

MAINE STATE LEGISLATURE

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CHAPTER 41

PHARMACISTS

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SUBCHAPTER I

GENERAL PROVISIONS

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 - 2803. Use of apothecary's name forbidden.
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§ 2801. Registration required; exceptions

No person shall within the limits of this State conduct the business of an apothecary or any part thereof or sell or offer for sale any drugs or medicines, or display any drugs or medicines, drug store fittings or furnishings or any sign recognized as peculiar to drug stores such as pharmacy, apothecary, drugs, drug store, druggist, druggist sundries, drug sundries, medicine, medicine store or any other word or words of similar or like import to give the appearance of an apothecary store, or claim to be or represent himself to be an apothecary, or employ or permit advertising of any character which would convey such impression, unless the same is placed and kept under the personal control and supervision of a registered apothecary. Such store may be under the charge of a qualified assistant during the temporary absence of such registered apothecary.

This section shall not apply to physicians, hospitals and sanatoriums who supply medicines to their bona fide patients, nor to nonpoisonous patent or proprietary medicines when sold in original and unbroken packages nor to the following remedies; alum, chloride of lime, petroleum jelly, cream of tartar, borax, baking soda, castor oil, flax seed, bicarbonate of soda, ammonia, sulphur, olive oil, saltpetre, epsom salts, cotton seed oil, cod liver oil, linseed oil, flavoring extracts, boric

acid, aromatic spirits ammonia, isopropyl alcohol, acetic acid, citric acid, camphor, chalk, flexible collodion, essence of peppermint, witch hazel, glauber salts, glycerine, gum arabic, peroxide hydrogen, milk of magnesia, aspirin, oil sweet almond, mineral oil U. S. P., zinc oxide ointment, seidlitz powders, rochelle salts, senna leaves, antiseptic solution N. F., solution citrate magnesia N. F., sugar of milk, soda mint tablets and compound tincture benzoin; nor to compounds used for the destruction of bugs, beetles, insects, slugs, grubs and fungi provided that the package is properly labeled. In towns and villages where registered apothecaries are not located and where necessity exists for some means of obtaining drugs and medicines, the Board of Commissioners of the Profession of Pharmacy shall designate such drugs and medicines other than those designated in this section, as might with safety to the public health, be sold in original packages as and when put up and labeled by qualified pharmacists.

R.S.1954, c. 68, § 14; 1957, c. 304, § 11; 1963, c. 332, § 6.

§ 2802. Employment of registered apothecary

Any person may enter upon the business of an apothecary without the certificate required by this chapter, provided he does not personally do the duties of an apothecary, but employs a duly registered apothecary in whose name the store license shall be issued and who has sole charge of compounding, putting up and dispensing medicines, drugs, poisons and chemicals.

R.S.1954, c. 68, § 11; 1963, c. 332, § 3.

§ 2803. Use of apothecary's name forbidden

No registered apothecary shall suffer or permit the use of his name or certificate of registration in the conduct of business of pharmacy when he himself is not actively engaged in such business in the store where his certificate is displayed for at least 6 hours in each business day.

R.S.1954, c. 68, § 10.

§ 2804. Penalties

Unless otherwise provided for, the violation of any provision of this chapter shall constitute a misdemeanor and any person convicted of such violation shall be punished by a fine of not more than \$1,000. Each violation of each section of this chapter shall constitute a separate offense. All fees, fines and forfeitures collected under this chapter, Title 22, chapter 551, subchapter II

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and chapter 557 shall be paid to the Treasurer of State and shall be considered funds of the board, to be by them expended for the enforcement of laws relating to apothecaries and the sale of poisons and for expenses incurred in their official work.

R.S.1954, c. 68, § 52; 1963, c. 332, § 17.

SUBCHAPTER II

BOARD OF COMMISSIONERS

Sec.

- 2851. Nomination and appointment; tenure; vacancies; compensation; expenses.
- 2852. Meetings; election of officers.
- 2853. Employees.
- 2854. Records and reports.
- 2855. Complaints.
- 2856. Suspension or revocation of certificates.

§ 2851. Nomination and appointment; tenure; vacancies; compensation; expenses

A Board of Commissioners of the Profession of Pharmacy, as heretofore established and in this chapter called the "board," shall consist of 5 pharmacists all of whom shall be residents of the State and actually engaged in the practice of their profession, who shall be appointed and may be removed for cause by the Governor with the advice and consent of the Council. The terms of office of said commissioners shall be so arranged that one member of said board shall be appointed annually as the terms of the present members expire, to hold office for 5 years from the first day of December in each year or until his successor is appointed and qualified. Vacancies shall be filled by appointment for the unexpired term. The board shall have power:

1. Rules and regulations. To make such rules and regulations, not inconsistent with the laws of the State, as may be necessary for the regulation and practice of the profession of pharmacy and the lawful performance of its duties;

1957, c. 304, § 1.

