

MAINE STATE LEGISLATURE

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N I N E T Y - E I G H T H L E G I S L A T U R E

Legislative Document

No. 1352

H. P. 951

House of Representatives, March 20, 1957.

Referred to Committee on Public Health. Sent up for concurrence and 750 copies ordered printed.

HARVEY R. PEASE, Clerk.

Presented by Mr. Emerson of Millinocket.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FIFTY-SEVEN

AN ACT Revising Law Relating to Pharmacists.

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

Sec. 1. R. S., c. 68, § 1, amended. Section 1 of chapter 68 of the Revised Statutes is hereby amended to read as follows:

‘Sec. 1. Commissioners of the Profession of Pharmacy, nomination and appointment; tenure; vacancies; compensation; expenses. A Board of Commissioners of the Profession of Pharmacy, as heretofore established and hereinafter 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 term of the present members expire, to hold office for 5 years from the 1st 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:

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

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

III. To inspect during business hours all apothecaries, dispensaries, stores

or places in which drugs or medicines are manufactured, compounded, dispensed or retailed, **and to regulate and control the sale, character and standard of all drugs, poison and medicines compounded or dispensed 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 provisions of this chapter.**

IV. To investigate all violations of this chapter; to enforce the provisions thereof; and to prosecute or institute prosecution in all instances of violations thereof;

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 ~~\$10~~ \$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.'

Sec. 2. R. S., c. 68, § 2-A, additional. Chapter 68 of the Revised Statutes is hereby amended by adding thereto a new section to be numbered 2-A, to read as follows:

'Sec. 2-A. Employees. The Board shall be empowered to appoint and remove, subject to the provisions of the Personnel Law, a drug inspector to enforce the provisions of this chapter and the rules and regulations of the Board.'

Sec. 3. R. S., c. 63, § 4, amended. The 2nd sentence of section 4 of chapter 68 of the Revised Statutes is hereby amended to read as follows:

'Such complaints shall be made in writing ~~under oath~~ and shall set out the offense alleged ~~and shall be made within 60 days after the act complained of has been committed.~~

Sec. 4. R. S., c. 68, § 5, amended. Section 5 of chapter 68 of the Revised Statutes is hereby amended to read as follows:

'Sec. 5. Certificate suspended or revoked. If the full Board sitting at such hearing shall find that the person so complained against is guilty of the act charged against him, said Board may suspend his registration as a pharmacist and his certificate thereof, for such term as the Board in their judgment, after due consideration of the facts, may deem for the best interest of the public, or may revoke it altogether; ~~but the certificate of registration of a registered pharmacist shall not be suspended or revoked for a cause punishable by law until after conviction by a court of competent jurisdiction.~~

Sec. 5. R. S., c. 68, § 6, amended. The 1st sentence of section 6 of chapter 68 of the Revised Statutes is hereby amended to read as follows:

'Every person not already registered, entering upon the business of an apothecary, upon the payment of a fee of ~~\$15~~ \$25 to the secretary of said Board, except as hereinafter otherwise provided, shall be examined by said Commissioners and shall present to them satisfactory evidence that he had been ~~an ap-
prentice or~~ employed in an apothecary store where physicians' prescriptions are compounded at least 4 years, or has graduated from some regularly incorporated ~~medical college or~~ college of pharmacy and has been employed in such an apothecary store for at least one year, and is competent for the business.'

Sec. 6. R. S., c. 68, § 6, amended. The 5th sentence of section 6 of chapter 68 of the Revised Statutes is hereby repealed, as follows:

~~'In case the result of the examination is unsatisfactory and no certificate is granted, the applicant shall have the right to subsequent examination or examinations at $\frac{1}{2}$ the original fee (\$7.50) after an interval of 2 months and within 12 months after the date of his first examination.'~~

Sec. 7. R. S., c. 68, § 6, amended. The next to the last sentence of section 6 of chapter 68 of the Revised Statutes is hereby repealed, as follows:
~~'Only one of the partners in a firm need be a registered pharmacist, provided the partner who compounds medicines be registered.'~~

Sec. 8. R. S., c. 68, § 7, amended. Section 7 of chapter 68 of the Revised Statutes is hereby amended to read as follows:

'Sec. 7. Certificates of 2 grades issued. Certificates of 2 grades or kinds may be issued, whereof one shall declare that the holder is skilled in pharmacy as in ~~the preceding~~ section 6 and the other kind which, after the examination of the applicants therefor, may be issued to such as shall not be less than 21 years of age and who have served 3 full years in an apothecary store where physicians' prescriptions are compounded, shall declare that the holder is a qualified assistant and is qualified to take charge of the business of an apothecary during the temporary absence of the registered apothecary; ~~and the~~. The fee for such assistant's examination shall be ~~\$10~~ \$20.'

Sec. 9. R. S., c. 68, § 8, amended. The 1st sentence of section 8 of chapter 68 of the Revised Statutes is hereby amended to read as follows:

'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 ~~\$2~~ \$3 to the secretary of the Board, in return for which a renewal registration shall be issued.'

Sec. 10. R. S., c. 68, § 9, amended. The 2nd paragraph of section 9 of chapter 68 of the Revised Statutes is hereby amended to read as follows:

'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 ~~\$5~~ \$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.'

