

MAINE STATE LEGISLATURE

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ONE HUNDRED AND FOURTH LEGISLATURE

Legislative Document

No. 1048

H. P. 809

House of Representatives, February 26, 1969

Referred to Committee on Health and Institutional Services. Sent up for concurrence and ordered printed.

BERTHA W. JOHNSON, Clerk

Presented by Mr. Jutras of Sanford.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-NINE

AN ACT to Revise the Pharmacy Laws.

Be it enacted by the People of the State of Maine, as follows :

Sec. 1. R. S., T. 22, §§ 2204-A - 2204-C, additional. Title 22 of the Revised Statutes is amended by adding 3 new sections to read as follows :

§ 2204-A. Labeling of prescriptions

Every prescription drug dispensed pursuant to prescription, whether for a legend drug or not shall carry on the label thereto the following information: The prescription number, the date of original filling, the patient's name, adequate directions for use, the name of the medical practitioner prescribing said drug, and the name and address of the pharmacy wherein the prescription was compounded and dispensed. If the manufacturer's label contained an expiration date for the drug, the expiration date shall be included on the prescription label.

§ 2204-B. Possession of drug samples

A registered pharmacist, qualified assistant pharmacist or licensed pharmacy shall not purchase manufacturers drug samples from any person for the purposes of resale. If said samples are given gratuitously they may be so used provided they are kept in containers suitably labeled to conform to the Federal Food and Drug Act and the State food and drug statutes.

§ 2204-C. Possession of harmful drugs

Whoever not being a manufacturer, wholesaler duly licensed, medical practitioner, licensed pharmacist or agent or common carrier delivering between

the above mentioned, who is found in possession of harmful drugs, except if obtained on a bona fide prescription of a medical practitioner, shall be guilty of a misdemeanor and may be fined up to \$1,000 or be imprisoned for up to one year, or both.

Sec. 2. R. S., T. 22, § 2210-A, additional. Title 22 of the Revised Statutes is amended by adding a new section 2210-A, to read as follows:

§ 2210-A. Sale of belladonna

It shall be unlawful for any person, firm or corporation to sell, furnish or give away, or offer to sell, furnish or give away, any drug, preparation or compound containing belladonna, or any of its salts, alkaloids or derivatives, exempt narcotic preparations or drugs that are to be administered by intravenous, intramuscular or subcutaneous injection, unless said drug, preparation or compound is sold or furnished personally by a licensed pharmacist or qualified assistant pharmacist, practicing within a licensed pharmacy. This section shall not apply to medical practitioners, hospitals or manufacturers, and wholesalers who may sell, furnish and transfer said drugs, compounds and preparations within the normal channels of distribution.

Whoever violates any provision of this section shall be punished by a fine of not more than \$1,000 or by imprisonment for not more than 6 months, or by both.

Sec. 3. R. S., T. 22, § 2212-C, additional. Title 22 of the Revised Statutes is amended by adding a new section 2212-C, to read as follows:

§ 2212-C. Return of drugs prohibited

A drug of pharmaceutical preparation which has been dispensed on prescription shall not be returned to pharmacy stock after being in the possession and under the control of another person and shall not be dispensed again.

Sec. 4. R. S., T. 32, § 2801, amended. Section 2801 of Title 32 of the Revised Statutes, as amended by chapter 329 of the public laws of 1965, is further amended by adding at the end the following paragraphs:

Any person conducting the business of a pharmacy as provided in this chapter shall first register said store, as a duly licensed pharmacy as provided in section 2901.

No person other than a registered pharmacist or qualified assistant pharmacist shall practice the profession of pharmacy including by illustration but not by limitation the compounding, dispensing or preparation of prescriptions and pharmaceutical preparations, provided however that any person registered as a licensed pharmacy intern may undertake any of the above functions provided he is under the actual and direct supervision of a registered pharmacist or qualified assistant pharmacist wherein the actual activities of the intern may be visually observed.

