

REVISED LAWS OF MINNESOTA 94

SUPPLEMENT 1909

CONTAINING

THE AMENDMENTS TO THE REVISED LAWS,
AND OTHER LAWS OF A GENERAL AND
PERMANENT NATURE, ENACTED
BY THE LEGISLATURE IN
1905, 1907, AND 1909

WITH HISTORICAL AND EXPLANATORY NOTES TO PRIOR STATUTES
AND FULL AND COMPLETE NOTES OF ALL
APPLICABLE DECISIONS

COMPILED AND ANNOTATED BY
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lature shall appropriate money for the publication of such session laws in the newspapers, the commission shall apportion the same equitably among such qualified newspapers as may make publication thereof within a time and in a manner by it directed or approved. (R. L. § 2276, as amended by Laws 1907, c. 115, § 2.)

CHAPTER 35.

EMPLOYMENTS LICENSED BY STATE BOARDS.

ATTORNEYS AT LAW.

2281. General duties.

Subd. 2.—An attorney may not insult the judicial officer by words written or spoken addressed to such officer personally because of the latter's official act, though in a matter fully ended; and, if he does so, it may constitute a sufficient cause for his disbarment. *State Board of Examiners in Law v. Hart*, 104 Minn. 88, 116 N. W. 212, 17 L. R. A. (N. S.) 585.

2288. Lien.

Subd. 1.—Applied in *First State Bank of Le Sueur v. Sibley County Bank*, 96 Minn. 450, 105 N. W. 485, 489.

Subd. 3.—Before the adoption of the Revised Laws it was held that a lien could not be created upon a mere right of action for personal tort. *Boogren v. St. Paul City R. Co.*, 97 Minn. 51, 106 N. W. 104, 3 L. R. A. (N. S.) 379, 114 Am. St. Rep. 691.

This subdivision does not apply to actions brought prior to the time the Revised Laws went into effect.—*Northrup v. Hayward*, 102 Minn. 307, 113 N. W. 701.

See *In re Nethaway*, 121 N. W. 418.

Subd. 5.—This subdivision gives an attorney a lien upon a judgment procured as a result of his services to the extent of his agreed compensation from the time notice thereof is given the judgment debtor. No special form of notice is required, nor need it be given in any particular way. Actual notice of the claim is sufficient to protect the rights of the attorney. Payment by the debtor to the creditor of a judgment upon which the attorney has such a lien, with notice of the claim, is void as to the attorney to the extent of his lien, and the satisfaction of the judgment may be set aside and the judgment reinstated, to enable the attorney to proceed by execution to satisfy his claim. *Northrup v. Hayward*, 102 Minn. 307, 113 N. W. 701.

2289. Refusal to surrender property to clients.

Subd. 2.—The district court had jurisdiction to entertain proceedings to enforce a lien, although the action in which the services had been rendered had been settled and dismissed.—*In re Nethaway*, 121 N. W. 418.

2290. Removal or suspension.

Subd. 2.—See *State Board of Examiners in Law v. Reynolds*, 98 Minn. 44, 107 N. W. 144; *State Board of Examiners in Law v. Byrnes*, 100 Minn. 76, 110 N. W. 341; *State Board of Examiners in Law v. Palmer*, 103 Minn. 522, 114 N. W. 1133; *State Board of Examiners in Law v. Hart*, 104 Minn. 88, 116 N. W. 212, 17 L. R. A. (N. S.) 585.

CERTIFIED ACCOUNTANTS.

[2294—]1. **Board of accountancy.**—That a board of examiners, to be known as the State Board of Accountancy, is hereby created to carry out the purposes and enforce the provisions of this act, Said board shall consist of three citizens of this state to be appointed by the governor and who, with the exception of the members first to be appointed, shall be the holders of certificates issued under the provisions of this act and shall hold office for the term of three years and until their successors are appointed and qualified. The first members of said board shall be skilled in the

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practice of accounting, and shall for a period of three years next preceding their appointment, have been actively engaged therein, in this state, on their own account, and shall hold office, one for the term of three years from the date of his appointment, one for the term of two years, and one for the term of one year. The term of office of each is to be designated by the governor in his appointment, and upon expiration of each term of its members, the governor shall appoint one member of said board as herein provided for a term of three years. ('09 c. 439 § 1)

Historical.—"An act creating a State Board of Accountancy, prescribing its powers and duties, providing for examinations and issuing of certificates to qualified public accountants, and providing penalties for violations of the provisions of this act." Approved April 22, 1909.

[2294—]2. Officers—Duties—Examinations—Report.—The persons appointed as members of this board shall meet and organize within thirty (30) days after their appointment. A majority of said board shall constitute a quorum. They shall appoint one of their number as a chairman, another as a secretary and another as treasurer, or may appoint one member to serve as both secretary and treasurer, and said officers shall hold their respective offices for a term of one year and until their successors are elected. In the absence of the chairman or secretary, the board may appoint a chairman pro tem, or a temporary secretary. The affirmative vote of two members of said board shall be considered as the action of said board. Said board shall enforce the standard of general education; the standard of special education in the science and art of accounting; the standard of moral character and general public experience as prescribed in this act in all examinations conducted hereunder. The board shall make rules and regulations for the conduct of applicants' examinations and the character of such examinations and scope, the method and time of filing applications for examinations and their form and contents, and all other rules and regulations proper to carry into effect the purposes of this act. All such examinations shall be conducted by said State Board of Accountancy. The time and place of holding examinations shall be advertised for not less than three consecutive days in one daily newspaper, published in each of the counties where the examinations are to be held, and not less than twenty days prior to the date of each examination. The examinations shall take place as often as may be convenient in the opinion of the board, but not less than once in each year. Said board shall keep records of their proceedings, an accurate list of all applications made, certificates issued, certificates registered and certificates revoked, and shall keep proper financial records in which there shall be entered a complete statement of the cash receipts and disbursements of said board. Said board shall adopt and provide itself with a seal with a band inscribed "Certified Public Accountant, State of Minnesota," with the coat of arms of Minnesota in the center, and said seal shall be affixed to each certificate issued or registered under this act. All records of said board shall be open to the inspection of the public at the office of the secretary of the board. Said board shall report annually to the governor in the month of December, as follows:

