

MAINE STATE LEGISLATURE

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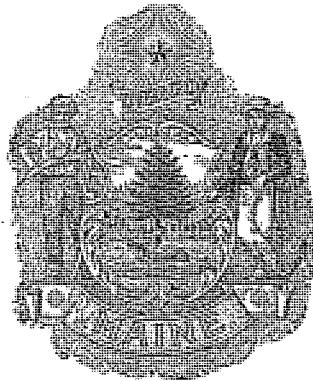
SIXTH REVISION

THE
REVISED STATUTES

OF THE

STATE OF MAINE

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By the Authority of the Legislature

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CHAPTER 20.

Apothecaries, and the Sale of Poisons.

Sec. 1. Business of apothecaries regulated. R. S. c. 30, § 1. No person shall within the limits of the state conduct the business of an apothecary or any part thereof, or display any drugs, medicine, drug store fittings or furnishings or any sign recognized as peculiar to a drug store to give the appearance of an apothecary store, or claim to be or represent himself to be an apothecary, except as hereinafter provided.

Sec. 2. Commissioners of pharmacy, nomination and appointment; tenure; vacancies, how filled. R. S. c. 30, § 2. A board of commissioners of pharmacy consisting of three suitable persons, 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 for a term of three years from the first day of December in each year. Vacancies caused by death, resignation, removal or inability to perform the duties of the office shall be filled by appointment for the unexpired term. The Maine Pharmaceutical Association may, at its annual meeting each year, nominate six 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 commission, 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.

Sec. 3. Meetings; election of officers. R. S. c. 30, § 3. The members of said board shall meet on the second 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 secretary, who shall hold their respective offices for the term of one year. The said board shall hold three regular meetings in each year, one on the second Wednesday of December, one on the second Wednesday of April and one on the second Wednesday of August, and such additional meetings at such times and places as they shall determine.

See c. 117, §§ 54, 55.

Sec. 4. Record of persons examined and money received; annual report. R. S. c. 30, § 4. The board shall keep a record of the names of all persons examined and registered thereunder, 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 December 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.

Sec. 5. Complaints against registered apothecaries; notice and hearing.

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R. S. c. 30, § 5. Said board shall hear 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 in writing under oath, shall set out the offense alleged, and shall be made within sixty days after the act complained of has been committed. The person against whom complaint is made, shall be notified of the charge made against him and of the time and place when and where the matter will be heard, at least fourteen days before the date fixed for the hearing. He may then and there appear before the board with his witnesses and be heard by counsel. Either member of the board may administer oaths to the witnesses at such hearings, and any person so sworn who wilfully swears or affirms falsely respecting any matter upon which his testimony is required shall be deemed guilty of perjury. Said board may send for persons and compel the attendance of witnesses at said hearings by process duly served.

See c. 124, § 1.

Sec. 6. Penalty if person complained of is guilty. R. S. c. 30, § 6. If the full board sitting at such hearing shall find that the person so complained against is guilty of the acts 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. 7. Examination and certification of apothecaries; certificates issued to persons registered in other states; certificates shall be displayed. R. S. c. 30, § 7. 1907, c. 74, § 2. 1909, c. 201, § 1. Every person not already registered, entering on the business of an apothecary, upon the payment of the fee of ten dollars, to the secretary of said board, except as hereinafter provided, shall be examined by said commissioners, and shall present to them satisfactory evidence that he has been an apprentice, or employed in an apothecary store where physicians' prescriptions are compounded, at least four 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; the commissioners may give him a certificate of that fact and that he is authorized to engage in the business of an apothecary, and such certificate must be signed by at least two commissioners. In case the result of the examination is unsatisfactory, and no certificate is granted, the applicant shall have the right to another examination without charge, after an interval of two months, and within twelve months after the date of his first examination. 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 by examination in some other state; provided that such other state shall require a degree of competency equal to that required of applicants in this state. Only one of the partners in a firm need be a registered druggist, provided, the partner who compounds medicines be registered. All certificates issued under the provisions of this

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

77. Me. 462.

Sec. 8. Certificates of two grades may be issued. R. S. c. 30, § 8. 1909, c. 201, § 2. Certificates of two grades or kinds may be issued, whereof one shall declare that the holder is skilled in pharmacy as in the preceding section, and the other kind which after the examination of the applicants therefor, may be issued to such as shall not be less than eighteen years of age and who have served two 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 fee for such assistant's examination shall be five dollars.

Sec. 9. No registered apothecary shall permit use of his name. R. S. c. 30, § 10. 1909, c. 201, § 4. 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 six hours in each business day.

Sec. 10. Drug stores under control of registered apothecary. R. S. c. 30, § 11. No store shall be kept open for the sale of medicines or poisons, or for compounding physicians' prescriptions, nor shall drugs or medicines be exposed or displayed for sale in any store, except as otherwise provided herein, unless the same is placed and kept under the personal control and supervision of a registered apothecary or qualified assistant, but such store may be under the charge of a qualified assistant during the temporary absence of such registered apothecary.

