

89022

GENERAL STATUTES OF MINNESOTA

SUPPLEMENT 1917

CONTAINING THE AMENDMENTS TO THE GENERAL STATUTES
AND OTHER LAWS OF A GENERAL AND PERMANENT
NATURE, ENACTED BY THE LEGISLATURE
IN 1915, 1916, AND 1917

WITH NOTES OF ALL APPLICABLE DECISIONS

COMPILED BY

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WEST PUBLISHING CO.

1918

CHAPTER 34

STATE PRINTING

4941. **Same—How distributed**—Twenty-five thousand copies of said manual shall be printed and distributed as follows:

1. Fifty copies to the president of the senate and to each member of the legislature, and fifty copies to the state historical society.

2. Five to the state university.

3. Three to the state library.

4. Two to each of the following: The library of congress, the Minnesota soldiers' home, the state normal schools, the state high schools, the public academies, seminaries, and colleges of the state, and the free public libraries thereof.

5. One to each of the following: The state institutions not hereinbefore mentioned, the elective state officers, the appointed heads of departments, the officers and employees of both houses of the legislature, the supreme and district court judges, the senators and representatives in congress from this state, and the several county auditors.

6. Each county superintendent of schools, one copy for each public school in his county.

7. There shall be retained, for distribution to members of the next succeeding legislature, two hundred seventy-five and the remainder may be disposed of as the printing commission shall deem best. (Amended '15 c. 72 § 1)

CHAPTER 35

EMPLOYMENTS LICENSED BY STATE BOARDS OR OFFICIALS

ATTORNEYS AT LAW

4946. **Admission to bar**—Except as hereinafter provided, no person shall be admitted to practice as an attorney, or permitted to commence, conduct, or defend any action or proceeding in a court of record to which he is not a party, either in his own name or in that of another, otherwise than after examination under rules prescribed by the supreme court. (Amended '17 c. 282 § 1)

Cited (127-150, 149+9, L. R. A. 1915B, 151).

[4946—]1. **Same—Graduates from certain schools**—Any student who has heretofore matriculated in the college of law of the state university shall be so admitted, upon graduation, without fee or examination, upon production of his diploma, within two years from the date thereof, and upon proof that he is an adult citizen and resident of the state, of good moral character. Upon the same terms and conditions any student who has heretofore matriculated in any college of law incorporated in this state or established by authority of its laws, and located therein, shall upon graduation be admitted to such practice, provided such college receives as students only those having the equivalent of a high school education, affords a three years' course of tuition under a corps of ten competent instructors, and operates under the written approval of the supreme court. Such approval shall be by certificate, heretofore filed with the clerk, to the effect that such college meets the foregoing requirements. When, in the opinion of the court, any such college shall have ceased to merit such approval, the court may revoke the same, and thereafter the diploma shall no longer have the effect above provided. ('17 c. 282 § 2)

4948. General duties—

Duties of attorney, purchasing from the adverse party the subject-matter of the litigation, stated (125-130, 145+809, Ann. Cas. 1915C, 951). Attorney and Client, Ⓒ125.

Question whether defendant, an attorney, and who failed to foreclose mechanic's lien within the limitation period, was in fact employed by plaintiff, held for the jury (123-353, 143+975). Attorney and Client, Ⓒ129(3).

The law requires the utmost good faith on the part of an attorney in his dealings with his client (162+298). Attorney and Client, Ⓒ123(1).

Champerty (128-365, 151+125). a Champerty and Maintenance, Ⓒ5(1).

4955. Lien—An attorney has a lien for his compensation whether the agreement therefor be express or implied:

1. Upon the papers of his client coming into his possession in the course of his employment.

2. Upon money in his hands belonging to his client.

3. Upon the cause of action from the time of the service of the summons therein, or the commencement of the proceeding, and upon the interest of his client in any money or property involved in or affected by any action or proceeding in which he may have been employed, from the commencement of said action or proceeding, and, as against third parties, from the time of filing the notice of such lien claim, as provided in this section.

4. Upon money or property in the hands of the adverse party to the action or proceeding in which the attorney was employed, from the time such party is given notice of the lien.

5. Upon a judgment, and, whether there be a special agreement as to compensation, or whether a lien is claimed for the reasonable value of the services, the lien shall extend to the amount thereof from the time of giving notice of his claim to the judgment debtor, but this lien is subordinate to the rights existing between the parties to the action or proceedings.

6. The liens provided by subdivisions 3, 4 and 5 of this section may be established, and the amount thereof determined, by the court, summarily, in the action or proceeding, on the application of the lien claimant or of any person or party interested in the property subject to such lien, on such notice to all parties interested therein as the court may, by order to show cause, prescribe, or, such liens may be enforced, and the amount thereof determined, by the court, in an action for equitable relief brought for that purpose.

Judgment shall be entered under the direction of the court, adjudging the amount due and the sale of the property subjected to the lien, or some part thereof, to satisfy said amount, and directing the sheriff to proceed to sell the same according to the provisions of law relating to the sale of real estate on execution, and to make report to the court.

A certified transcript of the judgment shall be delivered to the sheriff, and shall be his authority for making the sale.

If the property so sold is real estate, the same shall be subject to redemption in the manner provided by law for redemption of real property sold on execution.

Such liens shall not affect the right or title of bona fide purchasers or incumbrances of the property subject thereto, for value and without notice; but a duly verified notice of intention to claim such lien, specifying the property on which the lien is claimed, and the amount thereof, if under express agreement, or, if not, then the reasonable value of the services for which such lien is claimed, filed as herein provided, shall charge subsequent purchasers and incumbrancers of such property with notice of said lien from the time of such filing.