- (a) Its receipts and disbursements.
- (b) Names of persons to whom certificates have been issued.
- (c) Names of all persons whose certificates have been revoked.
- (d) Recommendations, if any, for new legislation, and such other matters as the board may deem proper. ('09 c. 439 § 2)

[2294—]3. Certificate granted, to whom.—No certificate for a certified public accountant shall be granted to any person other than a citizen of the United States, or person who has in good faith duly declared his intention of becoming such citizen, and is over the age

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of twenty-one years and of good moral character and (except under the provisions of section 4[2294—4] of this act) who shall have successfully passed an examination in "Accounting," "Auditing" and "Commercial Law," effecting accountancy, and on such other subjects as the board may deem advisable. No person shall be permitted to take such examination unless he shall for a period of at least three years have been employed in the office of a "public accountant" as an assistant, or shall have been practicing as a public accountant on his own account, and who shall not at least three years prior to the date of said examination have successfully passed an examination in such subjects as may be prescribed by the board, touching his general education, qualification and fitness for an accountant; provided, that said board may, in its discretion, waive the preliminary examination of an applicant who, in its opinion, has had a general education equivalent to that which may be prescribed by its rules and is otherwise qualified. ('09 c. 439 § 3)

[2294—]4. Certificate without examination, to whom.—Said State Board of Accountancy may, in its discretion, waive the examination of and may issue a certificate for certified public accountant to any person possessing the qualifications mentioned in section 3 of this act, who

(1) Is the holder of a C. P. A. certificate, issued under the laws of another state, which extends similar privileges to certified public accountants of this state, provided the requirements for said degree in the state which has granted it to the applicants are, in the opinion of the State Board of Accountancy, equivalent to those herein provided; or who

(2) Shall be the holder of a degree of certified public accountant or chartered accountant, or the equivalent thereof, issued in any foreign government, provided that the requirements for such degree are equivalent to those herein provided for the degree of certified public accountant; or who

(3) For more than three consecutive years next preceding the passage of this act shall have been practicing in this state on his own account as a public accountant, and who shall apply in writing to the board for such certificate within six months after the passage of this act. ('09 c. 439 § 4)

[2294—]5. Holder of certificate, how styled.—Any person who has received from said State Board of Accountancy a certificate of his qualifications to practice as a public accountant as herein provided shall be known and styled a "Certified Public Accountant"; and no other person, and no partnership, all of its members who have not received such certificate, and no corporation shall assume such title or the title of "Certified Accountant," or the abbreviations "C. P. A." or any other words, letters or abbreviations tending to indicate that the person, firm or corporation so using the same is a certified public accountant. ('09 c. 439 § 5)

[2294—]6. Fee for examination and certificate.—Said State Board of Accountancy shall charge for each examination and certificate provided for in this act a fee of twenty-five dollars to meet the expenses of such examination. This fee shall be payable by the applicant at the time of making his initial application, and shall not be refunded, and no additional charge shall be made for the issuance of a certificate to any applicant. From the fees collected under this act, the board shall pay all expenses incident to the examinations, hearings and expense of issuing certificates, traveling expenses of the members of the board while performing their duties under this act shall be a charge against the funds of this state. The members of said board of accountancy shall be paid all neces-

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sary expenses incurred in the performance of the duties under this act. ('09 c. 439 § 6)

[2294—]7. **Revocation of certificate.**—Said State Board of Accountancy may revoke any certificate issued under this act or may cancel the registration of any certificate issued under this act for bad moral character, dishonesty, conviction of crime, incompetency or unprofessional conduct; provided, a written notice shall have been mailed to the holder of such certificate at least twenty days before any hearing thereon, stating the cause for such contemplated action and appointing a time and place for a hearing thereon by the State Board of Accountancy, and further provided, that no certificate issued under this act shall be revoked until an opportunity for such hearing shall have been afforded. At all such hearings, the attorney general of this state, or one of his assistants designated by him, shall attend. Certificates issued or registered under this act shall be surrendered to the State Board of Accountancy on their revocation by said board. ('09 c. 439 § 7)

[2294—]8. **Penalty for violation.**—Any violation shall be a "gross misdemeanor." ('09 c. 439 § 8)

PHYSICIANS AND SURGEONS.

2295. **Board of medical examiners.**

Physician defined.—"A physician, as defined by our statute and in common parlance, is a person skilled in both medicine and surgery"—citing sections 2295-2300. *Goss v. Goss*, 102 Minn. 346, 113 N. W. 690.

2296. **Examination and license.**—A person not already authorized to practice medicine in the state, and desiring so to do, shall apply to the secretary of the board for examination, and pay a fee of ten dollars for the use of the board, which in no case shall be refunded. At a time appointed, or at the next regular examination, he shall prove that he has completed four entire sessions of twenty-six weeks each at a medical school recognized by the board, no two sessions having been held in one year; or, if such attendance was prior to the year 1899, three sessions shall suffice. He shall be examined in anatomy, chemistry, histology, obstetrics, pathology, physiology, preventative medicine, the diagnosis and treatment of medical and surgical diseases, and such other branches as the board shall deem advisable. After such examination the board, if seven members thereof consent, shall grant him a license to practice medicine. The examination shall be both scientific and practical, and shall thoroughly test the fitness of the candidate. All answers concerning the treatment peculiar to any school of medicine shall be examined, and their sufficiency passed upon by the members of the board belonging to that school, and their recommendations thereon shall be final. The board may refuse to grant a license to, or may revoke the license of, any person guilty of immoral, dishonorable, or unprofessional conduct, but subject to the right of the applicant to appeal to the district court in the proper county on the question of law and fact. (R. L. § 2296, as amended by Laws 1909, c. 474, § 1.)

[2297—]1. **Physicians from other states, how licensed.**—That the state medical examining board, either with or without examination, may grant and license to any physician licensed to practice by a similar board of another state, and who holds a certificate of registration showing that an examination has been made by the proper board of any state in which an average grade of not less than seventy-five per cent was awarded the holder thereof, the said applicant and holder of such certificate having been at the time of said examination the legal possessor of a diploma from a medical

college in good standing in this state, which said diploma may be accepted in lieu of an examination as evidence of qualification. In case the scope of said examination was less than that prescribed by this state the applicant may be required to submit to an examination in such subjects as have not been covered. The fee for such examination shall be fifty dollars. A certificate of registration or license issued by the proper board of any state may be accepted as evidence of qualification for registration in this state; provided, the holder thereof was at the time of such registration the legal possessor of a diploma issued by a medical college in good standing in this state and that the date thereof was prior to the legal requirements of the examination test in this state. ('05 c. 236 § 1)

Historical.—"An act authorizing physicians from other states to practice medicine in Minnesota." Approved April 18, 1905.