Sec. 5. R. S., T. 32, § 2802, amended. Section 2802 of Title 32 of the Revised Statutes is amended by adding at the end the following new paragraph:

Any person may enter upon the business of a pharmacy without the certificate required by this chapter, provided he does not personally do the duties of a pharmacist, but employs a duly registered pharmacist in whose name the store license shall be issued and has sole charge of the practice of pharmacy, and provided said person complies with all the conditions required for licensing said store as provided in this chapter, and provided the board is satisfied that the management of the store will be vested with the registered pharmacist so licensing the store in all matters directly or indirectly related to the practice of pharmacy and in matters affecting the public health, welfare and safety of the community.

Sec. 6. R. S., T. 32, § 2803, amended. Section 2803 of Title 32 of the Revised Statutes is amended by adding at the end the following new paragraph:

No registered pharmacist 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 40 hours in each business week.

Sec. 7. R. S., T. 32, § 2805, additional. Title 32 of the Revised Statutes is amended by adding a new section 2805, to read as follows:

§ 2805. Definitions

1. Board of Registration in Pharmacy. "Board" or "Board of Registration in Pharmacy" or "Board of Commissioners of Pharmacy" shall mean and be interpreted as the Board of Commissioners of the Profession of Pharmacy of the State of Maine.

2. Chemicals. "Chemical" means all medicinal or industrial substances, whether simple or compound, or obtained through the process of the science and art of chemistry, whether of organic or inorganic origin.

3. Dentist. "Dentist" shall mean any natural person authorized by law to practice the profession of dentistry within the State of Maine, provided his license is in full force and effect.

4. Drug. "Drug" means all medicinal substances and preparations recognized by the United States Pharmacopeia and National Formulary, or any revision thereof, and all substances and preparations intended for external and internal use in the cure, mitigation, treatment or prevention of disease in man or animal, and all substances and preparations other than food, intended to affect the structure or any function of the body of man or other animal.

5. Economic poison. "Economic poison" means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any insects, rodents, fungi, weeds or other forms of plant or animal life or viruses, except viruses on or in living man.

6. Harmful drug. "Harmful drug" shall include in addition to all legend drugs, and drug containing any salt, alkaloid or derivative of amphetamine, barbituric acid or ergot.

7. Label. "Label" means a display of written, printed or graphic matter upon the immediate container of any article, or on the outside of any wrapper of any article if any there be.

8. Labeling. "Labeling" means all attached labels of written, printed or graphic material, or any written, printed or graphic matter accompanying such article.

9. Legend drug. "Legend drug" shall mean and include any preparation or device containing on the label the verbage: "Caution: Federal law prohibits dispensing without prescription."

10. Licensed pharmacy intern. "Licensed pharmacy intern" shall include and mean any natural person duly licensed by the Board of Commissioners of the Profession of Pharmacy of the State of Maine as a "licensed pharmacy intern" provided said license is in full force and effect.

11. Manufacturing. "Manufacturing", in places other than a pharmacy, means and includes the production, quality control and standardization by mechanical, physical, chemical or pharmaceutical means, packing, repacking, tableting, encapsulating, labeling, relabeling, filling or by any other means or processes, of all drugs, medicines, chemicals or poisons, without exception, for medicinal purposes.

12. Medical practitioner. "Medical practitioners" shall mean persons who are authorized by law to practice medicine, dentistry, veterinary medicine or any other allied health profession wherein the laws of the State of Maine allows them to prescribe drugs, medicines or poisons under a bona fide patient relationship and provided said medical practitioner has a license to practice his profession within the State of Maine which license is in full force and effect.

13. Medicine. "Medicine" means and includes drugs or chemicals or preparations thereof in suitable form intended for and having for their main use the prevention, treatment, relief or cure of diseases in man or animals when used either internally or externally.

14. Official compendia. "Official compendia" shall mean the latest editions of the United States Pharmacopeia and the National Formulary.

15. Person. "Person" shall mean and include a natural person, copartnership, association or corporation either foreign or domestic.

