

CHAPTER 151

PHARMACY

151.01 DEFINITIONS.

HISTORY. 1885 c. 147 s. 12; G.S. 1878 Vol. 2 (1888 Supp.) c. 124, s. 162; G.S. 1894 s. 7933; R.L. 1905 s. 2335; 1913 c. 575 s. 6; G.S. 1913 s. 5037; 1923 c. 25 s. 1; G.S. 1923 s. 5805; M.S. 1927 s. 5805; 1937 c. 354 s. 1; M. Supp. s. 5808-1.

Hydrogen-peroxide is a drug. Dispensers deal with its medicinal qualities. It is not classed as a proprietary medicine. 1938 OAG 361, May 20, 1938 (337c-3).

Emmenagogues can only be sold under direction of registered pharmacist. A proprietary medicine is medicine which has a secret formula. Drugs sold in packages containing any of the emmenagogues would not be considered having the secret formula. 1940 OAG 283, Feb. 1, 1939 (337c).

The licensing requirements are for the purpose of controlling and limiting the exercises of the business of pharmacy. Dispensaries in state, county and city hospitals and institutions all of which are agencies of the state or its political divisions, are within the spirit and purpose of the act. 1940 OAG 284, Aug. 15, 1939. (337b-2).

Prophylactics can be sold only under the direction of registered pharmacist. OAG Dec. 16, 1938 (337c).

Vitamins are drugs. OAG April 17, 1944 (337c-3).

Regulation of professions. 26 MLR 246.

151.02 STATE BOARD OF PHARMACY FORMED.

HISTORY. 1885 c. 147 ss. 5, 6, 11; G.S. 1878 Vol. 2 (1888 Supp.) c. 124 ss. 155, 156, 161; 1891 c. 104 ss. 7, 12; G.S. 1894 ss. 7926, 7927, 7932, 7941; 1899 c. 34 s. 9; R.L. 1905 s. 2327; 1913 s. 575 s. 1; G.S. 1913 s. 5029; 1919 c. 477 s. 1; G.S. 1923 s. 5797; M.S. 1927 s. 5797; 1937 c. 354 s. 2; M. Supp. s. 5808-2.

151.03 APPOINTMENT OF MEMBERS.

HISTORY. 1885 c. 147 ss. 5, 6, 11; G.S. 1878 Vol. 2 (1888 Supp.) c. 124 ss. 155, 156, 161; 1891 s. 104 ss. 7, 12; G.S. 1894 ss. 7926, 7927, 7932, 7941; 1899 s. 34 s. 9; R.L. 1905 s. 2327; 1913 c. 575 s. 1; G.S. 1913 s. 5029; 1919 c. 477 s. 1; G.S. 1923 s. 5797; M.S. 1927 s. 5797; 1937 c. 354 s. 3; M. Supp. s. 5808-3.

151.04 RECOMMENDED NAMES.

HISTORY. 1885 c. 147 ss. 5, 6, 11; G.S. 1878 Vol. 2 (1888 Supp.) c. 124 ss. 155, 156, 161; 1891 c. 104 ss. 7, 12; G.S. 1894 ss. 7926, 7927, 7932, 7941; 1899 c. 34 s. 9; R.L. 1905 s. 2327; 1913 c. 575 s. 1; G.S. 1913 s. 5029; 1919 c. 477 s. 1; G.S. 1923 s. 5797; M.S. 1927 s. 5797; 1937 c. 354 s. 4; M. Supp. s. 5808-4.

Previous law which required the governor to appoint members from among a certain number of pharmacists elected by the state pharmaceutical association, was held unconstitutional. State ex rel v Griffen, 69 M 311, 72 NW 117.

The pharmacy code is a proper subject for legislative provision under the police power and is not unconstitutional. License fee imposed by the statute for the issuance or renewal of a license, is not a tax but a charge upon those engaged in that occupation for the maintenance of the machinery provided for its organization. State v Hovorka, 100 M 249, 110 NW 870.

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151.05 ELECTION OF OFFICERS.

HISTORY. 1885 c. 147 ss. 5, 6, 11; G.S. 1878 Vol 2 (1888 Supp.) c. 124 ss. 155, 156, 161; 1891 c. 104 ss. 7, 12; G.S. 1894 ss. 7926, 7927, 7932, 7941; 1899 c. 34 s. 9; R.L. 1905 s. 2327; 1913 c. 575 s. 1; G.S. 1913 s. 5029; 1919 c. 477 s. 1; G.S. 1923 s. 5797; M.S. 1927 s. 5797; 1937 c. 354 s. 5; M. Supp. s. 5808-5.