Section 3 repeals inconsistent acts.

[2297—]2. **Same—Retaliatory provisions.**—If by the laws of any state or the rulings or decisions of the appropriate officers on boards thereof, any burden, obligation, requirement, disqualification or disability is put upon physicians registered in this state or holding diplomas from medical colleges in this state which are in good standing therein, affecting the right of said physicians to be registered or admitted to practice in said state, then the same or like burdens, obligations, requirements, disqualifications or disability shall be put upon the registration in this state of physicians registered in said state or holding diplomas from medical colleges situated therein. ('05 c. 236 § 2)

2299. Exemptions.

G. S. 1894, § 7895, cited in *State v. Oredson*, 96 Minn. 509, 105 N. W. 188.

2300. Practicing without license.

Gist of offense.—G. S. 1894, § 7896, is to be construed so as to reasonably effectuate its purpose, to prevent frauds, and to conserve the public health. That an unlicensed persons has practiced medicine is the gist of the misdemeanor. That he has for a fee prescribed any drug, medicine, or other agency for the treatment of disease is evidence of guilt, and not the substance of the offense. The evidence held to justify the conviction of defendant for practicing medicine without a license by prescribing medicine for a fee, as charged in the indictment. *State v. Oredson*, 96 Minn. 509, 105 N. W. 188.

OSTEOPATHISTS.

2309. License.—Every person desiring to engage in the practice of osteopathy shall apply in writing to the secretary of the board for a license, and appear for examination at its first meeting thereafter. He shall pay an examination fee of twenty dollars, which shall entitle him to a second examination within a year if he fails in the first. He shall produce his diploma, and prove to the board that he has attended a school of osteopathy for at least three entire sessions of eight months each, no two sessions having been held in one year. The school must be one recognized by the board, and include in its curriculum instruction in anatomy, chemistry, dietetics, diagnosis, gynecology, histology, obstetrics, pathology, physiology, minor surgery, symptomatology, toxicology, urinalysis and the theory and practice of osteopathy. Upon the applicant's passing the board's examination in the foregoing subjects it shall grant him a license. The board may waive the examination in case the applicant holds a diploma from an osteopathic school without regard to the period of study on which the diploma was issued and has been licensed by an examining board of another state, whose requirements are equal to those of the state of Minnesota. The license shall not authorize the holder to give or prescribe drugs for internal use or perform major surgery. ('09 c. 430 § 1)

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NURSES.

[2312—]1. **Registration.**—It shall be unlawful for any person to practice professional nursing as a registered nurse in this state unless such person shall have first obtained a certificate of registration as provided in this act. ('07 c. 153 § 1)

Historical.—"An act to provide for state registration of nurses and the licensing of persons as registered nurses." Approved April 12, 1907.

[2312—]2. **Board of examiners.**—A board of examiners to consist of five persons, one of whom shall be a regular licensed physician, is hereby created to carry out the purposes and enforce the provisions of this act. Said board shall be appointed by the governor, and the other appointments shall be made from nurses engaged in active work who have been graduated for at least a period of five years from reputable training schools, and whose course of training is not less than three years' duration in actual hospital service, provided, that there shall always be two of said members on said board selected from nurses who have had at least two years' experience in educational work among nurses, or who have had two or more years' experience in the instruction of nurses in training schools; and provided, further that after the appointment of the first board the nurses appointed on each succeeding board shall be appointed from the nurses registered under this act. ('07 c. 153 § 2)

[2312—]3. **Term—Bond—Oath.**—Each member of said board shall serve for a term of five years and until his or her successors are appointed and qualified, except in the case of the first board, whose members shall hold office as follows: One member shall be appointed to hold office for one year, one for two years, one for three years, one for four years, and one for five years. Each member of said board shall give a bond in the sum of one thousand dollars, with securities to be approved by the secretary of state, conditioned for the faithful performance of his or her duties, and shall take the oath provided by law for public officers. Vacancies upon said board caused by death, resignation or expiration of the term of any member thereof shall be filled by appointment by the governor. ('07 c. 153 § 3)

[2312—]4. **Officers, etc.**—Said board shall elect from its members a president, a secretary and a treasurer, and shall have its headquarters at St. Paul, Minn.; shall have a common seal, and the secretary and president shall have power to administer oaths. ('07 c. 153 § 4)

[2312—]5. **Compensation.**—Each member of said board shall receive a compensation of five dollars per day for each day of actual service, and ten cents per mile for each mile actually traveled in attending the meetings of the board, which compensation shall be paid out of any moneys in the hands of the treasurer of said board, provided that said compensation and mileage shall in no event be paid out of the state treasury. ('07 c. 153 § 5)

[2312—]6. **Excess funds.**—Any money in the hands of the treasurer at the end of any year in excess of two hundred and fifty dollars shall be paid over by said board to the state treasurer, to be kept by him for the future maintenance of the board, and to be disbursed by him upon warrants signed by the president and treasurer of said board. ('07 c. 153 § 6)

[2312—]7. **Examinations—Notice—Fee—Qualifications.**—Said board shall hold public examinations at least once in each year at St. Paul, Minnesota, and at such times as it may determine, and notice of the time and place of such examination shall be given by

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a publication thereof at least ten days before such examination, in a daily newspaper published at the capitol of the state, and said board may give such other notice as it deems advisable. Any person desiring to obtain a certificate of registration under this act shall make application to said board therefor, and shall pay to the treasurer of said board an examination fee of five dollars, and shall present himself or herself at the next regular meeting of said board for examination of applicants, and upon said board being satisfied that the applicant is (1) of the age of twenty-one years or over, (2) of good moral character, (3) has received an education equivalent to that required for admission into high schools of this state, and (4) has graduated from a training school connected with a general hospital where three years of training, with a systematic course of instruction is given in the hospital, or has graduated from a training school in connection with a hospital of good standing supplying a systematic three years' training corresponding to the above standards, which training may be obtained in two or more hospitals, said board shall proceed to examine said applicant in both theoretical and practical nursing, and upon such applicant passing said examination to the satisfaction of said board, said board shall enter said applicant's name in the register, hereinafter provided for, and shall issue to said person a certificate of registration authorizing said person to practice the profession of nursing as a "registered nurse." ('07 c. 153 § 7)