Sec. 11. Penalty for falsely claiming to be an apothecary; disposal of fines and forfeitures. R. S. c. 30, § 12. 1909, c. 201, § 5. Whoever engages in or is found in charge of or carrying on a business, or displays any drugs, medicines, drug store fittings or furnishings, or any sign recognized as peculiar to a drug store to give the appearance of an apothecary store, or claims to be or represents himself to be an apothecary, contrary to the provisions of this chapter, shall be subject to a penalty of two dollars a day for the first offense and four 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.

Sec. 12. Application of chapter. R. S. c. 30, § 13. The provisions of this chapter shall apply to women who enter upon and carry on the business of apothecaries. This chapter shall not apply to physicians who prepare and dispense their own medicines, nor to the sale of non-poisonous domestic remedies and patent or proprietary preparations usually sold by grocers and others.

Sec. 13. Employment of registered apothecary. R. S. c. 30, § 14. Any person may enter upon the business of an apothecary without the certificate

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required by this chapter; provided, he does not personally do the duties of an apothecary, but employs a duly registered apothecary who has sole charge of compounding, putting up and dispensing medicines and drugs under the provisions hereof.

Sec. 14. Penalty for using drugs not named in physicians' prescription. R. S. c. 30, § 15. Whoever, engaged in the business of an apothecary, knowingly uses any drugs or ingredients in preparing or compounding a written prescription of any physician different from those named in the prescription, shall upon conviction thereof be fined not less than five, nor more than one hundred dollars.

Sec. 15. Penalty for adulterating drugs and selling the same. R. S. c. 30, § 16. Whoever fraudulently adulterates, for the purpose of sale, any drug or medicine, or sells any fraudulently adulterated drug or medicine, knowing the same to be adulterated, shall be punished by imprisonment in jail not exceeding one year, or by fine not exceeding four hundred dollars; and such adulterated drugs and medicine shall be forfeited, and destroyed under the direction of the court.

Sec. 16. Sale of poisonous drugs without prescription, regulated. R. S. c. 30, § 17. 1909, c. 201, § 6; c. 214. 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, Parson's 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, without the written prescription of a physician shall keep a record of such sales, the name and quantity of the article sold and the name and residence of the person or persons to whom it was delivered, which record shall be made before the article was delivered and shall be open to inspection by any member of the board of commissioners of pharmacy, or by the police authorities and the officers of cities and towns. Whoever neglects to keep or refuses to show to said officers such record shall be punished by fine not exceeding fifty dollars. Whoever sells any of the poisonous articles named in this section without the written prescription of a physician, shall affix to the bottle, box or wrapper containing the article sold a label of red paper, upon which shall be printed in large letters the word "poison," and also the word "antidote," and the name and place of business of the vendor. The name of an antidote, if there be any, for the poison sold, shall also be upon the label. Every neglect to affix such label to such poisonous article sold before the delivery thereof to the purchaser shall be punished by a fine not exceeding fifty dollars. Whoever purchases poisons as aforesaid and gives a false or fictitious name to the vendor shall be punished by fine not exceeding fifty dollars. But nothing in this section shall be construed to apply to wholesale dealers or to manufacturing chemists in their sales to retail trade, nor to the general merchant, nor to a firm or corporation in trade, who may sell in unbroken packages prepared by the manufacturers, Paris green, London purple or other poisonous prepara-

tions or compounds used for the destruction of bugs, beetles, insects, slugs, grubs, caterpillars or worms. Upon each and every package so sold shall be printed in large letters the word "poison." Every neglect to affix such label with the word "poison" thereon to such poisonous article before the delivery thereof to the purchaser shall be punished by fine not exceeding fifty dollars.

Sec. 17. Registered apothecaries, their duties and restrictions. R. S. c. 30, § 18. 1907, c. 74, § 3. Apothecaries registered as herein provided, may keep, under such restrictions as the legislature may impose, all medicines and poisons authorized by the United States Pharmacopœia, Dispensatory and National Formulary, as of recognized medicinal utility; provided, that nothing herein contained authorizes the sale of intoxicating liquors.

96 Me. 456.

Sec. 18. Poisons not to be deposited for killing animals. R. S. c. 30, § 20. 1909, c. 134. Whoever for the purpose of killing wolves, foxes, dogs or other animals, and not for the destruction of insects or vermin in a building, leaves or deposits in any place any arsenic, corrosive sublimate, nuxvomica, strychnine, prussic acid, or any other poison or poisonous substance, shall be fined not less than twenty, nor more than fifty dollars, or be imprisoned not less than thirty, nor more than sixty days.

