

MAINE STATE LEGISLATURE

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EIGHTY-SECOND LEGISLATURE

S. P. No. 171

S. D. No. 69

In Senate, Feb. 12, 1925.

Referred to Committee on Legal Affairs and 2,000 copies ordered printed. Sent down for concurrence.

ROYDEN V. BROWN, Secretary.

Presented by Senator Holley of Somerset.

STATE OF MAINE

IN THE YEAR OF OUR LORD ONE THOUSAND NINE HUNDRED AND TWENTY-FIVE

AN ACT to Amend Chapter Twenty of the Revised Statutes
Relating to Apothecaries and the Sale of Poisons.

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

Section 1. Section two of chapter twenty of the revised
2 statutes of nineteen hundred and sixteen is hereby amended
3 by inserting after the word "council" in the fifth line thereof
4 the following words: 'No person shall be eligible to mem-
5 bership on said board unless he shall have been a registered
6 apothecary for a period of at least ten years, and at the time
7 of his appointment shall be engaged in conducting a retail
8 pharmacy. No person who has served two full terms shall

9 be eligible for re-appointment; so that said section as amend-
10 ed shall read as follows:

‘Sect. 2. Commissioners of Pharmacy, Nomination and
2 Appointment; Tenure; Vacancies, How Filled. A board
3 of commissioners of pharmacy consisting of three suitable
4 persons, shall be appointed, and may be removed for cause,
5 by the governor with the advice and consent of the council.
6 No person shall be eligible to membership on said board
7 unless he shall have been a registered apothecary for a pe-
8 riod of at least ten years, and at the time of his appointment
9 shall be engaged in conducting a retail pharmacy. No per-
10 son who has served two full terms shall be eligible for re-
11 appointment. The terms of office of said commissioners
12 shall be so arranged that one member of said board shall
13 be appointed annually for a term of three years from the
14 first day of December in each year. Vacancies caused by
15 death, resignation, removal or inability to perform the du-
16 ties of the office shall be filled by appointment for the unex-
17 pired term. The Maine Pharmaceutical Association may,
18 at its annual meeting each year, nominate six members of
19 said association, whose names shall be forthwith certified
20 by the president and secretary of said association to the gov-
21 ernor, and members of said commission, appointed during
22 any year, shall be selected from the persons whose names
23 are so certified for said year, unless in the opinion of the
24 governor said persons are manifestly unsuitable or incom-
25 petent.’

Sect. 2. Section five of chapter twenty of the revised statutes of nineteen hundred and sixteen is hereby amended by striking out the entire section, substituting therefor the following:

‘Sect. 5. Said board shall hear all complaints against a registered apothecary for violation of any requirement of this chapter. The complaint shall be in writing and sworn to, and shall set forth (1) the nature of the offense, and (2) that such offense was committed within sixty days next prior to the filing of the complaint. Service upon the accused shall be made by giving in hand, or leaving at his last dwelling house, or last and usual place of abode a certified copy of the complaint together with summons at least fourteen days before return day. The summons shall set forth the time and place of hearing. Said board shall have exclusive power and authority to hear evidence and determine the facts. The accused may appear with witnesses and be heard by counsel. Any member of the board may administer oaths; and the board shall have power to compel the attendance of witnesses; and to issue all process necessary to the performance of the duties of the board.’

Sect. 3. Section seven of chapter twenty of the revised statutes is hereby amended by inserting after the word “commissioners” in the fourteenth line thereof the following words: ‘No such certificate shall be issued unless the applicant is at least twenty-one years of age, of good moral character, a citizen of the United States, and has had a gen-

7 eral education, including at least two years at a high school
8 or its equivalent'; so that said section as amended shall read
9 as follows:

'Sect. 7. Examination and Certification of Apothecaries;
2 Certificates Issued to Persons Registered in Other States;
3 Certificates shall be Displayed. Every person not already
4 registered, entering on the business of an apothecary, upon
5 the payment of the fee of ten dollars, to the secretary of
6 said board, except as hereinafter provided, shall be examined
7 by said commissioners, and shall present to them satisfac-
8 tory evidence that he has been an apprentice, or employed
9 in an apothecary store where physicians' prescriptions are
10 compounded, at least four years; or has graduated from
11 some regularly incorporated medical college or college of
12 pharmacy and has been employed in such an apothecary
13 store for at least one year, and is competent for the busi-
14 ness; the commissioners may give him a certificate of that
15 fact and that he is authorized to engage in the business of
16 an apothecary, and such certificate must be signed by at
17 least two commissioners. No such certificate shall be issued
18 unless the applicant is at least twenty-one years of age, of
19 good moral character, a citizen of the United States, and
20 has had a general education, including at least two years
21 at a high school or its equivalent. In case the result of the
22 examination is unsatisfactory, and no certificate is granted,
23 the applicant shall have the right to another examination
24 without charge, after an interval of two months, and within

