient for whom the prescription was issued, his agent, or another pharmacist acting on behalf of the patient or his agent;
- (2) The licensed practitioner who issued the prescription;
- (3) The licensed practitioner who is then treating the patient;
- (4) A member, inspector, or investigator of the board or any federal, state, county, or municipal officer whose duty it is to enforce the laws of this state or the United States relating to drugs and who is engaged in a specific investigation involving a designated person or drug;
- (5) An agency of government charged with the responsibility of providing medical care for the patient;
- (6) An insurance carrier or attorney on receipt of written authorization signed by the patient or his legal representative, authorizing the release of such information;
- (7) Any person duly authorized by a court order.

Such copies furnished shall bear on the face thereof the statement "Copy for information only," and may be filed to account for the dispensing of a drug only if such dispensing is authorized in writing or orally by the prescriber and communicated to the pharmacist dispensing and filing such copy.

[1969 c 933 s 13]

151.22 LIABILITY FOR QUALITY OF DRUGS. Every pharmacist in charge or proprietor of a pharmacy shall be responsible for the quality of all drugs, medicines, chemicals, and poisons procured for use and sold therein, except proprietary medicines or other articles sold in the original package of the manufacturer.

[1937 c 354 s 23; 1969 c 933 s 14] (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; PROHIBITIONS. 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. Subdivision 1. 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 any non-prescription medicine or drug not otherwise prohibited by statute which is prepackaged, fully prepared by the manufacturer or producer for use by the consumer, and 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.

Nothing in this chapter shall prevent the sale of drugs or medicines by licensed pharmacists at a discount to persons over 65 years of age.

Subd. 2. 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; 1969 c 627 s 1; 1971 c 192 s 1] (5808-27)

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)

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.

[1905 c 33 s 1, 2; 1971 c 23 s 15] (10275, 10276)

151.34 PROHIBITED ACTS. It shall be unlawful to:

- (1) Manufacture, sell or deliver, hold or offer for sale any drug that is adulterated or misbranded;
- (2) Adulterate or misbrand any drug;
- (3) Receive in commerce any drug that is adulterated or misbranded, and to deliver or proffer delivery thereof for pay or otherwise;
- (4) Refuse to permit entry or inspection, or to permit the taking of a sample, or to permit access to or copying of any record as authorized by this chapter;
- (5) Remove or dispose of a detained or embargoed article in violation of this chapter;
- (6) Alter, mutilate, destroy, obliterate, or remove the whole or any part of the labeling of, or to do any other act with respect to a drug, if such act is done while such drug is held for sale and results in such drug being adulterated or misbranded;
- (7) Use for a person's own advantage or to reveal other than to the board or its authorized representative or to the courts when required in any judicial proceed-

ing under this chapter any information acquired under authority of this chapter concerning any method or process which is a trade secret and entitled to protection;

(8) Use on the labeling of any drug any representation or suggestion that an application with respect to such drug is effective under the federal act or that such drug complies with such provisions;

(9) In the case of a manufacturer, packer, or distributor offering legend drugs for sale within this state, fail to maintain for transmittal or to transmit, to any practitioner licensed by applicable law to administer such drug who makes written request for information as to such drug, true and correct copies of all printed matter which is required to be included in any package in which that drug is distributed or sold, or such other printed matter as is approved under the federal act. Nothing in this paragraph shall be construed to exempt any person from any labeling requirement imposed by or under provisions of this chapter; or

(10) Conduct a pharmacy without a pharmacist in charge.