2. Regulate sale of poisons. To regulate the sale of poisons and to adopt schedules of those poisons of which a written record shall be kept by the retailer;

3. Inspection; analysis; sales. To inspect during business hours all apothecaries, dispensaries, stores or places in which drugs or medicines are manufactured, stored, distributed, compounded, dispensed or retailed, and to regulate and control the sale, character and standard of all drugs, poisons and medicines compounded, dispensed or distributed in this State; to secure samples and cause them to be analyzed; and to prevent the sale of such drugs, poisons or medicines as do not conform to the laws of the State;

1957, c. 304, § 1; 1963, c. 332, § 1.

4. Enforcement. To investigate all violations of this chapter and Title 22, chapter 551, subchapter II and chapter 557; to enforce the provisions thereof; and to prosecute or institute prosecution in all instances of violations thereof.

1957, c. 304, § 1.

The Maine Pharmaceutical Association may, at its annual meeting each year, nominate 6 members of said association, whose names shall be forthwith certified by the president and secretary of said association to the Governor, and members of said board, appointed during any year, shall be selected from the persons whose names are so certified for said year, unless in the opinion of the Governor said persons are manifestly unsuitable or incompetent.

The members of the board shall each receive as compensation for their services \$20 per day for the time actually spent and their necessary expenses incurred in the discharge of their duties. The secretary of the board shall certify to the accounts. The secretary of the board shall be the treasurer thereof and shall receive all fees, charges and assessments payable to the board, and account for and pay over the same according to law.

R.S.1954, c. 68, § 1; 1957, c. 304, § 1; 1963, c. 332, § 1.

§ 2852. Meetings; election of officers

The members of said board shall meet on the 2nd Wednesday of December in each year at such time and place as they may determine, and shall organize by electing from their number a president and a secretary, who shall hold their respective offices for the term of one year. The said board shall hold 3 regular meetings in each year, one on the 2nd Wednesday of December, one on the 2nd Wednesday of April and one on the 2nd Wednesday of August and such additional meetings at such times and places as they shall determine.

R.S.1954, c. 68, § 2.

§ 2853. Employees

The board shall be empowered to appoint and remove, subject to the Personnel Law, a drug inspector to enforce this chapter and Title 22, chapter 551, subchapter II and chapter 557 and the rules and regulations of the board.

1957, c. 304, § 2.

§ 2854. Records and reports

The board shall keep a record of the names of all persons examined and registered, and a record of all moneys received and disbursed by said board, a duplicate of which record shall always be open to inspection in the office of the Secretary of State. Said board shall annually in July make to the Governor and Council a report stating the condition of pharmacy in the State, with a full and complete record of all its official acts during the year and of the receipts and disbursements of the board to the last day of the preceding month.

R.S.1954, c. 68, § 3.

§ 2855. Complaints

The board shall prosecute all complaints against any person registered as an apothecary for the violation of any of the requirements of this chapter to be performed by a registered apothecary. Such complaints shall be made within 60 days after the act complained of has been committed.

R.S.1954, c. 68, § 4; 1957, c. 304, § 3; 1961, c. 394, § 24.

§ 2856. Suspension or revocation of certificates

If the Administrative Hearing Commissioner, as designated in Title 5, chapters 301 to 307, shall find that the person so complained against is guilty of the act charged against him, he may suspend his registration as a pharmacist and his certificate thereof, for such term as may be deemed for the best interest of the public, or may revoke it altogether.

R.S.1954, c. 68, § 5; 1957, c. 304, § 4; 1961, c. 394, § 25; 1963, c. 412, § 23.

SUBCHAPTER III

REGISTRATION

Sec.

2901. Registration required.

2902. Examinations; certificates; display; reciprocity; examination of assistants.

2903. Renewals; fees.

§ 2901. Registration required

It shall be unlawful for any person, copartnership, association or corporation to operate, maintain, open or establish any apothecary store within this State without first having obtained a permit to do so from the board.

The application for such a permit shall be made on a form to be prescribed and furnished by said board and shall be accompanied by the required fee of \$15, which amount shall also be paid for each renewal of such permit. If it is desired to operate, maintain, open or establish more than one apothecary store, separate applications shall be made and separate permits issued for each.