If the lien is claimed on the client's interest in real estate involved in or affected by the action or proceeding, such notice of intention to claim a lien thereon shall be filed in the office of the register of deeds in and for the county within which the same is situated. If the lien is claimed on personal property said notice shall be filed in the same manner as provided by law for the filing of chattel mortgages. (Amended '17 c. 98 § 1)

In general—The pendency of a former action, brought by other attorneys, and which was not pleaded in defense to the second action, and of which the attorneys in the second action had no notice, did not bar the lien rights of the attorneys in the second action (128-354, 151+128). Attorney and Client, Ⓒ174.

Lien—How enforced—The lien may be enforced in a summary proceeding under § 4956 (122-87, 141+1103).

Where the client settles the case without notice to or consent of the attorney, he may enforce his lien by independent action against the defendant or by intervention proceedings in the original action (128-354, 151+128). Attorney and Client, Ⓒ190(2).

Expenditures by attorney—The lien covers legitimate expenditures by the attorneys in the prosecution of the action, when included within the contract of employment, and is not limited to such items of costs and disbursements as might be taxed as such against the defendant (128-354, 151+128). Attorney and Client, Ⓒ175. ρ

Effect of settlements by client—An attorney bringing an action in this state for a special administrator for wrongful death of the intestate, a nonresident, which occurred in this state, held entitled to a lien as against a general administrator appointed by the probate court of the foreign state, who settled the cause of action with defendant (129-279, 152+413). Attorney and Client, Ⓒ182(1).

A stipulation in the contract for compensation that the client should not settle the case without the consent of the attorney was invalid, but the lien given by this section was not impaired by a settlement made in contravention of said stipulation. A settlement by the client, made in good faith and without purpose to defraud the attorney, is conclusive as to the amount of recovery in the action (128-354, 151+128). Attorney and Client, Ⓒ189.

A railroad company, which settles a personal injury judgment for less than its face amount, without investigating the truth of plaintiff's statement as to the name of his attorney and as to the nature of the contract for compensation, is liable to the attorney for the full amount that would be due the attorney, had the full amount of the judgment been collected (131-102, 154+962). Attorney and Client, Ⓒ190(2).

4956. Refusal to surrender property to clients—

The court may summarily compel an attorney to pay to his client money received as the result of litigation. In proceedings under this section the court may determine the attorney's compensation, and enforce his lien therefor out of moneys withheld from the client, and may construe a contract relating to such compensation. The court, in proceedings under this section, is not confined to the consideration of affidavits, but may order a reference or send an issue to a jury (122-87, 141+1103). Attorney and Client, Ⓒ126(1, 2), 148(1).

4957. Removal or suspension—

122-529, 142+1134. Appeal and Error, Ⓒ979(3).

Subd. 1—124-528, 144+1134; 124-529, 144+1135.

Violation of § 8971, prohibiting advertising for divorce business, is a misdemeanor involving moral turpitude, within this subdivision (123-529, 143+1135). Attorney and Client, Ⓒ39.

That an attorney had been convicted of a misdemeanor, and had paid a fine of \$50 eight years before, which matter was of record and well known, was not ground for disbarment or discipline (123-54, 142+929). Attorney and Client, Ⓒ39.

Subd. 2—Where an attorney, employed under a contract entitling him to one-half of the recovery, without his client's knowledge or consent, dismissed a motion for new trial on the ground of inadequate verdict for personal injuries, it was willful misconduct, authorizing his suspension. Where an attorney secures a written contract for his compensation, a verbal agreement to pay a portion of the costs is professional misconduct, though the written contracts were purposely drawn so as to hide their champertous nature (123-54, 142+929). Attorney and Client, Ⓒ44(1).

Getting money from his client, defendant in divorce proceedings, by falsely representing that the court ordered it as expense money, and also misappropriating money collected for his client, held ground for disbarment (122-490, 142+733). Attorney and Client, Ⓒ44(2).

4959. Order to appear—Proceedings—

Disbarment on failure to appear to order to show cause (see 129-540, 152+1103).

Where notice was served on respondent in another state, to which he has removed, and he makes no appearance, he will be suspended until such time as he may appear and offer complete explanation of the charges against him (141+1134).

CERTIFIED ACCOUNTANTS

4964. Certificate granted; to whom—

Cited (127-150, 149+9, L. R. A. 1915B, 151).

Ability and skill required (121-296, 141+181, 45 L. R. A. [N. S.] 205, Ann. Cas. 1914C, 720). Master and Servant, Ⓒ53.

Damages for breach of contract (121-296, 141+181, 45 L. R. A. [N. S.] 205, Ann. Cas. 1914C, 720). Master and Servant, Ⓒ65.

PHYSICIANS AND SURGEONS

4970. Board of medical examiners—

Cited (124-151, 144+755).

4971. Examination and license—

License fees received by the secretary and treasurer of the state board of medical examiners under this act may be retained by the board, notwithstanding § 111, requiring executive officers to pay all fees and charges received by them into the state treasury (124-151, 144+755). Physicians and Surgeons, ¶5(1).

4973. Same—

License fees received may be retained by the board, notwithstanding § 111, requiring executive officers to pay into the state treasury fees and charges received by them (124-151, 144+755). Physicians and Surgeons, ¶5(1).

4977. Itinerant physicians, how licensed—That any physician practicing medicine surgery or obstetrics, or professing or attempting to treat, cure or heal diseases, ailments or injuries by any medicine, appliance or method, who by himself, agent or employé goes from place to place, or from house to house, or by circular letters or advertisement, solicits persons to meet him for professional treatment at places other than his regular offices or residence, shall be considered an itinerant physician. Any such itinerant physician shall, in addition to his regular license to practice medicine in this state, procure from the state board of medical examiners, a license as an itinerant physician. Any physician licensed to practice in this state desiring to secure a license as an itinerant physician, shall make an application therefor to the state board of medical examiners, setting forth in detail such information as said board may require. Said board shall examine into said application, the qualification, character and reputation of the applicant and the question as to whether the public interest will be subserved by the granting of such itinerant license and if it shall determine that such license should be granted, it shall pass a resolution to that effect, to be spread upon its minutes and upon the payment of \$300 to the secretary of said board, an itinerant physician's license shall be issued to said applicant for a period of one year from the date thereof; said secretary shall forthwith pay said license fee into the state treasury, for the use of the Board.