[2312—]8. **Registration without examination.**—All nurses graduating prior to Jan. 1, 1910, possessing the above qualifications, shall be permitted to register without examination upon payment of the registration fee. Nurses who shall show to the satisfaction of the board of examiners that they are graduates of training schools connected with a general hospital or sanitarium giving two years' training, or prior to the year 1897, having given one year's training, and who maintain in other respects proper standards, and are engaged in professional nursing at the date of the passage of this act, or have been engaged in nursing five years after graduation, prior to the passage of this act, also those who are in training at the time of the passage of this act, and shall graduate hereafter, and possess the above qualifications, shall be entitled to registration without examination, provided such application be made before Jan. 1, 1910. ('07 c. 153 § 8)

[2312—]9. **Same—Special examination.**—Graduates of training schools in connection with special hospitals, giving a two years' course, who shall obtain one year's additional training in an approved general hospital, shall be eligible for registration without examination before Jan. 1st, 1910, or said graduates shall be eligible for registration prior to said date upon passing a special examination before the board of examiners in subjects not adequately taught in the training schools from which they have been graduated. ('07 c. 153 § 9)

[2312—]10. **Practical examination for registration within two years.**—Any applicant who has pursued as a business the vocation of nursing for a period of not less than five years prior to the passage of this act, and who presents to the board a certificate testifying that he or she is competent to give efficient care to the sick, said certificate to be signed by one licensed physician and two registered nurses, shall be entitled to take a practical examination for state registration only during the two years immediately following the passage of this act. ('07 c. 153 § 10)

[2312—]11. **Applicants registered in other states.**—The board of examiners may issue license without examination, upon the pay-

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ment of five dollars registration fee, to applicants who have been registered in other states having equal requirements. ('07 c. 153 § 11)

[2312—]12. **Act not to apply, to whom.**—This act shall not be construed to apply to the gratuitous nursing of the sick by friends or members of the family, and also it shall not apply to any person nursing the sick for hire but who does not in any way assume to be a registered nurse. ('07 c. 153 § 12)

[2312—]13. **Register.**—Said board shall keep a register in which shall be entered names of all persons to whom certificates are issued under this act, and said register shall at all times be open to public inspection. ('07 c. 153 § 13)

[2312—]14. **Registered nurse.**—A person who has received his or her certificate according to the provisions of this act shall be styled and known as a "Registered Nurse." No other person shall assume such title or use the abbreviation "R. N." or any other letters or figures to indicate that he or she is a registered nurse. ('07 c. 153 § 14)

[2312—]15. **Revocation of certificate.**—Said board of examiners may revoke any certificate for sufficient cause, but before this is done the holder of said certificate shall have thirty days' notice, and after a full and fair hearing of the charges made, by a majority vote of the whole board, the certificate may be revoked. ('07 c. 153 § 15)

[2312—]16. **Penalty for violation.**—Any person violating any of the provisions of this act, or who shall wilfully make any false representation to the board of examiners in applying for a certificate shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not more than one hundred dollars and not less than ten dollars. ('07 c. 153 § 16)

DENTISTS.

2314. **Officers—Meetings—Compensation—Report.**—The board shall elect from its members a president and secretary and shall have a common seal. It shall hold regular meetings on the second Tuesday after the first Monday in March and November in each year, and special meetings at its pleasure. All meetings shall be held at the College of Dentistry of the state university. Each member shall receive \$5 a day for actual services and mileage at the rate of 3 cents a mile each way, to be paid out of the funds of the board. The secretary shall hold and disburse all funds and give such bond as the board shall direct. Before December 15th, in each year the board shall report its proceedings and the items of its receipts and disbursements to the governor. (R. L. § 2314, as amended by Laws 1907, c. 117, § 1.)

2315. **Practicing dentistry defined.**—All persons shall be said to be practicing dentistry, within the meaning of this section, who shall use the word or letters "Dentist" or "D. D. S." or any other letters or title in connection with his name which in any manner represents him as engaged in the practice of dentistry or who shall advertise or permit it to be done by sign, card, circular, handbill, newspaper or otherwise that he can or will attempt to perform dental operations of any kind, treat diseases or lesions of the human jaw or replace lost teeth by artificial ones or attempt to correct malposition thereof, or who shall for a fee, salary or other reward, paid or to be paid either to himself or to another person, perform dental operations of any kind, treat diseases or lesions of the human jaw or teeth, or replace lost teeth by artificial ones or attempt to correct malposition thereof. This shall not apply to students enrolled in and regularly attending any dental college; his acts done

under the direct supervision of a preceptor or a licensed dentist, shall not be subject to the provisions of this subdivision. (R. L. § 2315, as amended by Laws 1907, c. 117, § 2.)

Constitutionality.—This section, as amended by Laws 1907, c. 117, § 2, does not violate the provision of either the state or federal Constitution, which provides that no person shall be deprived of life, liberty, or property without due process of law. *State v. Crombie*, 119 N. W. 660.

In general.—A person who is licensed to "practice medicine and surgery" cannot by virtue thereof "practice dentistry" without securing a license as a dentist, as required by this section. *State v. Taylor*, 106 Minn. 218, 118 N. W. 1012, 19 L. R. A. (N. S.) 877.