151.06 POWERS AND DUTIES.

HISTORY. 1885 c. 147 ss. 5, 6, 11; G.S. 1878 Vol. 2 (1888 Supp.) c. 124 ss. 155, 156, 161; 1891 c. 104 ss. 7, 12; G.S. 1894 ss. 7926, 7927, 7932, 7941; 1899 c. 34 s. 9; R.L. 1905 s. 2327; 1913 c. 575 s. 1; G.S. 1913 s. 5029; 1919 c. 477 s. 1; G.S. 1923 s. 5797; M.S. 1927 s. 5797; 1937 c. 354 s. 6; M. Supp. s. 5808-6; 1941 c. 78 s. 1.

151.07 MEETINGS.

HISTORY. 1885 c. 147 ss. 5, 6, 11; G.S. 1878 Vol. 2 (1888 Supp.) c. 124 ss. 156, 167; 1891 c. 104 s. 12; G.S. 1894 ss. 7927, 7938, 7940; 1899 c. 34 s. 2, 7; R.L. 1905 s. 2327; 1913 c. 575 s. 2; 1913 s. 5031; 1923 c. 403 s. 1; G.S. 1923 s. 5799; M.S. 1927 s. 5799; 1933 c. 297; 1937 c. 354 s. 7; M. Supp. s. 5808-7.

151.08 COMPENSATION OF MEMBERS OF BOARD.

HISTORY. 1885 c. 147 s. 11; G.S. 1878 Vol. 2, (1888 Supp.) c. 124 s. 161; G.S. 1894 s. 7932; 1899 c. 34 s. 5; R.L. 1905 s. 2328; G.S. 1913 s. 5030; 1921 c. 238 s. 1; G.S. 1923 s. 5798; M.S. 1927 s. 5798; 1937 c. 354 s. 8; M. Supp. s. 5808-8.

151.09 SECRETARY, SALARY, BOND.

HISTORY. 1885 c. 147 s. 11; G.S. 1878 Vol. 2, (1888 Supp.) c. 124 s. 161; G.S. 1894 s. 7932; 1899 c. 34 s. 5; R.L. 1905 s. 2328; G.S. 1913 s. 5030; 1921 c. 238 s. 1; G.S. 1923 s. 5798; M.S. 1927 s. 5798; 1937 c. 354 s. 9; M. Supp. s. 5808-9.

151.10 QUALIFICATIONS OF APPLICANT.

HISTORY. 1885 c. 147 ss. 2, 4; 1887 c. 29; G.S. 1878 Vol. 2, (1888 Supp.) c. 124 ss. 152, 154; 1891 c. 104 ss. 2, 4; 1893 c. 131 s. 1; G.S. 1894 ss. 7923, 7925; 1899 c. 34 ss. 1, 7; R.L. 1905 ss. 2330, 2331; 1907 c. 346 s. 1; 1913 c. 575 s. 3; G.S. 1913 ss. 5032, 5033; 1919 c. 399 s. 1; G.S. 1923 ss. 5800, 5801; M.S. 1927 ss. 5800, 5801; 1933 c. 381; 1937 c. 354 s. 10; M. Supp. s. 5808-10; 1941 c. 78 s. 2.

151.11 REGISTERED ASSISTANT PHARMACIST TO CONTINUE IN CERTAIN CASES.

HISTORY. 1885 c. 147 s. 2; 1887 c. 29; G.S. 1878 Vol. 2, (1888 Supp.) c. 124 s. 152; 1891 c. 104 s. 2; 1893 c. 131 s. 1; G.S. 1894 s. 7923; 1899 c. 34 s. 1; R.L. 1905 s. 2330; 1907 c. 346 s. 1; G.S. 1913 s. 5032; 1919 c. 399 s. 1; G.S. 1923 s. 5800; M.S. 1927 s. 5800; 1933 c. 381; 1937 c. 354 S. 11 M. Supp. s. 5808-11; 1941 c. 78 s. 2.

Laws 1907, Chapter 346, relating to the registration of pharmacists, is constitutional. *Pharmaceutical Ass'n v State Board of Pharmacy*, 103 M 21, 113 NW 245.