The board may cancel any itinerant physician's license so issued by it upon satisfactory evidence of the incompetency or gross immorality of the licensee. (Amended '17 c. 362 § 1)

4978. Same—Penalty for violation, etc.—Any person practicing medicine as an itinerant physician as defined in section 1 (4977) hereof, without first having procured such license therefor shall be guilty of a gross misdemeanor;

Provided, however, that nothing herein shall be considered to prevent any physician otherwise legally qualified, from attending patients in any part of the state to whom he shall be called in the regular course of business or in consultation with other physicians;

Provided, that nothing in this act shall preclude licensed dentists or optometrists from practice of their profession. (Amended '17 c. 362 § 1)

4979. Record of licenses—Report to secretary—

Cited (124-151, 144+755).

4980. Exemptions—

Cited (124-151, 144+755).

4981. Practicing without license—

Cited (124-151, 144+755).

[4981—]1. Division of fees prohibited—It shall be unlawful for any physician or surgeon to divide fees with, or to promise to pay a part of his fee to, or pay a commission to any other physician or surgeon or person who calls him in consultation or sends patients to him for treatment or operation. ('17 c. 365 § 1)

[4981—]2. Same—Penalty for violation—Any physician or surgeon who pays or receives any money prohibited by this act shall be punished by a fine

of not to exceed one hundred (\$100) dollars or imprisonment in the county jail not to exceed ninety (90) days. ('17 c. 365 § 2)

[4981—]3. **Same—Revocation of license**—In case a physician or surgeon shall be convicted of violating any of the provisions of this act, the state board of medical examiners upon a first conviction may, and upon a subsequent conviction shall revoke the license of the person so convicted, but such revocation shall be subject to the right of the person whose license has been so revoked, to appeal to the district court of the proper county on questions of law and fact. ('17 c. 365 § 3)

MIDWIVES

4983. Midwifery licenses—

Fees received under this act may be retained by the board, notwithstanding § 111, requiring executive officers to pay into the state treasury fees and charges received by them (124-151, 144+755). Physicians and Surgeons, § 5(1).

4984. Renewal, revocation, and refusal—

124-151, 144+755, and note under § 4983.

4985-4992. [Repealed.]

See § [4992—]22.

[4992—]1. **Maternity hospitals and infants' homes—Definitions**—Any person who receives for care and treatment during pregnancy, or during delivery or within ten days after delivery, more than one woman within a period of six months, except women related to him by blood or marriage, shall be deemed to maintain a maternity hospital. Any person who receives for care or treatment, or has in his custody at any one time, three or more infants under the age of three years, unattended by a parent or guardian, for the purpose of providing them with food, care and lodging, except infants related to him by blood or marriage, shall be deemed to maintain an infants' home. The word "person" where used in this act shall include individuals, partnerships, voluntary associations and corporations; provided, however, that this act shall not be construed to relate to any institution under the management of the state board of control, or to its officers or agents; nor to any individual who has received for care alone children from not more than one family during any period of three months. Whoever receives and cares for both women and infants as above defined shall be deemed to maintain a maternity hospital and infants' home, and shall be subject to all the provisions of this act. ('17 c. 212 § 1)

By § 23 this act shall take effect January 1, 1918.

[4992—]2. **Same—Incorporation required in certain counties**—No individual, partnership or association, except a corporation duly created and existing under the laws of Minnesota, and authorized by its charter so to do, shall maintain in any county containing a city of the first or second class a maternity hospital or infants' home, as defined in this act. ('17 c. 212 § 2)

[4992—]3. **Same—Licenses**—The state board of control is hereby empowered to grant a license for one year for the conduct of any maternity hospital or infants' home that it believes is needed and is for the public good, and that is conducted by a reputable and responsible person; and it shall be the duty of the board to provide such general regulations and rules for the conduct of all such hospitals and homes as shall seem advisable to it and not inconsistent with any of the provisions of this act. No person shall receive a woman, or child for care in any such hospital or home without first obtaining from said board a license so to do. No such license shall be issued unless the premises are in fit sanitary condition. The license shall state the name of the licensee, the particular premises in which the business may be carried on and the number of women and infants that may be boarded, treated or cared for therein at any one time; and such license shall be kept posted in a conspicuous place on the licensed premises. No greater number of women or infants shall be kept at any one time on the premises than is authorized by the license and no woman or infant shall be kept in a building or place not

designated in the license. A record of the license so issued shall be kept by the board of control, which shall forthwith give notice to the state board of health and to the local board of health of the town in which the licensee resides, of the granting of such license and the conditions thereof. The license shall be valid for one year from the date of issue. The state board of control may revoke the license when a provision of this chapter is violated, or when, in the opinion of said board, such maternity hospital or infants' home is maintained without due regard to sanitation and hygiene, or to the health, comfort or morality of the inmates thereof. The board shall note such revocation upon the face of the record of the license and give written notice of the revocation to the licensee by handing the notice to the licensee or leaving it on the licensee's premises, and shall forthwith notify the state board of health and the local board of health of the town in which the maternity hospital or infants' home is situated. ('17 c. 212 § 3)

[4992—]4. **Same—Offer to dispose of children, etc.**—No person, as an inducement to a woman to come to his place during confinement, shall in any way offer to dispose of any child, or advertise that he will give children for adoption, or hold himself out as being able to dispose of children in any manner. ('17 c. 212 § 4)