2316. Examination—Certificate of registration—Dentists from other states—Revocation.—A person not already a registered dentist of the state desiring to practice dentistry therein shall apply to the secretary of the board for examination and pay a fee of \$10, which in no case shall be refunded. At the next regular meeting he shall present himself for examination and produce his diploma from some dental college of good standing, of which standing the board shall be the judges. The board shall give the applicant such an elementary, practical examination as to thoroughly test his fitness for the practice, and include therein the subjects of anatomy, physiology, chemistry, materia medica, therapeutics, metallurgy, histology, pathology and operative, surgical and mechanical dentistry; and the applicant shall be required to demonstrate his skill in operative and mechanical dentistry. If the applicant successfully passes the examination he shall be registered by the board as a licensed dentist and supplied with a certificate of registration, signed by all members of the board of dental examiners. Provided, that any dentist who has been in legal practice in another state having and maintaining an equal standard of laws regulating the practice of dentistry with this state for five years or more, and is a reputable dentist of good moral character, and is desirous of removing to this state and deposits in person with the board of dental examiners a certificate from the examining board of the state in which he is registered, certifying to the fact of his registration and that he is of good moral character and professional attainments, may, at the discretion of the board, be granted a license to practice in this state without further theoretical examination. The board, upon hearing, after twenty days' notice thereof, may revoke the license of any one who, with intent to deceive the public, shall practice dentistry under an assumed name. It shall be no defense for a person prosecuted for practicing dentistry under one name without a license that he shall have been licensed under a different name, unless it be shown that such practice was without intent to defraud or deceive. (R. L. § 2316, as amended by Laws 1907, c. 117, § 3.)

Constitutionality.—This section, as amended by Laws 1907, c. 117, § 3, does not delegate legislative or judicial powers to the board, and it is constitutional. *State v. Crombie*, 119 N. W. 658.

2319. Prohibitions—Penalties—Disposition of fines.—No person shall practice dentistry in the state without having complied with the provisions of this subdivision. Any licensed dentist, proprietor, partnership, association or corporation owning, running, operating or controlling any room or rooms, office or dental parlors where dental work of any kind is done or provided for, or contracted for, who shall employ, keep or retain contrary to the provisions of this law any unlicensed dentist shall be guilty of a misdemeanor. Any person who shall falsely pretend that he holds a certificate of registration from the board or shall falsely represent himself as a graduate of a dental college, or shall violate any of the provisions of this subdivision shall be guilty of a misdemeanor. All fines collected under the provisions hereof shall be paid into the

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school fund of the county in which the conviction occurred. (R. L. § 2319, as amended by Laws 1907, c. 117, § 4.)

Cited in *State v. Taylor*, 106 Minn. 218, 118 N. W. 1012, 19 L. R. A. (N. S.) 877.

OPTOMETRISTS.

2320. Board of optometry.—The state board of optometry shall consist of five qualified optometrists appointed by the governor, each for the term of three years and until his successor qualifies, excepting that the appointments for the term beginning January, 1910, two members shall be appointed for the term of three years, two members for the term of two years, and one member for the term of one year. Vacancies in such board shall be filled by like appointment for unexpired terms. They shall elect from among their number a president and a secretary, and may adopt a seal. For the purpose of examining applicants for certificates, the board shall meet at least once in each year at the seat of government, and may hold other meetings at its pleasure. Each member shall receive from the funds of the board five dollars a day for actual services, three cents a mile for necessary travel and for other necessary expenses of attending meetings, not to exceed two dollars and fifty cents a day. It may employ necessary assistants to aid in the enforcement of the provisions of this subdivision, the attendant expenses of the employment of such attorney and assistants to be met from the funds of the board. The secretary shall keep a record of all proceedings including therein the name of every applicant for examination or registration, which records shall be open to public inspection. (R. L. § 2320, as amended by Laws 1909, c. 415, § 1.)

PHARMACISTS.

2327. State board of pharmacy.

Constitutionality.—R. L. §§ 2327-2341, are not unconstitutional, either as depriving persons licensed under prior statutes of vested rights, or otherwise obnoxious to the principles of the fundamental law. *State v. Hovorka*, 100 Minn. 249, 110 N. W. 870, 8 L. R. A. (N. S.) 1272.

See note under sections 2330, 2334.

2330. Qualifications—Registration without examination.—To be entitled to examination by the board as a pharmacist, the applicant must be twenty-one years old and have had four years' practical experience in drug stores where physicians' prescriptions are usually compounded; if he be a graduate of a school of pharmacy whose course includes twelve months of laboratory work, but two years' such experience shall be required. If upon examination the board finds him qualified, he shall be entitled to registration as such pharmacist; provided, that upon payment of the fee of ten dollars, any person over twenty-one years of age who has had fifteen years or more practical experience in a drug store where physicians' prescriptions are usually compounded, and who has been a bona fide resident of this state for the year last past, may be entitled to be registered and receive a certificate authorizing him to practice as a registered pharmacist without examination; provided, however, that application for registration under the provisions of this act shall be made to said board within ten days from and after the enactment of this law. (R. L. § 2330, as amended by Laws 1907, c. 346, § 1.)

Constitutionality.—Laws 1907, c. 346, is constitutional. *Minnesota State Pharmaceutical Ass'n v. State Board of Pharmacy*, 103 Minn. 21, 114 N. W. 245.

Construction.—The second proviso prescribes the time within which the persons mentioned in the first proviso must apply for registration. *Minnesota State Pharmaceutical Ass'n v. State Board of Pharmacy*, 103 Minn. 21, 114 N. W. 245.

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2334. Annual fee—Reinstatement.

Fees—Validity of imposition.—The fee is not a tax upon the business of pharmacy, but a charge upon those engaged in that occupation for the support and maintenance of the machinery provided for its regulation. The amount is not unreasonable. *State v. Hovorka*, 100 Minn. 249, 110 N. W. 870.

[2338—]1. **Sale of cocaine—Record.**—That no person shall sell or give away any cocaine, hydrochlorate, or any salts or compound of cocaine, or preparation containing cocaine, except upon the written prescription of a physician or dentist, or veterinarian, licensed under the laws of the state. No prescription containing cocaine shall be filled more than once and each shall have written plainly upon it the name and address of the patient, or owner of animal, and be filed and preserved by the pharmacist, who shall not give a copy thereof to the patient or owner of animal. This section shall not be so construed as to apply to sales at wholesale, in original packages, by any manufacturer or wholesale dealer, to a retail druggist, licensed physician or dentist or veterinarian when such vendor shall have affixed to each receptacle containing any such drug a label in the English language specifically setting forth the proportion of cocaine contained therein. (Laws 1905, c. 42, as amended by Laws 1909, c. 85, § 1.)