A permit shall be issued to such person, copartnership, association or corporation as said board shall deem qualified to conduct such apothecary store, on evidence satisfactory to said board:

1. Store to be conducted according to law. That the apothecary store for which said permit is sought will be conducted with full compliance with the laws and with the rules and regulations of said board;

2. Operated without endangering public health or safety. That the location and appointments of said apothecary store are such that it can be operated and maintained without endangering the public health or safety; and

3. Personal supervision of a registered apothecary. That said apothecary store shall be under the personal supervision of a registered apothecary.

If the application shall be refused, the said board shall notify the applicant in writing of its decision and the reason therefor.

Permits issued under this section shall be exposed in a conspicuous place in the apothecary store for which issued. Such

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permit shall not be transferable, shall expire the last day of June following the date of issue and shall be renewed annually.

The said board shall make such rules and regulations not inconsistent with the law as may be necessary to carry out the purposes and enforce this section, and is authorized, after notice and opportunity for hearing in the county in which the apothecary store is located, to suspend or revoke any permit when examination or inspection of the apothecary store shall disclose that such apothecary store is not being conducted according to law or is being conducted so as to endanger the public health or safety.

R.S.1954, c. 68, § 9; 1957, c. 304, § 10; 1961, c. 394, § 26; 1963, c. 332, § 2.

§ 2902. Examination; certificates; display; reciprocity; examination of assistants

Every person not already registered, entering upon the practice of pharmacy, upon the payment of a fee of \$25 to the secretary of said board, except as otherwise provided, shall be examined by said commissioners and shall present to them satisfactory evidence that he had been graduated from some regularly incorporated college of pharmacy and has been employed in an apothecary store for at least one year, and is competent for the practice of pharmacy. Such employment in an apothecary store may be accumulated during the years at the college of pharmacy. The commissioners may give him a certificate of the fact and that he is authorized to engage in the business of an apothecary, and such certificate must be signed by at least 3 members of the board. No such certificate shall be issued unless the applicant is at least 21 years of age, of good moral character, a citizen of the United States and a graduate of a school or college of pharmacy or a department of pharmacy of a university, accredited by the American Council on Pharmaceutical Education, and shall file proof satisfactory to the board, substantiated by proper affidavits, of sufficient service and experience in a retail pharmacy under the supervision of a registered or licensed pharmacist; and shall pass an examination by said board. Service and experience in a retail pharmacy under the supervision of a licensed or registered pharmacist as required in this section shall be predominantly related to the selling of drugs, compounding physicians' prescriptions, preparing pharmaceutical preparations and keeping records and making reports required under the state and federal statutes. The board may, in its discretion, grant certificates of registration to such persons as shall furnish with their application satisfactory proof that they have been registered in some other state, provided

such other state shall require a degree of competency equal to that required of applicants of this State. Persons of good character who have become registered as pharmacists by examination in other states prior to July 3, 1931 shall be required to satisfy only the requirements which existed in this State at the time when they became registered in such other states; and provided the state in which such person is registered shall, under like conditions, grant reciprocal registration as a pharmacist, without examination, to pharmacists duly registered by examination in this State.

All certificates or permits issued under this chapter shall be constantly displayed, in a conspicuous place, in the store or shop of the persons to whom the same were issued.

Every person holding a valid and unexpired certificate of registration as a registered assistant pharmacist, in the State of Maine, on July 1, 1960, may be permitted to qualify as a registered pharmacist by examination as such, prior to July 1, 1966, provided such a registered assistant pharmacist has held such a certificate for a minimum of 5 years and shall have been in actual practice as a registered assistant as actively engaged in retail or hospital practice or pharmacy for a minimum of at least 3 years immediately preceding the date of his application for examination by the Maine State Board of Pharmacy as a registered pharmacist. No applicant who fails in 2 such examinations, by July 1, 1966, shall be permitted to qualify for any additional examinations as a registered pharmacist.

R.S.1954, c. 68, § 6; 1957, c. 304, §§ 5-7; 1959, c. 234, §§ 1-3; c. 277, § 1; 1963, c. 332, § 1-A.

§ 2903. Renewals; fees

Every registered pharmacist and every qualified assistant who desires to continue to practice pharmacy in this State shall annually, after the expiration of the first year of his registration, on or before the last day of June, pay a renewal fee of \$3 to the secretary of the board, in return for which a renewal registration shall be issued. If any person shall fail or neglect to procure his annual renewal registration or permit, notice of such failure having been mailed to his post-office address, the board may, after the expiration of 30 days following the issue of said notice, suspend his original registration and all other privileges conferred by this chapter. Such person in order to regain registration shall be required to pay one renewal fee in addition to the sum of all fees such person may be in arrears.

R.S.1954, c. 68, § 8; 1957, c. 304, § 9.