[4992—]5. **Same—Record of infants and book of forms**—The state board of control may prescribe forms for the registration and record of persons cared for in such home or hospital, and the licensee shall be entitled to receive gratuitously from the board of control a book of forms for such registration and record. Each book shall contain a printed copy of this chapter. The licensee of a maternity hospital shall keep a record, in a form to be prescribed by said board, wherein shall be entered the true name of every patient, together with all her places of residence during the year preceding admission to such hospital; the name and address of the physician or midwife who attended at each birth taking place in such hospital, or who attended any sick infant therein, and the name and address of the mother of such child; the name and age of each child who is given out, adopted or taken away to or by any person, together with the name and residence of the person so adopting or taking away such child; and such other information as the board shall prescribe. The licensee of an infants' home shall keep a record in a form to be prescribed by said board wherein shall be entered the name and age of each child received or cared for in such home, together with the names and addresses of the parents and the name and address of the person bringing the child; the name of the physician who attended any sick infant therein; the name and age of each child who is given out, adopted or taken away to or by any person, together with the name and residence of the person so adopting or taking away such child; and such other information as the board shall prescribe. ('17 c. 212 § 5)

[4992—]6. **Same—Births—Deaths**—Every birth taking place in a maternity hospital shall be attended by a legally qualified physician or midwife. The licensee shall within twenty-four hours after the birth make a written report of every woman confined and child born upon the premises to the state board of control, together with such additional information as may be required by the board. The licensee, immediately after the death in a maternity hospital or infants' home, of a woman or an infant born therein or brought thereto, shall cause notice thereof to be given to the local board of health of the town in which such home or hospital is located. ('17 c. 212 § 6)

[4992—]7. **Same—Inspection**—The officers and authorized agents of the state board of control and of the state board of health and the local boards of health of the towns in which such licensed premises are located may inspect such hospital or home at any time and examine every part thereof. The officers and agents of the state board of control may call for and examine the records which are required to be kept by the provisions of this act, and inquire into all matters concerning such hospital or home and the patients and infants therein; and the officers and authorized agents of the state board

of control shall visit and inspect such hospitals and homes at least once every six months and shall preserve reports of the conditions found therein. The licensee shall give all reasonable information to such inspectors and afford them every reasonable facility for viewing the premises and seeing the patients therein; provided, however, that no patient, without her consent, shall be required to be interviewed by an inspector or agent unless such inspector or agent is a woman or a licensed physician. ('17 c. 212 § 7)

[4992—]8. **Same—Reporting illegitimacy**—Whenever a child or a woman who within ten days has been delivered of a child, or a woman who is pregnant is received for care in a maternity hospital or infants' home, or other public or private hospital, the licensee of such maternity hospital or home, or the officer in charge of such other hospital, shall use due diligence to ascertain whether such child is legitimate, and if there is reason to believe that he is illegitimate or will be illegitimate when born, such licensee or officer shall report to the state board of control, within such [time] as said board may prescribe, the presence of such woman or child, together with such other information as the board may require. ('17 c. 212 § 8)

[4992—]9. **Same—Records to be private**—No officer or authorized agent of the state board of control, the state board of health or the local boards of health of the towns where such licensed hospitals or homes are located, or a licensee of such a hospital or home, or his agent, or any other person shall disclose the contents of the records herein provided for or the particulars entered therein, except upon inquiry before a court of law, at a coroner's inquest or before some other competent tribunal, or for the information of the state board of control, the state board of health or the local board of health of the town in which said hospital is located. ('17 c. 212 § 9)

[4992—]10. **Same—Relationship—Burden of proof**—In a prosecution under the provisions of this act or a penal law relating thereto, a defendant who relies for defense upon the relationship of any woman or infant to himself shall have the burden of proof. ('17 c. 212 § 10)

[4992—]11. **Same—Placing out—Records**—Every person permitted by law to receive, secure homes for or otherwise care for children, shall keep a record containing the names, ages and former residences of all children received; the names, former residences, occupations and character so far as known of the parents; the dates of reception, placing out and adoption, together with the name, occupations and residences of the person with whom the child is placed; the date and cause of the cancellation of any contract of indenture; the date and cause of any removal to another home; the date and cause of termination of guardianship, and a brief history of each child until he shall have reached the age of eighteen years, or shall have been legally adopted or discharged according to law. ('17 c. 212 § 11)

[4992—]12. **Same—Who may assume custody—Surrender of parental rights**—No person other than the parents or a relative may assume the permanent care and custody of a child under fourteen years of age unless authorized so to do by an order or decree of court. Except to a maternity hospital as provided by law, and in proceedings for adoption, no parent may assign or otherwise transfer to another his rights or duties with respect to the permanent care and custody of his child under fourteen years of age, and any such transfer hereafter made shall be void. ('17 c. 212 § 12)

[4992—]13. **Same—Notifying state board of control**—Whenever any person, shall place a child in a private home for the purpose of providing the child with a permanent home; and whenever a child shall have been in such a home for a longer period than six months, the person responsible for the placing of the child shall immediately notify the state board of control, giving the name and address of the child, the name of the person with whom the child has been placed, with such other information regarding the child and his foster home as may be required by the board. ('17 c. 212 § 13)

[4992—]14. **Same—Visitation of children—Transfer**—Within ninety days after the receipt of the notice provided for in section 13 [4992—13] the

state board of control shall cause the child and the home in which he has been placed to be visited by its agent for the purpose of ascertaining whether the home is a suitable one for the child; and shall continue to visit and supervise the case of such child the same as though the child were placed out by the state public school. Whenever satisfied that a child has been placed in an unsuitable home the board may order its transfer, and if said order is not obeyed within thirty days or such shorter time as may be named in the order, the board itself shall take charge of and provide for such child. ('17 c. 212 § 14)