Historical.—“An act to regulate the compounding, use and sale of cocaine and its preparations and providing penalties for the violation thereof,” approved March 15, 1905 (Laws 1905, c. 42), as amended by “an act to amend chapter 42, General Laws of Minnesota for the year 1905, relating to the compounding, use and sale of cocaine and its preparations, and providing penalties for the violation thereof,” approved March 19, 1909 (Laws 1909, c. 85).

[2338—]2. **Same—Penalty for violation.**—Any person who shall sell or give away any of the articles mentioned in the preceding section in violation of this act, and any person who shall prescribe any of such articles to any one addicted to the habitual use of cocaine or any preparation or compound thereof in any form shall be punished by a fine of not less than \$50 nor more than \$100 or by imprisonment in the county jail for not less than 30 days nor more than 90 days, and if the person so offending shall be a licensed physician, dentist, veterinarian, pharmacist or assistant pharmacist, in addition to the penalty above described, such offender's license shall be revoked. (Laws 1905, c. 42, as amended by Laws 1909, c. 85, § 2.)

[2338—]3. **Same—Duty of county attorney.**—Upon complaint being made of the violation of the provisions of this act, the county attorney of the county where the offense is alleged to have been committed shall prosecute such complaint and to that end is hereby authorized to examine the books of any manufacturer or wholesale dealer within the state for the purpose of tracing the sale of any of the articles herein mentioned. (Laws 1905, c. 42, as amended by Laws 1909, c. 85, § 3.)

[2338—]4. **Fines, how disposed of.**—All fines collected under the provisions under this act shall inure to the Minnesota State Board of Pharmacy. (Laws 1905, c. 42, as amended by Laws 1909, c. 85, § 4.)

2340. Sales by others prohibited.

Cited and applied in *State v. Hovorka*, 100 Minn. 249, 110 N. W. 870, 8 L. R. A. (N. S.) 1272.

EMBALMERS.

[2341—]1. **License.**—No person shall embalm any dead human body in the State of Minnesota without being licensed by the state board of health, as hereinafter provided. ('05 c. 101 § 1)

Historical.—“An act to regulate the practice of embalming dead human bodies.” Approved March 31, 1905.

By section 7 the act took effect January 1, 1906.

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[2341—]2. **Examination by state board of health.**—The state board of health of the State of Minnesota is hereby authorized and empowered to examine all applicants for license to practice embalming, and to determine whether or not such applicants possess the necessary qualifications to properly embalm dead human bodies; and, if upon such examination, said board shall determine that such applicant is properly qualified to embalm dead human bodies, it shall grant a license to such person to embalm human dead bodies for a period ending the thirty-first day of July following. ('05 c. 101 § 2)

[2341—]3. **Fee—Qualifications.**—The applicant for license shall at the time of application pay a fee of five dollars. No person shall be granted any such license unless he shall, in addition to other qualifications, be at least twenty-one years of age, of good moral character, and shall have for at least one year had practical experience in embalming. ('05 c. 101 § 3)

[2341—]4. **Licenses—Renewal.**—Any person now holding a license from the state board of health as an embalmer shall be held to be licensed as an embalmer under the terms of this act, but all such licenses shall expire July thirty-first next. Any license may be renewed from time to time and shall be in force after such renewal for a period of two years from the thirty-first day of the preceding July, upon the payment of a renewal fee of one dollar. ('05 c. 101 § 4)

[2341—]5. **Revocation.**—The state board of health may revoke any license granted, or may refuse to grant or renew a license upon proof of the violation by the holder of such license or the applicant for such license or renewal of the rules of the state board of health concerning the care, custody or disposition of dead human bodies, or the disinfecting of premises where contagion exists, or for want of moral character or of capacity. ('05 c. 101 § 5)

[2341—]6. **Penalties for violation.**—Any person who shall embalm a dead human body, or who shall hold himself out as an embalmer thereof without being licensed as herein provided shall be guilty of a misdemeanor, and upon conviction shall be liable to a fine of not less than twenty-five dollars or more than a hundred dollars or imprisonment for a period of not to exceed three months. ('05 c. 101 § 6)

VETERINARIANS.

2350—2353. [Superseded.]

See sections [2353—]1 to [2353—]5 and note under section [2353—]1.

[2353—]1. **Veterinary examining board.**—The state veterinary examining board shall consist of five qualified veterinarians, graduates of reputable veterinary colleges, appointed by the governor, each for the term of five years, one to be appointed each year, the first board, however, to consist of five members who shall hold office for one, two, three, four, and five years, respectively, and thereafter for the term of five years each and until their successors qualify. The board shall elect from its number a president, a secretary and treasurer, and shall have a seal, and shall have power to administer oaths and take testimony. It shall hold meetings for the examination of applicants for license to engage in veterinary work at the capitol, on the Tuesday preceding the second Wednesday in January and July in each year, and such other meetings as may be necessary; but no meeting shall exceed three days' duration. Each member shall receive five dollars a day for actual services, and mileage at four cents a mile for necessary travel, to be

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paid out of the funds of the board. The secretary shall conduct all correspondence necessary to carry out the provisions of this act; keep a record of all proceedings, including the name of every applicant for registration or examination, with his age, the extent of his study or practice, and the name of his veterinary college, if any, and shall receive such compensation as the board may elect. Such record shall be prima facie evidence of the matters therein contained. ('07 c. 419 § 1)

Historical.—"An act to regulate the practice of veterinary medicine, surgery and dentistry." Approved April 25, 1907.

Section 6 repeals inconsistent acts.