[1969 c 933 s 15; 1971 c 25 s 35]

151.35 DRUGS, ADULTERATION. A drug shall be deemed to be adulterated:

(1) if it consists in whole or in part of any filthy, putrid or decomposed substance; or if it has been produced, prepared, packed, or held under unsanitary conditions whereby it may have been rendered injurious to health, or whereby it may have been contaminated with filth; or if the methods used in, or the facilities or controls used for, its manufacture, processing, packing, or holding do not conform to or are not operated or administered in conformity with current good manufacturing practice as required under the federal act to assure that such drug is safe and has the identity, strength, quality, and purity characteristics, which it purports or is represented to possess; or, its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health; or it bears or contains, for purposes of coloring only, a color additive which is unsafe within the meaning of the federal act, or it is a color additive, the intended use of which in or on drugs is for the purposes of coloring only, and is unsafe within the meaning of the federal act;

(2) if it purports to be or is represented as a drug the name of which is recognized in the United States pharmacopoeia or the national formulary, and its strength differs from, or its quality or purity falls below, the standard set forth therein. Such determination as to strength, quality, or purity shall be made in accordance with the tests or methods of assay set forth in such compendium, or in the absence of or inadequacy of such tests or methods of assay, those prescribed under authority of the federal act. No drug defined in the United States pharmacopoeia or the national formulary shall be deemed to be adulterated under this paragraph because it differs from the standard of strength, quality, or purity therefor set forth in such compendium, if its difference in strength, quality, or purity from such standard is plainly stated on its label;

(3) if it is not subject to the provisions of paragraph (2) of this section and its strength differs from, or its purity or quality differs from that which it purports or is represented to possess;

(4) if any substance has been mixed or packed therewith so as to reduce its quality or strength, or substituted wholly or in part therefor.

[1969 c 933 s 16]

151.36 DRUGS, MISBRANDING. A drug shall be deemed to be misbranded:

(1) if its labeling is false or misleading in any particular;

(2) if in package form and not dispensed pursuant to a prescription unless it bears a label containing (a) the name and place of business of the manufacturer, packer, or distributor, (b) a statement of identity, and (c) an accurate statement of the net quantity of the contents in terms of weight, measure, or numerical count, provided, however, that under (c) of this paragraph reasonable variations shall be permitted, and exceptions as to small packages shall be allowed in accordance with the federal act;

(3) if any word, statement, or other information required by or under authority of this chapter to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs or devices, in the labeling) and in such terms as to render it to be read and understood by the ordinary individual under customary conditions of purchase and use;

(4) if it otherwise fails to meet the labeling requirements of the federal act.

[1969 c 933 s 17]

151.37 LEGEND DRUGS, WHO MAY PRESCRIBE, POSSESS. Subdivision 1. Except as otherwise provided in this chapter, it shall be unlawful for any person to have in his or its possession, or to sell, give away, barter, exchange, or distribute a legend drug.

Subd. 2. A licensed practitioner in the course of his professional practice only, may prescribe, administer, and dispense a legend drug, or he may cause the same to be administered by a nurse or intern under his direction and supervision.

Subd. 3. A licensed doctor of veterinary medicine, in the course of his professional practice only and not for use by a human being, may prescribe, administer, and dispense a legend drug, and he may cause the same to be administered by an assistant under his direction and supervision.

Subd. 4. Any qualified person may use legend drugs in the course of a bona fide research project, but cannot administer or dispense such drugs to human beings unless such drugs are prescribed, dispensed, and administered by a person lawfully authorized to do so.

Subd. 5. Nothing in this chapter shall prohibit the sale to, or the possession of, a legend drug by registered drug wholesalers, registered manufacturers, registered pharmacies, licensed pharmacists, licensed practitioners, or any licensed hospital or bona fide hospitals wherein animals are treated.

Subd. 6. Nothing in this chapter shall prohibit the possession of a legend drug by an employee or agent of a registered manufacturer, registered drug wholesaler, or registered pharmacy, while acting in the course of his employment.

Subd. 7. Nothing in this chapter shall prohibit the possession of a legend drug by a person for his own use when it has been dispensed to him pursuant to a written or oral prescription by a practitioner.