16. Pharmaceutical preparation. "Pharmaceutical preparation" shall include any substance or combination of substances that may by definition be classified as a drug.

17. Pharmacist. "Pharmacist" shall include and mean any natural person licensed as a pharmacist or apothecary to compound, dispense and sell drugs, medicines and poisons, provided said person is licensed by the Board of Commissioners of the Profession of Pharmacy of the State of Maine and provided said license is in full force and effect. The term a pharmacist shall also include and be synonymous with the term "apothecary" or "licensed

apothecary” or “registered apothecary” or “licensed pharmacist” or “registered pharmacist.”

18. Pharmacy. “Pharmacy” or drug store means and includes every store or shop or entity or location where drugs, medicines or poisons are dispensed or sold or offered for sale at retail or displayed for sale at retail, or where prescriptions of physicians, dentists, veterinarians or other health practitioners are compounded, filled or dispensed; or which has upon it or displayed within it or affixed to or used in connection with it, a sign or signs bearing the word or words “pharmacist,” “druggists,” “pharmacy,” “apothecary,” “drugstore,” “medicine shop or store,” “prescriptions,” “drugs,” “medicines,” “drug sundries,” or any word or words or similar or like meaning, either in the English language or any other language or where the characteristic Rx sign or similar design is exhibited. The term “a pharmacy” or a drugstore as used and defined herein shall not include any such facility operated by or within a facility operated by the State of Maine or any such facility within a hospital regulated by the Department of Mental Health and Corrections.

19. Physician. “Physician” shall mean any natural person authorized by law to practice medicine within the State of Maine provided his license is in full force and effect.

20. Poison. “Poison” means any substance when taken by mouth in amounts of 60 grains, 4 grams or less, or when inhaled in concentrations of less than 200 parts per million by volume in air, produces violent, morbid or fatal changes or which destroys living tissue with which it comes in contact but such term shall not include “economic poisons.”

21. Practice of pharmacy. “Practice of pharmacy” shall mean and include the compounding, dispensing, recommending or advising concerning contents and therapeutic values and uses, offering for sale or selling at retail, drugs, medicines or poisons, whenever pursuant to orders or prescriptions of duly licensed physicians, dentists, veterinarians or other duly authorized medical practitioners. This term shall also include any act incidental to or forming a part of any foregoing act including but not limited to reading and interpreting prescriptions, measuring, counting or weighing any component part of a prescription, writing prescriptions, labels or advising patients of use of any dispensed medication.

22. Prescription. “Prescription” shall mean any order, written or verbal by a physician, dentist, veterinarian or other duly licensed and authorized medical practitioner for any drug, medicine or poison.

23. Qualified assistant pharmacist. “Qualified assistant pharmacist” as used herein shall be limited to any natural person duly licensed by the Board of Commissioners of the Profession of Pharmacy of the State of Maine as a qualified assistant apothecary or qualified assistant, or assistant pharmacist and shall be synonymous with same provided said license is in full force and effect.

24. **Veterinarian.** "Veterinarian" shall mean any natural person authorized by law to practice veterinary medicine within the State of Maine provided his license is in full force and effect.

25. **Wholesale.** "Wholesale" shall mean any sale for the purpose of resale.

Sec. 8. R. S., T. 32, § 2851, amended. The first paragraph of section 2851 of Title 32 of the Revised Statutes is amended by inserting after the 3rd sentence the following:

No person shall be appointed to serve as a commissioner unless he has had at least 10 years experience in the practice of pharmacy as a registered pharmacist, prior to his appointment. At no time shall there be less than 3 commissioners serving on the board who do not possess a degree in pharmacy from an accredited college of pharmacy.

Sec. 9. R. S., T. 32, § 2851, sub-§ 1, amended. Subsection 1 of section 2851 of Title 32 of the Revised Statutes is amended by adding at the end the following 2 paragraphs:

The board shall be empowered to retain counsel in connection herewith provided that said legal expense shall not exceed \$3,000 in any fiscal year.