[2353—]2. **Who entitled to examination—Fee—License.**—Every graduate of a reputable and regularly organized veterinary college requiring a course of not less than three sessions of six months each shall be entitled to examination by the board, upon payment in advance of a fee of twenty-five dollars. All moneys so received shall be devoted to carrying out the provisions of this act. The board shall issue a license to every such applicant who, upon examination, shall be found qualified. ('07 c. 419 § 2)

[2353—]3. **Renewal fee—Revocation.**—Every person registered by the board shall, while continuing to practice, annually pay to the secretary of the board a renewal fee of one dollar. All certificates now in force or which shall hereafter be issued, shall be subject to renewal on or before the first of May in each year. On hearing, the board may revoke any certificate or renewal which is obtained by fraud, or when the holder is guilty of gross moral or professional misconduct the board may deny a renewal of his certificate, subject to review by the courts. ('07 c. 419 § 3)

[2353—]4. **Recording licenses.**—Every person holding a license from the board shall file it for record with the clerk of the district court in the county or counties where he practices within thirty days of its date; but it shall not be necessary to record an annual renewal. The clerk's fee in each case shall be one dollar. ('07 c. 419 § 4)

[2353—]5. **Prohibitions—Prior laws—Penalties.**—No person who is not a holder of a license from the state veterinary board, and no person who fails to have his license annually renewed, shall engage in veterinary practice for hire. But this shall not apply to the dehorning of cattle or the castration of animals, nor shall it prevent any one from rendering necessary assistance in the treatment of any domestic animal when the attendance of an authorized veterinarian cannot be procured without great inconvenience or risk. Provided, that any one who was eligible to registration under the provisions of section three of chapter one hundred forty-nine of the Laws of 1903, and who erroneously filed an application and affidavit with the clerk of the district court in his county shall upon payment of the fee provided for in section 2 receive a certificate. Provided, further, that any person who was eligible to registration, but who by reason of sickness failed to take advantage of chapter 31 of the General Laws of 1893, or chapter 149 of the Laws of 1903, may be granted a license by said board upon payment of a fee of twenty-five dollars as specified in section 2 [2353—2] of this act, provided application is made within thirty days after the passage of this act. Provided further, that any person who has practiced the profession of veterinary medicine, surgery and dentistry as a livelihood in this state for three years immediately preceding April 18, 1893, and who in the meantime shall not have been guilty of violating the provisions of section 7, chapter 31, Laws of 1893, and the acts amendatory thereof, shall be deemed eligible to registration as a licensed veterinarian in this state (upon passing a

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practical and non-technical examination) and upon the payment of a fee of twenty-five dollars, as prescribed in section 2 [2353—2] of this act. Provided that application for registration be made within ten days after the passage of this act. Every person who shall violate any of the provisions of this act shall be liable to a penalty of not less than twenty-five dollars nor more than one hundred dollars or not less than thirty nor more than ninety days' imprisonment for each and every such offense. The penalties prescribed in this section may be recovered in a civil action instituted by the board in the name of the state, or by a criminal prosecution upon complaint being made. In case any county attorney shall omit or refuse to conduct such proceeding, the board may employ another attorney for the purpose. ('07 c. 419 § 5)

STALLIONS.

[2356—]1. **Enrollment—License—Record.**—Every person, firm or company standing or using any stallion for public service in this state shall cause the name, description and pedigree of such stallion to be enrolled by a stallion registration board hereinafter provided for, and shall secure a license from said board as provided in section 3 [2356—3] of this act. All enrollment and verification of pedigree shall be done in the division of animal husbandry of the college of agriculture of the University of Minnesota. All license certificates for stallions issued under this act shall be presented to and recorded by the register of deeds of the county or counties in which said stallion is used for public service. ('07 c. 436 § 1)

Historical.—"An act to regulate the public service of stallions in Minnesota." Approved April 25, 1907.

[2356—]2. **Stallion registration board.**—In order to carry out the provisions of this act, there shall be constituted a stallion registration board, whose duty it shall be to verify and register pedigrees; to pass upon certificates of veterinary examination; to provide, when necessary, for veterinary inspection; to issue stallion license certificates; to make all necessary rules and regulations; and to perform such other duties as may be necessary to carry out and enforce the provisions of this act. Said board shall hold meetings at the college of agriculture, the first Tuesday and subsequent days of February, May, August and November of each year and such other meetings as may be necessary. The stallion registration board shall be composed ex officio of the professor of animal husbandry of the Minnesota college of agriculture, who shall be, ex officio, secretary and executive officer of this board; the veterinarian of the state experiment station, and the president of the Minnesota Horse Breeders' association. ('07 c. 436 § 2)

[2356—]3. **Qualifications and disqualifications for enrollment.**—In order to secure the license certificate herein provided for, the owner of each stallion shall present a certificate and affidavit from a qualified, licensed and reputable veterinarian, to the effect that he has personally examined such stallion and that to the best of his knowledge and belief said stallion is free from infectious, contagious or transmissible disease or unsoundness. The owner of such stallion shall also furnish to the stallion registration board the stud book registry certificate of pedigree of the stallion and all other necessary papers relating to his breeding and ownership. Upon verification of pedigree and certificate of breeding (in case of pure bred stallions) and receipt of veterinary certificate and affidavit as provided for in this act, a stallion certificate shall be issued to the owner. The presence of any one or more of the following named diseases shall disqualify a stallion from public service, and are hereby defined as infectious, contagious or transmissible

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disease or unsoundness for the purposes of this act: Cataract, amaurosis, laryngeal hemiplegia (roaring or whistling), chorea (St. Vitus' dance, crampness, shivering, springhalt), bone spavin, ring-bone, sidebone, glanders, farcy, maladie du coit, urethral gleet, mange, melanosis and curb when accompanied by curby hock. The stallion registration board is hereby authorized to refuse certificate of enrollment to any stallion affected with any one of the diseases specified, and to revoke a previously issued stallion license certificate of any stallion found on examination to be so afflicted. ('07 c. 436 § 3)

[2356—]4. **Temporary license.**—The stallion registration board is authorized in cases of emergency to grant temporary license certificates without veterinary examination, upon receipt of an affidavit of the owner to the effect that to the best of his knowledge and belief said horse is free from infectious, contagious or transmissible disease or unsoundness. Temporary license certificates shall be valid only until veterinary examination can reasonably be made. ('07 c. 436 § 4)

[2356—]5. **License to be displayed.**—The owner of any stallion standing for public service in this state shall post and keep affixed during the entire breeding season copies of the license certificates of such stallion, issued under the provisions of this act, in a conspicuous place upon the main door leading into every stable or building where the said stallion stands for public service. Said copies shall be printed in bold face and conspicuous type, not smaller than small pica, especially the words "pure bred," "grade," etc. ('07 c. 436 § 5)

[2356—]6. **Form of license certificates.**—The license certificate issued after proper examination for a stallion whose sire and dam are of pure breeding and the pedigree of which is registered in a stud book recognized by the United States department of agriculture, or in any American studbook or registry association that recognizes and records stallions that have five pure top crosses, shall be in the following form:

STALLION REGISTRATION BOARD.