[4992—]15. **Same—Bringing child into state for adoption—Bond—Notice to board—Reports**—No person shall bring or send into the state any child for the purpose of placing him out or procuring his adoption, without first obtaining the consent of the state board of control, and such person shall conform to the rules of the board. He shall file with the board a bond to the state, approved by the board, in the penal sum of one thousand dollars, conditioned that he will not send or bring into the state any child, who is incorrigible or unsound of mind or body; that he will remove any such child who becomes a public charge or who, in the opinion of the board of control, becomes a menace to the community prior to his adoption or becoming of legal age; that he will place the child under a written contract approved by the board that the person with whom the child is placed shall be responsible for his proper care and training. Before any child shall be brought or sent into the state for the purpose of placing him in a foster home, the person so bringing or sending such child shall first notify the state board of control of his intention, and shall obtain from the board a certificate stating that such home is, in the opinion of the board, a suitable home for the child. Such notification shall state the name, age and personal description of the child, and the name and address of the person with whom the child is to be placed, and such other information as may be required by the board. The person bringing or sending the child into the state shall report at least once each year, and at such other times as the board of control shall direct, as to the location and well-being of the child so long as he shall remain within the state and until he shall have reached the age of eighteen or shall have been legally adopted. Provided, however, that nothing herein shall be deemed to prohibit a resident of this state from bringing into the state a child for adoption into his own family. ('17 c. 212 § 15)

[4992—]16. **Same—Sending child out of state, etc.**—Before any child is taken or sent out of the state for the purpose of placing him in a foster home, otherwise than by a parent or guardian, the person so taking or sending him shall give the state board of control such notice and information as is specified in section 15 [4992—15], and thereafter shall report to the board at least once each year and at such other times as the board may direct, as to the location and well-being of such child until he shall have reached the age of eighteen years or shall have been legally adopted. It shall be the duty of the state board of control to carry out the provisions of this section. ('17 c. 212 § 16)

[4992—]17. **Same—Written agreement with person taking child**—Every person placing a child in a foster home shall enter into a written agreement with the person taking the child, which agreement shall provide that the person placing the child shall have access at all reasonable times to such child and to the home in which he is living, and for the return of the child by the person taking him whenever in the opinion of the person placing such child, or in the opinion of the board of control, the best interests of the child shall require it. The provisions of this section shall not apply to children who have been legally adopted. ('17 c. 212 § 17)

[4992—]18. **Same—Corporations caring for children—Approval by board of control**—No association whose object embraces the care of dependent, neglected or delinquent children or the placing of such children in private homes shall hereafter be incorporated unless the proposed articles of incorporation shall have been submitted first to the state board of control. The secretary of state shall not issue a certificate of incorporation unless there shall first be filed in his office a certificate of the board of control that it has examined

the articles of incorporation, and that in its judgment the incorporators are reputable persons, that the proposed work is needed, and that the incorporation of such association is desirable and for the public good. Amendments proposed to the articles of incorporation of any such association shall be submitted in like manner to the board of control and the secretary of state shall not record such amendment or issue his certificate therefor unless there shall first be filed in his office the certificate of the board of control that it has examined such amendment, that the association is, in its judgment, performing in good faith the work undertaken by it, and that such amendment is, in its judgment, a proper one and for the public good. ('17 c. 212 § 18)

[4992—]19. **Same—Supervision by board of control**—It shall be the duty of the state board of control to pass annually on the fitness of every agency, public, semi-public or private, which engages in the business, for gain or otherwise, of receiving and caring for children or placing them in private homes. Annually at such time as the board shall direct every such agency shall make a report showing its condition, management and competency to care adequately for such children as are or may be committed thereto or received thereby, the system of visitation employed for children placed in private homes, and such other facts as the board may require. When the board is satisfied that such agency is competent and has adequate facilities to care for such children, and that the requirements of the statutes covering the management of such agencies are being complied with, it shall issue to the same a certificate to that effect which shall continue in force for one year unless sooner revoked by the board. A list of such certified agencies shall be sent by the board at least annually to all juvenile courts and to all the agencies so approved. No agency which has not received such a certificate within the fifteen months next preceding, and which certificate remains unrevoked, shall receive a child for care or placing out, or place a child in another home, or solicit money in behalf of such agency. All such agencies shall be subject to the same visitation, inspection and supervision by the state board of control as are the public charitable institutions of this state. For the purposes of this section the term agency means any individual, association or corporation. ('17 c. 212 § 19)

[4992—]20. **Same—Penalties for violations**—Every person who violates any of the provisions of this act, shall, upon conviction of the first offense, be guilty of a misdemeanor. A second or subsequent offense shall be a gross misdemeanor. ('17 c. 212 § 20)

[4992—]21. **Same—Partial invalidity**—The provisions of this act are severable one from another and in their application to the persons and interests affected thereby. The judicial declaration of the invalidity of any provision, or the application thereof, shall not affect the validity of any other provision, or the application thereof. ('17 c. 212 § 21)

[4992—]22. **Same—Laws repealed**—Sections 4050, 4985, 4986, 4987, 4988, 4989, 4990, 4991 and 4992, General Statutes 1913, and all other acts and parts of acts inconsistent with the provisions of this act are hereby repealed. ('17 c. 212 § 22)

[CHIROPODISTS]

[5021—]1. **Board of chiropody examiners and registration**—An act creating a State board of chiropody examiners and registration to regulate the practice of chiropody in the State of Minnesota, to license chiropody practitioners and to punish persons violating the provisions of this act. ('17 c. 382 § 1)

Section 18 repeals acts contravening the provisions of this act, etc.

[5021—]2. **"Chiropody" defined**—The definition of the word chiropody, shall be held to be the medical, mechanical or surgical treatment of the ailments of the human hand or foot. It shall also include the fitting or recommending of appliances, devices or shoes for the correction or relief of minor foot ailments, except the amputation of the foot, hand, toes, fingers or the use of anesthetics other than local. ('17 c. 382 § 2)

[5021—]3. **Board, how constituted and appointed—Terms—**That within thirty days after the passage of this act the governor shall appoint a state board of chiropody examiners and registration, consisting of five members who shall be resident chiropodists of good standing in their profession; one to serve for one year; one to serve for two years; one to serve for three years; one to serve for four years and one to serve for five years, and until their successors are appointed and qualified and one each year thereafter to the end that each member shall serve five years after the first appointment. ('17 c. 382 § 3)

[5021—]4. **Registration of practitioners without examination—Fees—**Within thirty days after the enactment of this act said board shall notify all persons engaged in the practice of chiropody in this state of the provisions of the act, by publication in one or more newspapers in each county and every practitioner of chiropody, twenty-one years of age or over and of good moral character who shall make application for registration before the first day of July, 1917, and who can prove to the satisfaction of the board that he was engaged in the practice of chiropody in this state January first, 1917, shall, upon payment of a fee of ten dollars, be registered without examination and shall receive in testimony thereof a certificate signed by the chairman and secretary of said board.