See c. 129, § 1.

Sec. 19. Sale of opium restricted. R. S. c. 30, § 19. No person except a registered apothecary, or a physician of regular standing in his profession, shall furnish, sell or keep for sale any opium, morphine or laudanum. Whoever violates this section shall be punished by a fine of not less than five, nor more than fifty dollars for each offense, to be recovered by complaint or indictment.

Sec. 20. Manufacture of preparations containing cocaine, etc., forbidden. 1913, c. 211, § 1. No person, firm or corporation shall manufacture any so-called catarrh powder or catarrh cure, or any patent or proprietary preparation containing cocaine, or any of its salts, or alpha or beta eucaine, or any of their salts, or any synthetic substitute for them.

Sec. 21. Cocaine, etc., shall be sold only upon written prescription; original prescription shall be open to inspection. 1913, c. 211, § 2. No person, firm or corporation shall sell, or expose or offer for sale, or give, deliver or exchange cocaine, or alpha or beta eucaine, or any synthetic substitute for them or any preparation containing the same, or any salts or compounds thereof, except upon the written prescription of a physician, dentist, or veterinary surgeon, registered under the laws of the state in which he resides, which prescription shall be dated and bear the name of the person giving it and of the person prescribed for; the original prescription shall be retained by the druggist filling the same for at least two years and shall not again be filled, except upon the written order of the original prescriber, and shall at all times be open to inspection by members of the state board of health, members of the board of commissioners of pharmacy, and their authorized agents, by state officials and their authorized agents, and by the police authorities and officers of cities and towns. No practitioner of veter-

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inary medicine shall prescribe any of the above mentioned substances for the use of a human being.

Sec. 22. Opium, morphine, etc., shall be sold only upon a written prescription; prescriptions shall be open to inspection; exceptions. 1913, c. 211, § 3. No person shall sell, furnish, give away or deliver opium, morphine, heroin, codeine, cannabis indica or cannabis sativa, or any salt, compound or preparation of said substances except upon the written prescription or order of a lawfully authorized practitioner of medicine, dentistry or veterinary medicine, which prescription shall be dated and shall bear the name of the person giving it, and the name of the person prescribed for; the original prescription shall be retained by the druggist filling the same for at least two years, and shall not again be filled except upon the written order of the original prescriber. Such prescriptions shall at all times be open to inspection by members of the state board of health, the board of commissioners of pharmacy, state officials and their duly authorized agents, and by the police authorities and officers of the cities and towns. No practitioner of veterinary medicine shall prescribe any of the above substances for the use of a human being. The provisions of this section shall not apply to sales made by a manufacturer or wholesale or retail druggist to another manufacturer, wholesale or retail druggist; nor to sales made to hospitals, colleges, scientific or public institutions, or to physicians, dentists or veterinary surgeons; nor to the sale of cough remedies and other domestic and proprietary preparations, provided that such remedies and preparations are sold in good faith as medicines, and not for the purpose of evading the provisions of this chapter; and provided further that such remedies and preparations do not contain more than two grains of opium, or one-half of a grain of morphine, or one-fourth of a grain of heroin, or one grain of codeine or their salts, in one fluid ounce, or, if a solid preparation, in one avoirdupois ounce; but such provisions shall not apply to liniments and ointments which are prepared for external use only. Nor shall the provisions of this section apply to preparations containing opium or any of its salts, which are sold in good faith as remedies for diarrhoea, cholera or neuralgia, nor to powder of ipecac and opium, commonly known as Dover's powders, provided, that any such preparation is sold in good faith as medicine and not for the purpose of evading the provisions of this chapter.

Sec. 23. Practitioners shall not prescribe opium, etc., to habitual users. 1913, c. 211, § 4. No practitioner of medicine, dentistry, or veterinary medicine shall prescribe, for the use of an habitual user of the same, opium, morphine, heroin, codeine, or any salt or compound of the said substances, or any preparation containing any of the said substances or their salts or compounds, or cocaine or its salts, or alpha or beta eucaine or their salts, or any synthetic substitute for them, or any preparation containing the same or any salt or compound thereof; nor shall any practitioner of dentistry prescribe any of the said substances for any person not under his treatment in the regular practice of his profession; nor shall any practitioner of veterinary medicine prescribe any of the substances for the use of a human being; provided, however, that the provisions of this section shall not be

construed to prevent a lawfully authorized practitioner of medicine from prescribing for the use of any habitual user of hypnotic or narcotic drugs, who is under the professional care of such practitioner, such substances as he may deem necessary for treatment, if such prescriptions are given in good faith and not for the purpose of evading the provisions of this section.