License Certificate of Pure-Bred Stallion.

The pedigree of the stallion (name)
owned by bred by
described as follows: Color
breed foaled in the year
has been examined at the college of agriculture, division of animal husbandry, and it is hereby certified that the said stallion is of pure breeding, is registered in a studbook recognized by the department of agriculture, Washington, D. C. The above named stallion has been examined by a duly licensed veterinarian; and is reported as free from infectious, contagious, or transmissible disease or unsoundness, and is licensed to stand for public service in the State of Minnesota.

(Signed)

Professor of Animal Husbandry and Secretary Stallion Registration Board.

The license certificate issued after proper examination for a stallion whose sire or dam is not of pure breeding shall be in the following form:

STALLION REGISTRATION BOARD.

License Certificate of Grade Stallion.

The pedigree of the stallion (name)
owned by bred by
described as follows: color

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breed, foaled in the year, has been examined at the college of agriculture, division of animal husbandry, and it is hereby certified that the said stallion is not of pure breeding and is, therefore, not eligible for registration in any studbook recognized by the department of agriculture, Washington, D. C.

The above named stallion has been examined by, a duly licensed veterinarian, and is reported as free from infectious, contagious or transmissible disease or unsoundness, and is licensed to stand for public service in the State of Minnesota.

(Signed)
Professor of Animal Husbandry and Secretary Stallion Registration Board.

('07 c. 436 § 6)

[2356—]7. **Advertisements, etc.**—Every bill, poster or advertisement issued by the owner of any stallion, licensed under this act, or used by him for advertising such stallion shall contain a copy of his license certificate and shall not contain illustrations, pedigrees or other matter that is untruthful or misleading. ('07 c. 436 § 7)

[2356—]8. **Fees—Subsequent examinations.**—A fee not exceeding \$2 shall be paid to the secretary of the stallion registration board for the examination and enrollment of each pedigree and the issuance of a license certificate in accordance with the breeding of the stallion as above provided. A fee not exceeding \$1 shall be paid annually for the renewal of pedigree certificate and service license. Stallions shall be examined every four years until ten years of age, and after the first examination shall be exempt from examination at ten years of age or over. ('07 c. 436 § 8)

[2356—]9. **Transfer of certificate.**—Upon a transfer of the ownership of any stallion licensed under the provisions of this act, the license certificate may be transferred by the secretary of this board to the transferee upon submittal of satisfactory proof of such transfer of ownership and upon payment of 50 cents. ('07 c. 436 § 9)

[2356—]10. **Penalties.**—Violation of any of the provisions of this act shall be punished by a fine of not less than \$25 nor more than \$100 for each offense. ('07 c. 436 § 10)

[2356—]11. **Fees, how disposed of—Annual report.**—The funds accruing from the above named fees shall be used by the stallion registration board to defray the expenses of enrollment of pedigrees and issuance of licenses; to provide for the examination of stallions when necessary; to publish reports or bulletins containing lists of stallions examined; to encourage the horse breeding interests of this state; to disseminate information pertaining to horse breeding, and for any other such purposes as may be necessary to carry out the purposes and enforce the provisions of this act. It shall be the duty of this board to make annual report, including financial statement, to the governor of the state, and all financial records of said board shall be subject to inspection at any time by public examiner. ('07 c. 436 § 11)

PRIVATE DETECTIVES.

[2364—]1. **License.**—It shall be unlawful for any person to act as or hold himself out to be a private detective or to establish or engage in the keeping, maintaining or operating of any private detective agency, or to carry on any private detective work within this state, without having first obtained a license therefor from the governor of the State of Minnesota upon application therefor on

the payment of the fee and filing of the bond hereinafter provided for. ('07 c. 457 § 1)

Historical.—"An act to provide for the license and regulation of private detectives and detective agencies and their employment and operation in the state of Minnesota." Approved April 25, 1907.

Section 9 repeals inconsistent acts.

[2364—]2. **Term.**—Such license, unless sooner revoked, shall be and remain in force for three years from the date thereof. ('07 c. 457 § 2)

[2364—]3. **Fee—Bond—Revocation.**—No such license shall be issued until such applicant shall have paid into the state treasury the fee hereinafter provided, and shall have filed with the secretary of state a bond duly approved by the governor in the sum of \$2,000, conditioned on the payment of all damages suffered, or sustained by any person by reason of any willful or malicious act on the part of such detective or detective agency or any employé of such detective or agency. Said license so issued may be revoked by the governor at any time, but no license shall be so revoked until the licensee shall have had an opportunity to appear and defend any charges made against him. Such charges shall be written and filed with the secretary of state, and shall have been served upon said licensee not less than ten days prior to the date of such hearing. ('07 c. 457 § 3)

[2364—]4. **Employés of licensed detective.**—Nothing in this act contained shall be construed to prevent unlicensed persons from entering the employ of or working for and under the supervision of a regularly licensed private detective or detective agency, or any detective from any other state on a case having originated in another state. ('07 c. 457 § 4)

[2364—]5. **Amount of fee.**—Each licensed detective agency shall pay a license fee of \$10. ('07 c. 457 § 5)

[2364—]6. **Prohibition.**—Unless connected with or employed by a regular licensed detective agency, no person shall do or offer to do any detective work for money or other emolument within the State of Minnesota. ('07 c. 457 § 6)

[2364—]7. **Penalty.**—Any person violating any of the provisions of this act shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined not to exceed one hundred dollars or imprisoned in the county jail for not to exceed three months, or both, for each and every violation thereof. ('07 c. 457 § 7)

[2364—]8. **"Person."**—In the construction of this act the word "person" shall be held to mean person, persons, co-partnership or corporation. ('07 c. 457 § 8)

CHAPTER 36.

PROTECTION AGAINST FIRE.

2373-2374. [Superseded.]

See sections [2374—]1 to [2374—]9, and note under section [2374—]1.

[2374—]1. **Hotels, lodging houses, etc.—Fire escapes—Ropes in bedrooms—Penalty.**—Every building or structure kept, used or maintained as, or advertised as, or held out to the public to be an inn, hotel or public lodging house, or place where sleeping accommodations are furnished to the public, whether with or without meals, shall have and be provided with, at each end of all halls from every story or floor higher than three stories, a suitable fire