Application for registration shall be made upon blanks furnished by the board and shall be signed and sworn to by the applicant.

All fees received by the board shall, once a month, be paid by its secretary into the treasury of the state. ('17 c. 382 § 4)

[5021—]5. **Registration by examination—Fees—**Any person not entitled to registration as aforesaid, who shall furnish the board with satisfactory proof that he is twenty-one years of age or over and of good moral character and that he has received a diploma or certificate of graduation from a recognized school of chiropody or equivalent institution, having a minimum requirement of two years' course of at least eight months, shall, upon payment of a fee of fifteen dollars, be examined and if found qualified, shall be registered and shall receive in testimony thereof a certificate signed by the chairman and secretary of the board.

An applicant who fails to pass an examination satisfactory to the board and is therefore refused registration, shall be entitled, within one year after such refusal, to a re-examination at a meeting of the board called for the examination of applicants, upon payment of an additional fee of two dollars for each such re-examination, but two such re-examinations shall exhaust his privilege under his original application.

Any person to whom a certificate of registration is granted under the provisions of this act, shall designate himself as a doctor of surgical chiropody. ('17 c. 382 § 5)

[5021—]6. **Examinations—**Examinations shall be in the English language and shall be written, oral or clinical or a combination of two or more of the said methods, as the board may determine.

The examinations shall embrace the subjects of anatomy, physiology, chemistry, bacteriology, pathology, diagnosis and treatment, materia medica and therapeutics and clinical chiropody, but said examinations shall be so limited in their scope as to cover only the minimum requirements for chiropody education as herein provided and shall not be construed to require of the applicant a medical or surgical education.

The minimum requirement for registration of applicants under section five and six of this act, shall be based on a general average of seventy-five per cent of the subjects involved and not less than sixty per cent in any one subject. ('17 c. 382 § 6)

[5021—]7. **Penalties for violation—**Any person who shall unlawfully obtain registration under this act, whether by false or untrue statements contained in his application to the board or by presenting to said board a fraudulent diploma, certificate or license or one fraudulently obtained, shall be deemed guilty of a felony and upon conviction thereof shall be punished by a fine

of not less than one hundred or more than three hundred dollars, or by imprisonment for not less than three months nor more than one year, or by both such fine and imprisonment; and any person not being lawfully authorized to practice chiropody in this State and registered as aforesaid, who shall advertise as a chiropodist, in any form, or hold himself out to the public as a chiropodist, shall upon conviction thereof, for each offense be punished by a fine of not less than one hundred nor more than five hundred dollars, or by imprisonment for not less than three months nor more than one year, or by both such fine and imprisonment. ('17 c. 382 § 7)

[5021—]8. **Evidence of practicing**—It shall be deemed prima facie evidence of the practice of chiropody or of holding oneself out as a practitioner of chiropody within the meaning of this act, for any person to treat in any manner the human hand or foot by medical, mechanical or surgical methods, or to use the title chiropodist or registered chiropodist or any other words, or letters which designate, or tend to designate to the public that the person so treating or holding himself out to treat, is a chiropodist. ('17 c. 382 § 8)

[5021—]9. **Cancellation of registration**—The board, after hearing may, by majority vote, revoke any certificate issued by it, and cancel the registration of any chiropodist who has been convicted of violation of the provisions of section six of this act [5021—6]. Said board may also, after hearing, by majority vote, revoke the certificate and cancel the registration of any person whom the court records of any state or territory within the United States, or the federal court records, or the record of any court of jurisdiction in any foreign country show that such person has been found guilty of a criminal offense. Said board may also, after hearing, by majority vote, revoke the certificate and cancel the registration of any person whose registration was granted upon mistake of material fact. The board may subsequently, but not earlier than one year thereafter, by unanimous vote, re-issue any certificate and register anew any chiropodist whose certificate was revoked and whose registration was cancelled by the board except as hereinafter provided. ('17 c. 382 § 9)

[5021—]10. **Unprofessional conduct**—The board may, after hearing, refuse to issue a certificate to any person, or may revoke the certificate and cancel the registration of any person registered under the provisions of this act, who after investigation, shall be found by a majority vote of the board, guilty of grossly unprofessional and dishonest conduct. The words, "unprofessional and dishonest conduct," shall be held to mean within the provisions of this act.

(a) The willing betrayal of a professional secret.

(b) Having professional connection with, or lending the use of one's name to an unregistered chiropodist or having professional connection with anyone who has been convicted in court of any criminal offence whatsoever.

(c) Being guilty of offenses involving moral turpitude, habitual intemperance, or being habitually addicted to the use of morphine, opium, cocaine or other drugs having a similar effect, or for using, selling or giving away any substance or compound containing alcohol or drugs for other than legal and legitimate purposes. ('17 c. 382 § 10)

[5021—]11. **Suspension of registration**—The board may revoke or suspend for an indefinite period, but not for less than six months, the certificate of registration of any person found guilty under the provisions of section nine of this act. ('17 c. 382 § 11)

[5021—]12. **Investigation and prosecution**—The board shall investigate all complaints of violations of section six [5021—6] and nine [5021—9] of this act and shall report all violations of section 6 [5021—6] to the proper prosecuting officers. ('17 c. 382 § 12)