Sec. 24. Sales by manufacturers or jobbers, regulated; orders shall be kept on file. 1913, c. 211, § 5. A manufacturer or jobber of any or all of the drugs enumerated in sections twenty-one and twenty-two of this chapter, a wholesale druggist, or a registered pharmacist may sell any drug mentioned in said sections to a manufacturer, jobber, wholesale druggist, or to a pharmacist, physician, veterinarian or dentist, qualified to practice under the laws of this state, or to an incorporated hospital, but only upon a written order duly signed by such manufacturer, jobber, wholesale druggist, registered pharmacist, registered physician, registered veterinarian, registered dentist, or the superintendent of such incorporated hospital, which order shall show the article or articles ordered and the date of delivery. The said order shall be kept on file in the laboratory, warehouse, pharmacy or store from which it was filled by the proprietor thereof, or his successor, for a period of not less than two years from the date of delivery, and shall at all times be open to inspection by officers of the state board of health, members of the board of commissioners of pharmacy, or their authorized agents, state officials and their authorized agents, and the police authorities and officers of cities and towns; and such order shall not contain items of any drug not mentioned in sections twenty-one and twenty-two of this chapter.

Sec. 25. Unauthorized persons shall not have opium, etc., in possession; application of section. 1913, c. 211, § 6. A person not being a physician, dentist or veterinary surgeon, qualified to practice in this state, or not being a manufacturer or wholesale or retail dealer in drugs, who has in his possession opium, morphine, heroin, codeine, cannabis indica, cannabis sativa or any other hypnotic or narcotic drug or salt, compound or preparation of said substances, cocaine, alpha or beta eucaine or any synthetic substitute for them, or any preparation containing the same, or any salts or compounds thereof, except by reason of a prescription of a physician, dentist or veterinary surgeon qualified to practice in this state, shall be punished as provided in section twenty-seven of this chapter. The provisions of this section shall not apply to a person, firm or corporation while transporting any of the above mentioned drugs from or to a manufacturer or jobber, wholesale druggist, registered pharmacist, registered physician, registered veterinarian, registered dentist, or incorporated hospital, nor to persons who may have the above mentioned articles in their possession in connection with the enforcement of the provisions of this chapter or with the trial of cases arising thereunder. Possession of any of the drugs mentioned in this section shall be prima facie evidence that such possession is unlawful.

Sec. 26. No practitioner shall dispense or give away opium, etc., except as a medicine. 1913, c. 211, § 7. 1915, c. 142. No practitioner of medicine, surgery, dentistry or veterinary medicine shall dispense, furnish or give away opium, morphine, heroin, codeine, cannabis indica, cannabis sa-

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tiva, or any salt compound of said substances or any preparation containing any of the said substances or their salts or compounds, or cocaine or its salts or alpha or beta eucaïne or their salts or any synthetic substitute for them, or any preparation containing the same or any salt or compound thereof except in good faith as medicines for diseases indicated.

Sec. 27. Penalty. 1913, c. 211, § 8. Whoever violates any provision of the seven preceding sections, or aids or abets another in the violation thereof, shall be punished by a fine of not less than fifty dollars nor more than one thousand dollars, or by imprisonment for not more than one year, or by both fine and imprisonment. The county attorney in each county upon complaint made by any member of the board of commissioners of pharmacy or of the state board of health shall prosecute all violations of this chapter. Judges of the municipal and police courts and trial justices shall have original and concurrent jurisdiction with the supreme judicial court and superior courts of offenses under the seven preceding sections.

Sec. 28. Analysis to determine composition of substances mentioned. 1913, c. 211, § 9. The director of the Maine Agricultural Experiment Station shall make a chemical analysis to determine the composition and quality of any substance mentioned in sections twenty to twenty-six, both inclusive, on application of any county attorney and shall furnish a certificate certifying to the composition or quality thereof. The certificate under seal of the Maine Agricultural Experiment Station which shall be affixed by the chemist thereof making the analysis, shall be prima facie evidence of the composition and quality of the substance analyzed.

Sec. 29. Vessels containing wood alcohol shall be labeled. 1907, c. 74, § 4. Whoever, himself or by his servant or agent, or as the servant or agent of any other person, sells, exchanges or delivers any wood alcohol, otherwise known as methyl alcohol, shall affix to the vessel containing the same and shall deliver therewith a label bearing the words 'Wood Alcohol, Poison' in red letters of not less than one-fourth inch in height. Whoever violates this section shall be punished by a fine of not less than fifty dollars nor more than two hundred dollars.

Sec. 30. Sale of any articles containing wood alcohol, for internal use, prohibited. 1907, c. 74, § 4. Whoever, himself or by his servant or agent, or as the servant or agent of any other person, sells, exchanges or delivers, or has in his possession with intent to sell, exchange or deliver, any article of food or drink, or any drug intended for internal use, containing any wood alcohol, otherwise known as methyl alcohol, shall be punished by a fine of not less than two hundred dollars or by imprisonment for not more than thirty days, or by both fine and imprisonment.