Subd. 8. It shall be unlawful for any person to procure, attempt to procure, possess or have in his control a legend drug by any of the following means:

(a) deceit, misrepresentation, or subterfuge;

(b) using a false name;

(c) falsely assuming the title of, or falsely representing any person to be a manufacturer, wholesaler, pharmacist, practitioner, or other authorized person for the purpose of obtaining a legend drug.

[1969 c 933 s 18]

151.38 EMBARGOES. (1) Whenever a duly authorized agent of the board finds or has probable cause to believe that any drug or medicine is adulterated, or so misbranded as to be dangerous or fraudulent, he shall affix thereto an appropriate marking, giving notice that such article is, or is suspected of being, adulterated or misbranded and has been embargoed, and warning that it is unlawful for any person to remove or dispose of such embargoed article by sale or otherwise without permission from the agent or the court.

(2) When an embargoed article has been found by such agent to be adulterated, or misbranded, the board shall, within 30 days, petition the district court in whose jurisdiction the article is embargoed for an order of condemnation. When an embargoed article is not so found by the agent he shall remove the marking.

(3) If the court finds that an embargoed article is adulterated or misbranded, such article shall be destroyed at the expense of the claimant thereof, who shall also pay all court costs and fees, storage and other proper expenses; provided, that when the adulteration or misbranding can be corrected by proper labeling or processing of the article, the court, after such costs, fees, and expenses have been paid and a sufficient bond has been executed, may order that such article be delivered to the claimant for such labeling or processing under supervision of an agent of the board. The expense of such supervision shall be paid by claimant. The bond shall be returned to the claimant on the representation to the court by the board that the article is no longer in violation of this chapter and that the expenses of such supervision have been paid.

[1969 c 933 s 19]

151.39 DISTRESSED DRUGS. Subdivision 1. Distressed drugs shall mean drugs or medicines which have been subjected to accident, fire, flood, adverse temperatures, or other physical influences which could affect the potency, quality, purity, or efficacy of such drug or medicine could otherwise cause the drug or medicine to be adulterated or misbranded within the meaning of the provisions of this chapter.

Subd. 2. No person shall sell, barter, vend, give away, or exchange distressed drugs until the board has determined that such drugs are not adulterated or misbranded within the meaning of this chapter.

Subd. 3. Every person who owns or has under his control distressed drugs shall immediately notify the board of the existence of such drugs and the location thereof and the board shall promptly cause an inspection and examination to be made of such drugs.

Subd. 4. The board shall, within 30 days of such notification, indicate whether or not it has probable cause to believe that such drugs are adulterated or misbranded within the meaning of this chapter. If the board determines that no such probable cause exists, it shall furnish the owner or person having control of such drugs a written certificate to that effect. If the board has probable cause to believe that the drugs are adulterated or misbranded, it shall follow the procedure set forth in section 151.38.

[1969 c 933 s 20; 1971 c 24 s 14]

151.40 POSSESSION AND SALE OF HYPODERMIC SYRINGES AND NEEDLES. It shall be unlawful for any person to possess, have under his control, manufacture, sell, furnish, dispense, or otherwise dispose of hypodermic syringes or needles or any instrument or implement which can be adapted for subcutaneous injections, except by the following persons when acting in the course of their practice or employment: licensed practitioners, registered pharmacies and their employees or agents, registered pharmacists, licensed doctors of veterinary medicine or their assistants, registered nurses, registered medical technologists, medical interns, registered drug wholesalers, their employees or agents, licensed hospitals, licensed nursing homes, bona fide hospitals where animals are treated, licensed morticians, syringe and needle manufacturers, their dealers and agents, persons engaged in animal husbandry, clinical laboratories, persons engaged in bona fide research or education or industrial use of hypodermic syringes and needles provided such persons cannot use hypodermic syringes and needles for the administration of drugs to human beings unless such drugs are prescribed, dispensed, and administered by a person lawfully authorized to do so, persons who administer drugs pursuant to an order or direction of a licensed doctor of medicine or of a licensed doctor of osteopathy duly licensed to practice medicine.

[1969 c 933 s 21]