[5021—]13. **Registration of certificates by county clerks, etc.**—Every person to whom a certificate of registration has been issued under this act shall, within one month from the date of receipt of said certificate of registration,

submit the same to the county (city, or town) clerk of the county (city or town) in which the said person has then legal residence or usual place of business and shall make oath that he is the person designated therein. Upon payment of a fee of one dollar, it shall be the duty of the county (city or town) clerk to whom such certificate is presented, to register the name and address of the person designated in the certificate, together with the date and number inscribed thereon; which record shall be open to the inspection of the public; and it shall be the further duty of the county (city or town) clerk to whom said certificate is presented, to file with the Board, within one week of such registration, a duplicate copy of the record made. ('17 c. 382 § 13)

[5021—]14. **Expenses and compensation**—Each member of the board shall receive ten dollars for every day actually spent in the performance of his duties in connection with the provisions of this act and the necessary traveling expenses actually incurred, not exceeding five cents per mile each way. The said compensation and travelling expenses and any incidental expenses necessarily incurred by the board or any member thereof, shall, if approved by the board, be paid from the treasury of the state, but only from the fees received under the provisions of this act and paid into the said treasury by the board. ('17 c. 382 § 14)

[5021—]15. **Reciprocity**—The board may accept the certificate of license of the board of registration and examination of any other state or territory or any foreign country whose standards of qualifications and requirements for practice are equivalent to those of this state on payment of the required fee of \$50.00 with the endorsement of the secretary of the state board of chiropody examiners. ('17 c. 382 § 15)

[5021—]16. **Meaning of "board"**—The word "board," wherever used in this act shall be understood to mean the board of registration in chiropody of the state of Minnesota. ('17 c. 382 § 16)

[5021—]17. **Exemption of physicians and others**—This act shall not apply to the commissioned surgical officers of the United States army, navy or marine hospital service when in the actual performance of their official duties, nor to any physicians duly registered under the general laws of the state nor to any legally registered chiropodist of another state taking charge of the practice of a legally registered chiropodist of this state temporarily, during the latter's absence therefrom upon the written request, to the board, of said registered chiropodist of this state. ('17 c. 382 § 17)

OPTOMETRISTS

5022-5028. [Repealed.]

See § [5028—]12.

[5028—]1. **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, or such part thereof as will provide for the expiration of the terms of two members January 1, 1916, one member January 1, 1917, and two members January 1, 1918, and until their successors qualify.

Vacancies in such board shall be filled by like appointment for unexpired terms. ('15 c. 127 § 1)

[5028—]2. **Rules and regulations—Taking testimony**—Said Board of Optometry shall make such rules and regulations, not inconsistent with the law, as may be necessary for the proper performance of its duties. Any member of the board may, upon being duly designated by the board, or a majority thereof, administer oaths or take testimony concerning any matter within the jurisdiction of the board. ('15 c. 127 § 2)

[5028—]3. **Officers—Meetings**—The board shall elect from among its members a president and may adopt a seal.

A secretary or assistant may be employed who need not necessarily be a member of said board.

For the purpose of examining applicants for licenses to practise optometry, the board shall meet at least once each year in St. Paul and may hold other meetings at its pleasure. ('15 c. 127 § 3)

[5028—]4. **Compensation of members and secretary, etc.**—Each member shall receive from the funds of the board five dollars (\$5.00) a day for actual services, three cents a mile for necessary travel and allowance for necessary expenses of attending meetings, not to exceed two dollars and fifty cents (\$2.50) a day.

For clerical services the secretary shall receive such compensation as the board may deem just and proper, such compensation to be not more than four hundred dollars (\$400.00) per year. The board may employ an attorney and other necessary assistants to aid in the enforcement of the provisions of this act, the attendant expense 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 record shall be open to public inspection. ('15 c. 127 § 4)

[5028—]5. **Definition of practicing optometry—Prohibited acts**—Any person shall be deemed to be practicing optometry within the meaning of this act who shall display a sign or in any way advertise himself as an optometrist, or who shall employ any means for the measurement of the powers of vision or the adaptation of lenses for the aid thereof, or who shall in the sale of spectacles or eyeglasses or lenses, use in the testing of the eyes therefor, lenses other than the lenses actually sold.

It shall be unlawful for glasses to be vended as merchandise except from permanently located and established places of business.

It shall be unlawful for any person to engage in the practice of optometry without first procuring and filing for record a certificate of registration as a licensed optometrist pursuant to this subdivision. ('15 c. 127 § 5)

[5028—]6. **Persons entitled to practice—Requirements for registration—Fees—Revocation of certificate**—The persons entitled to practice optometry in Minnesota who are not already registered shall be:

Every person of the full age of twenty-one years who furnishes the board with satisfactory evidence of

- (a) His age and moral character;
- (b) That he possesses the knowledge essential to the practice of optometry;
- (c) Having served an apprenticeship of not less than two years under a practicing optometrist acceptable to the board, or shall be a graduate of an optometry school or college approved by this board, requiring an attendance of not less than one year's course;

(d) Having passed satisfactorily an examination by the board as to his qualifications for the practice of optometry, upon the completion of which he shall receive from said board a license certificate entitling him to practice. Any person desiring to be examined by said board must fill out and swear to an application furnished by the board, and must file the same with the secretary of said board at least two weeks prior to the holding of an examination which the applicant is desirous of taking.

The applicant shall pay to the board a fee of twenty dollars (\$20.00) before examination and five dollars (\$5.00) upon the issuance of certificate. In the event of failure on the part of a candidate to pass the first examination, he may within fifteen months have another trial; upon the payment of five dollars (\$5.00) additional.

Any applicant may be registered and given a certificate of registration if he shall present a certified copy or certificate of registration or license which has been issued to said applicant by any other state, where the requirements for registration shall be deemed by said board to be equivalent to those of this act; provided that such state shall accord a like privilege to holders of certificates of said board.

The fee for registering such applicants shall be fifteen dollars (\$15.00).