25 twelve months after the date of his first examination. The
26 board may, in its discretion, grant certificates of registration
27 to such persons as shall furnish with their application satis-
28 factory proof that they have been registered by examination
29 in some other state; provided that such other state shall
30 require a degree of competency equal to that required of
31 applicants in this state. Only one of the partners in a firm
32 need be a registered druggist, provided, the partner who
33 compounds medicines be registered. All certificates issued
34 under the provisions of this chapter shall be constantly dis-
35 played, in a conspicuous place, in the store or shop of the
36 persons to whom the same were issued.'

Sect. 4. Section ten of chapter twenty of the revised stat-
2 utes is hereby amended by striking out said section and sub-
3 stituting therefor the following:

'Sect. 10. Drugs Stores Under Control of Registered
2 Apothecary. No store shall keep open for the sale of medi-
3 cines or poisons, or for compounding physicians' prescrip-
4 tions, nor shall drugs or medicines be exposed or displayed
5 for sale in any store, except as otherwise provided herein,
6 unless the same is placed and kept under the personal con-
7 trol and supervision of a registered apothecary or qualified
8 assistant, but such store may be under the charge of a qual-
9 ified assistant during the temporary absence of such reg-
10 istered apothecary. Such temporary absence shall in no
11 case exceed forty-eight hours at one time, nor fourteen days
12 in any one calendar year, unless consent is obtained from:

13 the commission. In case of death or under extreme con-
14 ditions the commission may in its discretion issue a special
15 permit to operate a pharmacy in such manner and under
16 such conditions that will safeguard the interest of the public
17 for a period not to exceed sixty days. The board shall, upon
18 application made in such manner and form as it shall de-
19 termine, register a store for the transaction of the retail
20 drug business and issue to the applicant or such other per-
21 son as it deems qualified to conduct such store, a permit
22 to keep it open; but no such registration shall be made or
23 permit issued in the case of a corporation unless it shall
24 appear to the satisfaction of the board that the manage-
25 ment of the drug business in such store is in the hands of
26 a registered apothecary. Such permit shall expire January
27 first following the date of its issue, and the fee therefor
28 shall be one dollar.

The board may suspend or revoke any registration made
2 under the preceding paragraph and any permit issued there-
3 under for any violation of the law pertaining to the drug
4 business or the sale of intoxicating liquors or for aiding
5 or abetting in a violation of any such law; but before such
6 suspension or revocation the board shall give a hearing to
7 the holder of the permit, after due notice to him of the
8 charges against him and of the time and place of the hearing.
9 Such holder may appear at the hearing with witnesses and
10 be heard by counsel. Witnesses shall be sworn by a justice
11 of the peace or any member of the board. The board may

12 require the attendance of persons and compel the produc-
13 tion of books and documents. Three members of the board
14 shall be a quorum for such hearing. No registration or per-
15 mit shall be suspended or revoked except upon the unan-
16 imous vote of the entire board.

The board may reinstate such registration, provided, how-
2 ever, that no registration which shall have been revoked
3 shall be reinstated unless the board by unanimous vote shall
4 determine that the occasion for revocation no longer exists
5 and that justice and public welfare will be best conserved
6 by reinstating such registration.'

Sect. 5. Section eleven of chapter twenty of the revised
2 statutes is hereby amended by inserting after the word
3 "store" in the fifth line the following words: 'Or in any
4 way by advertisement, poster or otherwise.' Said section is
5 further amended by striking out the word "two" in the sev-
6 enth line and substituting therefor the word 'ten' and by
7 striking out the word "four" in the eighth line and substitut-
8 ing therefor the word 'twenty,' so that said section as amend-
9 ed shall read as follows:

'Sect. 11. Penalty for Falsely Claiming to Be an Apothe-
2 cary; Disposal of Fines and Forfeitures. Whoever engages
3 in or is found in charge of or carrying on a business, or dis-
4 plays any drugs, medicines, drug store fittings or furnish-
5 ings, or any sign recognized as peculiar to a drug store to
6 give the appearance of an apothecary store, or in any way
7 by advertisement, poster or otherwise, or claims to be or

8 represents himself to be an apothecary, contrary to the provisions of this chapter, shall be subject to a penalty of ten dollars a day for the first offense and twenty dollars a day for each and every subsequent offense, whether for continuance in said business or for engaging anew therein in violation of the provisions of this chapter. All fines and forfeitures collected under this section shall be paid to the treasurer of state and shall be considered funds of the board of commissioners of pharmacy, to be expended by them for the enforcement of laws relating to apothecaries and the sale of poisons, and for expenses incurred in their official work.'