The board may make such rules and regulations as it deems necessary to enable it to properly enforce the provisions of law relating to the retail drug business and pharmacy and regarding any other matter within its jurisdiction.

Sec. 10. R. S., T. 32, § 2851, sub-§ 5, additional. Section 2851 of Title 32 of the Revised Statutes is amended by adding a new subsection 5 to read as follows:

5. **Examination.** The board shall have the express right to examine licenses applying for registration as a pharmacist, licensed pharmacy intern and all applicants for registration to conduct the business of a pharmacy, and shall have the authority to issue licenses and registration subject to the requirements herein, and shall have the authority to revoke or suspend licenses as provided.

Sec. 11. R. S., T. 32, § 2855, repealed and replaced. Section 2855 of Title 32 of the Revised Statutes, as amended by section 17 of chapter 390 of the public laws of 1967, is repealed and the following enacted in place thereof:

§ 2855. Complaints

The board shall after due investigation process complaints against any person registered as a pharmacist for violations of any of the requirements of this chapter to be performed by a registered pharmacist. The board may in the same manner prosecute complaints against any person registered as a qualified assistant pharmacist, licensed pharmacy intern or licensed manufacturer doing business within the State. Such complaints shall be submitted in writing to the board.

Sec. 12. R. S., T. 32, § 2856, amended. Section 2856 of Title 32 of the Revised Statutes is amended by adding at the end the following new paragraph:

The Administrative Hearing Commissioner may revoke or suspend a certificate of a registered pharmacist, qualified assistant pharmacist, licensed pharmacy intern, licensed wholesaler, for any violation of the pharmacy laws of the State of Maine or upon conviction of a felony in a state court or federal court, or upon a finding pursuant to the Administrative Hearing Code of the State of Maine that the registrant is unfit or incompetent as may be evidenced by acts of gross immorality, intoxication of a habitual nature whether caused by drugs or alcoholic beverages, adjudicated insanity, or as evidenced by abnormal mental or physical conditions that threaten the safety of the public.

Sec. 13. R. S., T. 32, § 2901, amended. Section 2901 of Title 32 of the Revised Statutes, as amended by section 18 of chapter 390 of the public laws of 1967, is further amended by inserting after the 2nd paragraph, a new paragraph, to read as follows:

The board must be satisfied that the management of the store will be vested with the registered pharmacist in all matters directly or indirectly related to the practice of pharmacy or in any matters related to the health, welfare and safety of the public.

Sec. 14. R. S., T. 32, § 2902, amended. Section 2902 of Title 32 of the Revised Statutes, as amended, is further amended by adding at the end the following new paragraphs:

All applicants for original licensure must possess a degree in pharmacy that is the equivalent to the Bachelor of Science in Pharmacy, Bachelor of Pharmacy or Bachelor of Arts in Pharmacy, which equivalency may be determined by the board.

Effective January 1, 1972, an applicant, to be examined and licensed, shall show that he acquired one year of practical pharmacy experience under the instruction of a licensed pharmacist; said year to be composed of 52 average work weeks, including vacation, of not less than 40 hours per week and beginning after the satisfactory completion of one year of college work and not to be concurrent with college attendance, 3 months of which experience must have been acquired after graduation from an accredited college of pharmacy.

Effective 90 days after the adjournment of the Legislature the board may register as a licensed pharmacy intern any student within an accredited college of pharmacy who has completed at least 48 semester hours of instruction. All applicants for registration as a licensed pharmacy intern shall make application on forms to be provided by the board. Every licensed pharmacy intern shall notify the board upon accepting or terminating employment within a pharmacy within the State of Maine, provided that the intern shall have 5 days in which to notify the board of such change of employment.

Sec. 15. Amendatory clause. Wherever in the Revised Statutes the terms "apothecary" or "druggist" appears they shall mean "pharmacist."

Sec. 16. Amendatory clause. Wherever in the Revised Statutes the terms "drug store" or "apothecary store" appears they shall mean "pharmacy."