151.12 MAY GRANT LICENSES WITHOUT EXAMINATION IN CERTAIN CASES.

HISTORY. 1885 c. 147 s. 4; G.S. 1878 Vol. 2, (1888 Supp.) c. 124 s. 154; 1891 c. 104 s. 4; G.S. 1894 s. 7925; R.L. 1905 s. 2332; 1913 c. 575 s. 4; G.S. 1913 s. 5034; G.S. 1923 s. 5802; M.S. 1927 s. 5802; 1937 c. 354 s. 12; M. Supp. s. 5808-12.

151.13 ANNUAL RENEWAL FEES.

HISTORY. 1885 c. 147 ss. 10, 16; G.S. 1878 Vol. 2, (1888 Supp.) c. 124 ss. 160, 166; 1891 c. 104 s. 6; G.S. 1894 ss. 7931, 7937; R.L. 1905 s. 2334; 1913 c. 575 s. 5; G.S. 1913 s. 5036; G.S. 1923 s. 5804; M.S. 1927 s. 5804; 1937 c. 354 s. 13; M. Supp. s. 5808-13.

151.14 REINSTATEMENTS.

HISTORY. 1885 c. 147 ss. 10, 16; G.S. 1878 Vol. 2, (1888 Supp.) c. 124 ss. 160, 166; 1891 c. 104 s. 6; G.S. 1894 ss. 7931, 7937; R.L. 1905 s. 2334; 1913 c. 575 s. 5; G.S. 1913 s. 5036; G.S. 1923 s. 5804; M.S. 1927 s. 5804; 1929 c. 94; 1937 c. 354 s. 14; M. Supp. s. 5808-14.

151.15 COMPOUNDING DRUGS UNLAWFUL UNDER CERTAIN CONDITIONS.

HISTORY. 1937 c. 354 s. 16; M. Supp. s. 5808-16.

The owner of a drug store is not liable, under Laws 1885, Chapter 147, Section 12, as amended by Laws 1891, Chapter 104, for a sale by one in his employ, not a registered pharmacist or assistant, made without his knowledge or assent. *State v Robinson*, 55 M 169, 56 NW 594.

Where a judgment is entered by the clerk not in accordance with the verdict and without the order of the court, the remedy in the first instance is by proper application to the trial court to correct it. *State v Currie*, 72 M 403, 75 NW 742.

Indictment charges the defendant with permitting the vending of poison in his place of business without the supervision of a registered pharmacist, resulting in the death of a human being. The indictment alleged the name of the person to whom the sale was made, but not the name of the person making it; that the defendant knowingly permitted the sale, but not the manner or mode, in which the defendant permitted the sale; that the sale was made without the supervision of a registered pharmacist or assistant. The indictment states facts sufficient to construe a public offense. *State v Mayo*, 118 M 336, 136 NW 849.

The municipal court did not err in suspending sentence for a definite time for selling a certain poison. That was discretionary with the court and justified by the statute. *State v Sjolander*, 125 M 529, 147 NW 273.

Retail sale of aspirin compound tablets by other than a registered pharmacist, is contrary to law. OAG June 2, 1937 (337c-1).

Hydrogen-peroxide is not exempt from the application of the pharmacy law as a patent and proprietary medicine. 1938 OAG 361, May 20, 1938 (337c-3).

The sale of "Kreo" or other poison used for medicinal purposes, is contrary to law unless sold in a pharmacy for the use of licensed physicians, dentists, or veterinarians. 1938 OAG 362, March 26, 1938 (337c-2).

Vitamins may be sold only by licensed pharmacists. OAG April 17, 1944 (337c-3).

151.16 VIOLATION A GROSS MISDEMEANOR.

HISTORY. 1937 c. 354 s. 17; M. Supp. s. 5808-17.

151.17 UNLAWFUL USE OF "PHARMACIST."

HISTORY. 1937 c. 354 s. 18; M. Supp. s. 5808-18.

151.18 UNLAWFUL TO USE MISLEADING NAME.

HISTORY. 1937 c. 354 s. 19; M. Supp. s. 5808-19.

The use of the words "laxatives," "digestives," "tonics" in advertising a product in a pharmacy not operated by a registered pharmacist, is a violation of this section. 1940 OAG 283, Feb. 21, 1939 (337c-3).