Sect. 6. Section sixteen of chapter twenty of the revised statutes is hereby amended by striking out said section and substituting therefor the following:

'Sect. 16. Sale of Poisonous Drugs Without Prescription Regulated. Whoever sells arsenic, arsenious acid, atropia, or any of its salts, chloral hydrate, chloroform, cotton root and its fluid extract, Fowler's solution, corrosive sublimate, cyanide of potassium, Donovan's solution, ergot and its fluid extract, sugar of lead, oil of savin, oil of tansy, Parsons' vermin exterminator, phosphorus, prussic acid, Rough on Rats, strychnia or any of its salts, tartar emetic, tincture of aconite, tincture of belladonna, tincture of digitalis, tincture of nux vomica, tincture of veratrum viride, crystals of carbolic acid or a strong solution of carbolic acid or other poison without the written prescription of a physician shall

13 keep a record of such sales, the name and quantity of the
14 article sold and the name and residence of the person or
15 persons to whom it was delivered, which record shall be
16 made before the article was delivered and shall be open
17 to inspection by any member of the board of commissioners
18 of pharmacy, or by any inland fish and game warden, or
19 by the police authorities and the officers of cities and towns.
20 Whoever neglects to keep or refuses to show to said officers
21 such record shall be punished by fine not exceeding fifty
22 dollars. Whoever sells any of the poisonous articles named
23 in this section without the written prescription of a physi-
24 cian, shall affix to the bottle, box or wrapper containing the
25 article sold a label of red paper or white paper and red print-
26 ing, upon which shall be printed in large letters the word
27 "poison" and also the word "antidote" and the name and
28 place of business of the vendor. The name of an antidote,
29 if there be any, for the poison sold, shall also be upon the
30 label. Every neglect to affix such label to such poisonous
31 article sold before the delivery thereof to the purchaser
32 shall be punished by a fine not exceeding fifty dollars. Who-
33 ever purchases poisons as aforesaid and gives a false or fic-
34 titious name to the vendor shall be punished by fine not ex-
35 ceeding fifty dollars. But nothing in this section shall be
36 construed to apply to wholesale dealers or to manufacturing
37 chemists in their sales to retail trade, nor to the general
38 merchant, nor to a firm or corporation in trade, who may
39 sell in unbroken packages prepared by the manufacturers,

40 Paris green, London purple or other poisonous preparations
41 or compounds used for the destruction of bugs, beetles, in-
42 sects, slugs, grubs, caterpillars or worms. Upon each and
43 every package so sold shall be printed in large letters the
44 word "poison," and the name of an antidote or antidotes if
45 any. Every neglect to affix such label with the word "poison"
46 thereon to such poisonous article before the delivery there-
47 of to the purchaser shall be punished by fine not exceeding
48 fifty dollars.'

Sect. 6. Said chapter twenty is hereby further amended
2 by adding thereto the following section:

'Sect. 31. Definitions. In this chapter, unless the context
2 or subject matter otherwise requires:

"Commission" means Maine Commission of Pharmacy;

"Board" means the Maine Commission of Pharmacy;

"Medicine" means a drug or preparation of drugs in suit-
2 able form for use as a curative or remedial substance.

"Pharmacy" means the place registered by the board in
2 which drugs, chemicals, medicines, prescriptions or poisons
3 are compounded, dispensed or retailed.

"Physician" means a practitioner of medicine duly regis-
2 tered under the laws of Maine or some other state.

"Dentist" means a practitioner of dentistry duly registered
2 under the laws of Maine or some other state.

"Veterinarian" means a practitioner of veterinary duly reg-
2 istered under the laws of Maine or some other state.

"Poison" means any drug, chemical or preparation liable

2 to be destructive to adult human life in quantities of sixty
3 grains or less.

“Supervision” means under the direct charge or direction
2 and does not contemplate any continued absence of such
3 supervision.

“Potent drugs” includes all substances the average adult
2 medicinal dose of which is less than sixty grains of solid
3 or sixty minims of liquid, and all compounds, combinations,
4 mixtures and preparations thereof which contain more than
5 an average adult dose in each fluid ounce of liquid and each
6 avoirdupois ounce of solid, or when in capsule, pill, tablet,
7 powder or other like subdivision more than one adult dose
8 in less than ten of such subdivisions.

“Proprietary remedies” means remedies that certain indi-
2 viduals, firms, associations or corporations have the exclu-
3 sive right to manufacture or sell.

“Apothecary” means a person who prepares, dispenses, or
2 sells drugs or medicines, or a person authorized by the com-
3 mission to conduct the business of apothecary.

“Apothecary store” means a place where drugs or medicines
2 are compounded, dispensed or sold.’