Sec. 11. R. S., c. 68, § 14, amended. The last paragraph of section 14 of chapter 68 of the Revised Statutes is hereby amended to read as follows:

'The provisions of 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, vaseline, petroleum jelly, cream of tartar, borax, baking soda, castor oil, flax seed, carbonate of soda, ammonia, sulphur, olive oil, saltpetre, epsom salts, cotton seed oil, cod liver oil, linseed oil, flavoring extracts, boric acid, aromatic spirits ammonia, **iso-propyl**, rubbing alcohol, acetic acid, citric acid, camphorated oil, 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, ~~quinine pills~~ rocheile salts, senna leaves, antiseptic solution N. F., solution citrate magnesia U. S. P., sugar of milk, ~~potassium chlorate tablets~~ soda mint tablets and compound tincture benzoin; nor to Paris green, London purple or other poisonous preparations or 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 Commission 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.'

Sec. 12. R. S., c. 68, § 15, amended. The first 6 sentences of section 15 of chapter 68 of the Revised Statutes are hereby repealed.

Sec. 13. R. S., c. 68, § 20, amended. The 2nd sentence of section 20 of chapter 68 of the Revised Statutes is hereby amended to read as follows:

'The county attorney in each county, upon complaint made by any member of the Board or its inspectors or of the Bureau of Health, shall prosecute all violations of the provisions of this chapter.'

Sec. 14. R. S., c. 68, § 24, amended. Section 24 of chapter 68 of the Revised Statutes is hereby amended by adding at the end thereof a new paragraph, as follows:

'Nothing in this chapter shall apply to a compound, mixture or preparation containing salts or derivatives of barbituric acid which is sold in good faith by a pharmacy for the purpose of which it is intended and not for the purpose of evading the provisions of this chapter if:

- I. Such compound, mixture or preparation contains a sufficient quantity of another drug or drugs, in addition to such salts or derivatives, to cause it to produce an action other than its hypnotic or somnifacient action; or
- II. Such compound, mixture or preparation is intended for use as a spray or gargle or for external application and contains, in addition to such salts or derivatives, some other drug or drugs rendering it unfit for internal administration.'

Sec. 15. R. S., c. 68, § 33, sub-§ XIV, amended. Subsection XIV of section 33 of chapter 68 of the Revised Statutes is hereby amended to read as follows:

'XIV. "Narcotic drugs" means coca leaves, cannabis, opium and every sub-

stance neither chemically nor physically distinguishable from them **or any drug so designated by the Federal Narcotic Bureau.**'

Sec. 16. R. S., c. 68, § 40, sub-§ I, amended. Subsection I of section 40 of chapter 68 of the Revised Statutes is hereby amended to read as follows:

I. Prescribing, administering, dispensing or selling at retail of any medicinal preparation that contains in one fluid ounce, or if a solid or semisolid preparation, in one avoirdupois ounce:

A. Not more than 2 grains of opium,

B. Not more than $\frac{1}{4}$ of a grain of morphine or of any of its salts,

C. Not more than one grain of codeine or of any of its salts, **and**

~~D. Not more than $\frac{1}{8}$ of a grain of heroin or of any of its salts, and~~

~~E. D.~~ D. Not more than one of the drugs named above in paragraphs A, B and ~~C and D.~~

Sec. 17. R. S., c. 68, § 40, sub-§ II, ¶ A, amended. Paragraph A of subsection II of section 40 of chapter 68 of the Revised Statutes is hereby amended to read as follows:

'A. No person shall prescribe, administer, dispense or sell under the exemptions of this section to any one person, or for the use of any one person or animal, any preparation or preparations included within this section, when he knows or can by reasonable diligence ascertain that such prescribing, administering, dispensing or selling will provide the person to whom or for whose use, or the owner of the animal for the use of which, such preparation is prescribed, administered, dispensed or sold, within any 48 consecutive hours, with more than 4 grains of opium, or more than $\frac{1}{2}$ grain of morphine or of any of its salts, or more than 2 grains of codeine or of any of its salts, ~~or more than $\frac{1}{4}$ of a grain of heroin or of any of its salts~~ or will provide such person or the owner of such animal, within 48 consecutive hours, with ~~with~~ more than one preparation exempted from the provisions of this chapter.'

Sec. 18. R. S., c. 68, § 41, sub-§ I, ¶¶ D and E, amended. Paragraphs D and E of subsection I of section 41 of chapter 68 of the Revised Statutes are hereby amended to read as follows:

~~D. $\frac{1}{4}$ of a grain of heroin or of any of its salts, or~~

~~E. D.~~ D. A quantity of any other narcotic drug or any combination of narcotic drugs that does not exceed in pharmacologic potency any one of the drugs named above in the quantity stated.'

Sec. 19. R. S., c. 68, § 50, amended. Section 50 of chapter 68 of the Revised Statutes is hereby amended to read as follows:

'**Sec. 50. Enforcement and cooperation.** The Bureau of Health, the Board of Pharmacy, ~~its~~ their officers, agents, inspectors and representatives, and all peace officers within the State and all county attorneys shall enforce all provisions of sections 33 to 51, inclusive, except those specifically delegated, and

shall cooperate with all agencies charged with the enforcement of the laws of the United States, of this State and of all other states relating to narcotic drugs.'