The board upon a hearing of which the accused shall have a ten days' notice, may revoke the certificate of any person under conviction of crime or shown to be grossly incompetent, afflicted with contagious or infectious disease or who employs misrepresentation, fraud or house-to-house canvassing in order to fit or sell glasses, or who has been guilty of habitual drunkenness for six months immediately preceding the accusation. After one year upon application and proof that the disqualification has ceased, the board may reinstate such person. ('15 c. 127 § 6)

[5028—]7. **Certificate to be filed with clerk of district court—Fees**—The holder of every such certificate of registration shall file the same for record with the clerk of district court in the county where he resides, and after record shall display it conspicuously at his place of business. Upon removal to another county he shall there in like manner file his certificate before engaging in business therein.

Such clerk's fee shall be fifty cents (50c) for recording and one dollar (\$1.00) for a certified copy. A failure on the part of the holder to comply with any of the foregoing provisions for six months after issuance of the certificate shall forfeit the same. ('15 c. 127 § 7)

[5028—]8. **Annual fees**—Before April first in each year, every authorized optometrist shall pay to the board a fee of two dollars (\$2.00), in default of which, the board, upon a hearing and after twenty days' notice, may revoke the certificate of any optometrist so in default; but the payment of such fee at or before the time of hearing, with such additional sum, not exceeding five dollars (\$5.00), as may be fixed by the board, shall excuse the default. The board may collect such fee by suit. ('15 c. 127 § 8)

[5028—]9. **Fees, how used—Annual report**—All fees collected under this subdivision shall be received and held by the secretary and devoted to the uses of the board. The secretary shall give such bond as the board shall from time to time require. Before the first Monday in January, annually, the board shall report to the governor its proceedings, and the items of its receipts and disbursements. ('15 c. 127 § 9)

[5028—]10. **Penalty for violation**—Every person who shall violate any of the provisions of this act shall be guilty of a misdemeanor, the minimum punishment whereof shall be a fine of fifty dollars (\$50.00) and not more than one hundred dollars (\$100.00), or confinement in the county jail for not less than thirty (30) days nor more than ninety (90) days. ('15 c. 127 § 10)

[5028—]11. **Partial invalidity**—In case for any reason any paragraph or any provision of this act shall be questioned in any court of last resort and shall be held by such court to be unconstitutional or invalid the same shall not be held to affect any other paragraph or provision of this act. ('15 c. 127 § 11)

[5028—]12. **Laws repealed**—That Sections 2320, 2321, 2322, 2323, 2324, 2325 and 2326 of the Revised Laws of 1905 and all amendments to said sections or any of them are hereby repealed. ('15 c. 127 § 12)

PHARMACISTS

5046. **Punishment for sale by other than druggist**—No person, not a registered pharmacist or a dealer employing and keeping such a pharmacist in active charge of his place of business, shall retail, compound or dispense drugs, medicines or poisons, or keep or conduct a place for retailing, compounding or dispensing drugs, medicines, or poisons, or falsely assume or pretend to the title of a registered pharmacist. No registered pharmacist or other person shall permit the compounding or dispensing of prescriptions or the vending of drugs, medicines, or poisons in his place of business, except under the supervision of a registered pharmacist or assistant. Every person violating any provision of this section shall be guilty of a misdemeanor and shall be punished by a fine of not less than fifty dollars, except

in cases where the death of a human being results from such violation, when the person offending is guilty of a felony. (Amended '15 c. 62 § 1)

Cited (125-529, 147+273).

STALLIONS

5071. Enrollment—License—Record—

Cited (124-374, 145+32).

CHAPTER 36

PROTECTION AGAINST FIRE AND REGULATION OF HOTELS AND RESTAURANTS

HOTELS, THEATERS AND OTHER BUILDINGS

5105. Classification of buildings—

126-149, 148+110; note under § 5108.

5107. Same—Class two—

126-149, 148+110; note under § 5108.

5108. Same—Class three—For each five thousand feet of area, or fraction thereof, covered by a building in class three, there shall be provided one outside standpipe, as described in § 5107, and one non-combustible ladder or stairway for each twenty persons, or fraction thereof, that such building accommodates above the first story. (2368)

(Provided, that this law shall not apply to flats, apartments or tenements designed for single families in buildings not over four stories high, where such flats, apartments or tenements are each substantially surrounded by solid brick, stone or concrete walls and where two stairways are provided on opposite sides of such buildings from each flat, apartment and tenement, such stairways not to be more than sixty feet apart;

Provided, further, that said act shall not apply to flats, apartments or tenements designed for single families in buildings not over three stories high, where the outside walls of such buildings are of brick, stone or concrete construction and where such flats, apartments or tenements are provided with two stairways on opposite sides of such buildings from each flat, apartment or tenement; such stairways, however, not to be more than fifty feet apart.) (Amended '15 c. 292 § 1)

1915 c. 292 § 1 amends section 5108 of the General Statutes of 1913, by adding at the end thereof the words above included in parenthesis.

A building held to be one within this section, so that a failure to provide a fire escape rendered the landlord liable for the death of a subtenant, resulting from the burning of the building (126-149, 148+110). Landlord and Tenant. ↪169(7).

A subtenant, in attempting to descend from a ladder which did not come within 20 feet of the ground, while the building was on fire and there was no other mode of escape, was not guilty of contributory negligence as a matter of law (126-149, 148+110). Landlord and Tenant, ↪169(11).

A ladder, within the contemplation of this section, must be one that offers a reasonably safe escape when other ways are closed, and a ladder which does not come within 20 feet of the ground does not comply with the statute (126-149, 148+110). Health, ↪32.

[5108—]1. Same—To what cities applicable—This law shall only apply to cities of the first class not governed by a home rule charter. ('15 c. 292 § 2)

See note under § 5108.

5123. Same—Expenses, how paid—On or before the 15th day of each month the hotel inspector shall certify to the state auditor the amount due to his deputy as necessary expenses for the preceding month, giving the items of such expenses; also the items and amounts of all expenses necessarily incurred by him in the performance of his duties, including the cost of blanks, stationery, postage and travel; also the amount due the stenographer as com-