

CHAPTER 151

PHARMACY

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151.01 DEFINITIONS.

[For text of subds 1 to 15, see M.S.1996]

Subd. 15a. **Pharmacy technician.** The term “pharmacy technician” means a person not licensed as a pharmacist or a pharmacist intern, who assists the pharmacist in the preparation and dispensing of medications by performing computer entry of prescription data and other manipulative tasks. A pharmacy technician shall not perform tasks specifically reserved to a licensed pharmacist or requiring professional judgment.

[For text of subds 16 to 30, see M.S.1996]

History: 1997 c 132 s 1

151.06 POWERS AND DUTIES.

Subdivision 1. **Generally; rules. (a) Powers and duties.** The 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 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 Pharmacopeia and the National Formulary, or any revisions thereof, or standards adopted under the federal act as the standard;
- (4) to enter and inspect by its authorized representative any and all places where drugs, medicines, medical gases, or veterinary drugs or devices are sold, vended, given away, compounded, dispensed, manufactured, wholesaled, or held; it may secure samples or specimens of any drugs, medicines, medical gases, or veterinary drugs or devices 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 these items provided, however, that such inspection shall not extend to financial data, sales data, or pricing data;
- (5) to examine and license as pharmacists all applicants whom it shall deem qualified to be such;
- (6) to license wholesale drug distributors;
- (7) to deny, suspend, revoke, or refuse to renew any registration or license required under this chapter, to any applicant or registrant or licensee upon any of the following grounds:
 - (i) fraud or deception in connection with the securing of such license or registration;
 - (ii) in the case of a pharmacist, conviction in any court of a felony;
 - (iii) in the case of a pharmacist, conviction in any court of an offense involving moral turpitude;
 - (iv) 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;
 - (v) unprofessional conduct or conduct endangering public health;
 - (vi) gross immorality;
 - (vii) employing, assisting, or enabling in any manner an unlicensed person to practice pharmacy;
 - (viii) conviction of theft of drugs, or the unauthorized use, possession, or sale thereof;
 - (ix) violation of any of the provisions of this chapter or any of the rules of the state board of pharmacy;

(x) in the case of a pharmacy license, operation of such pharmacy without a pharmacist present and on duty;

(xi) in the case of a pharmacist, physical or mental disability which could cause incompetency in the practice of pharmacy;

(xii) in the case of a pharmacist, the suspension or revocation of a license to practice pharmacy in another state; or

(xiii) in the case of a pharmacist, aiding suicide or aiding attempted suicide in violation of section 609.215 as established by any of the following:

(A) a copy of the record of criminal conviction or plea of guilty for a felony in violation of section 609.215, subdivision 1 or 2;

(B) a copy of the record of a judgment of contempt of court for violating an injunction issued under section 609.215, subdivision 4;

(C) a copy of the record of a judgment assessing damages under section 609.215, subdivision 5; or

(D) a finding by the board that the person violated section 609.215, subdivision 1 or 2. The board shall investigate any complaint of a violation of section 609.215, subdivision 1 or 2;

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

(9) to register pharmacy technicians; and

(10) to perform such other duties and exercise such other powers as the provisions of the act may require.

(b) **Temporary suspension.** In addition to any other remedy provided by law, the board may, without a hearing, temporarily suspend a license for not more than 60 days if the board finds that a pharmacist has violated a statute or rule that the board is empowered to enforce and continued practice by the pharmacist would create an imminent risk of harm to others. The suspension shall take effect upon written notice to the pharmacist, specifying the statute or rule violated. At the time it issues the suspension notice, the board shall schedule a disciplinary hearing to be held under the Administrative Procedure Act. The pharmacist shall be provided with at least 20 days notice of any hearing held under this subdivision.

(c) **Rules.** For the purposes aforesaid, it shall be the duty of the board to make and publish uniform rules not inconsistent herewith for carrying out and enforcing the provisions of this chapter. The board shall adopt rules regarding prospective drug utilization review and patient counseling by pharmacists. A pharmacist in the exercise of the pharmacist's professional judgment, upon the presentation of a new prescription by a patient or the patient's caregiver or agent, shall perform the prospective drug utilization review required by rules issued under this subdivision.

[For text of subds 1a to 4, see M.S.1996]

History: 1997 c 132 s 2

151.102 PHARMACY TECHNICIAN.

A pharmacy technician may assist a pharmacist in the practice of pharmacy by performing nonjudgmental tasks and works under the personal and direct supervision of the pharmacist. A pharmacist may supervise two technicians, as long as the pharmacist assumes responsibility for all the functions performed by the technicians. Nothing in this section prohibits the board of pharmacy from operating according to established rules setting ratios of technicians to pharmacists greater than two to one for the functions specified in rule. The delegation of any duties, tasks, or functions by a pharmacist to a pharmacy technician is subject to continuing review and becomes the professional and personal responsibility of the pharmacist who directed the pharmacy technician to perform the duty, task, or function.

History: 1997 c 132 s 3

151.21 SUBSTITUTION.

[For text of subds 1 to 4, see M.S.1996]
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Subd. 4a. A pharmacy must post a sign in a conspicuous location and in a typeface easily seen at the counter where prescriptions are dispensed stating: "In order to save you money, this pharmacy will substitute whenever possible an FDA-approved, less expensive, generic drug product, which is therapeutically equivalent to and safely interchangeable with the one prescribed by your doctor, unless you object to this substitution.

[For text of subds 5 to 8, see M.S.1996]

History: 1997 c 202 art 2 s 40

151.40 POSSESSION AND SALE OF HYPODERMIC SYRINGES AND NEEDLES.

Subdivision 1. **Generally.** Except as otherwise provided in subdivision 2, it is unlawful for any person to possess, 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, licensed pharmacists, licensed doctors of veterinary medicine or their assistants, registered nurses, registered medical technologists, medical interns, licensed 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.

Subd. 2. **Sales of limited quantities of clean needles and syringes.** (a) A registered pharmacy or its agent or a licensed pharmacist may sell, without a prescription, unused hypodermic needles and syringes in quantities of ten or fewer, provided the pharmacy or pharmacist complies with all of the requirements of this subdivision.

(b) At any location where hypodermic needles and syringes are kept for retail sale under this subdivision, the needles and syringes shall be stored in a manner that makes them available only to authorized personnel and not openly available to customers.

(c) No registered pharmacy or licensed pharmacist may advertise to the public the availability for retail sale, without a prescription, of hypodermic needles or syringes in quantities of ten or fewer.

(d) A registered pharmacy or licensed pharmacist that sells hypodermic needles or syringes under this subdivision may give the purchaser the materials developed by the commissioner of health under section 325F.785.

(e) A registered pharmacy or licensed pharmacist that sells hypodermic needles or syringes must certify to the commissioner of health participation in an activity, including but not limited to those developed under section 325F.785, that supports proper disposal of used hypodermic needles or syringes.

History: 1997 c 203 art 2 s 17

NOTE: The amendment to this section by Laws 1997, chapter 203, article 2, section 17, is effective July 1, 1998. Laws 1997, chapter 203, article 2, section 38.