151.19 PHARMACIES SHALL BE REGISTERED.

HISTORY. 1891 c. 104 s. 12; G.S. 1894 s. 7939; 1899 c. 34 s. 6; R.L. 1905 c. 2333; G.S. 1913 s. 5035; G.S. 1923 s. 5803; M.S. 1927 s. 5803; 1937 c. 354 s. 20; M. Supp. s. 5808-20.

151.20 SUSPENSION AND REVOCATION OF REGISTRATION.

HISTORY. 1885 c. 147 ss. 6, 17; G.S. 1878 Vol. 2, (1888 Supp.) c. 124 ss. 156, 167; 1891 c. 104 s. 12; G.S. 1894 ss. 7927, 7938, 7940; 1899 c. 34 ss. 2, 7; R.L. 1905 s. 2329; 1913 c. 575 s. 2; G.S. 1913 s. 5031; 1923 c. 403 s. 1; G.S. 1923 s. 5799; M.S. 1927 s. 5799; 1933 c. 297; 1937 c. 354 s. 21; M. Supp. s. 5808-21.

151.21 DRUGS MUST BE LABELED.

HISTORY. Penal Code s. 326; G.S. 1894 s. 6620; R.L. 1905 s. 2336; G.S. 1913 s. 5038; G.S. 1923 s. 5806; M.S. 1927 s. 5806; 1937 c. 354 s. 22; M. Supp. s. 5808-22.

151.22 LIABILITY FOR QUALITY OF DRUGS.

HISTORY. 1937 c. 354 s. 23; M. Supp. s. 5808-23.

151.23 POISONS MUST BE LABELED.

HISTORY. 1885 c. 147 s. 12; G.S. 1878 Vol. 2, (1888 Supp.) c. 124 s. 162; 1891 c. 104 s. 8; G.S. 1894 s. 7933; R.L. 1905 s. 2335; 1913 c. 575 s. 6; G.S. 1913 s. 5037; 1923 c. 25 s. 1; G.S. 1923 s. 5805; M.S. 1927 s. 5805; 1937 c. 354 s. 24; M. Supp. s. 5808-24.

151.24 SALE OF POISONS MUST BE RECORDED.

HISTORY. Penal Code s. 327; 1889 c. 210 s. 1; 1891 c. 126 s. 1; G.S. 1894 ss. 6621, 6622; R.L. 1905 s. 2338; 1913 c. 575 s. 8; G.S. 1913 s. 5040; 1923 c. 25 s. 2; G.S. 1923 s. 5808; M.S. 1927 s. 5808; 1937 c. 354 s. 25; M. Supp. s. 5808-25.

151.25 WHOLESALEERS PROHIBITED FROM SELLING TO OTHERS THAN PHARMACISTS.

HISTORY. 1937 c. 354 s. 26; M. Supp. s. 5808-26.

151.26 EXCEPTIONS.

HISTORY. 1885 c. 147 s. 12; G.S. 1878 Vol. 2, (1888 Supp.) c. 124 s. 162; 1891 c. 104 s. 8; G.S. 1894 s. 7933; R.L. 1905 s. 2335; 1913 c. 575 s. 6; G.S. 1913 s. 5037; 1923 c. 25 s. 1; G.S. 1923 s. 5805; M.S. 1927 s. 5805; 1937 c. 354 s. 27; M. Supp. s. 5808-27.

A veterinarian may sell veterinary supplies such as serums, vaccines and similar, to the general public for self-administration to animals. OAG May 23, 1939 (465e).

Aspirin compounds are not proprietary medicine. OAG June 2, 1937 (337c-1).

151.27 DEPOSIT OF FEES.

HISTORY. 1937 c. 354 s. 28; M. Supp. s. 5808-28.

151.28 BOARD MAY TURN OVER FUNDS FOR ADVANCEMENT OF SCIENCE OF PHARMACY.

HISTORY. 1937 c. 354 s. 29; M. Supp. s. 5808-29.

151.29 VIOLATION A MISDEMEANOR.

HISTORY. 1937 c. 354 s. 29; M. Supp. s. 5808-30.

151.30 COUNTY ATTORNEY TO PROSECUTE.

HISTORY. 1929 c. 103 s. 1; 1937 c. 354 s. 31; M. Supp. ss. 5801-1, 5808-31.

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151.31 REGISTERED PHARMACISTS OR ASSISTANTS MAY REREGISTER.

HISTORY. 1937 c. 354 s. 32; M. Supp. s. 5808-32.

151.32 CITATION.

HISTORY. 1937 c. 354 s. 35; M. Supp. s. 5808-35.