

§ 17. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

Approved March 10, 1890.

PHARMACY.

CHAPTER 108.

[S. F. 123.]

REGULATING THE PRACTICE OF PHARMACY.

AN ACT to Regulate the Practice of Pharmacy, the Licensing of Persons to Carry on Such Practice, and the Sale of Poisons in the State of North Dakota.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. WHO MAY COMPOUND.] That it shall be unlawful for any person other than a registered pharmacist to retail, compound or dispense drugs, medicines or poisons, or to institute or conduct any pharmacy, store or shop for retailing, compounding or dispensing drugs, medicines or poisons, unless such person shall be a registered pharmacist, or shall employ and place in charge of said pharmacy, store or shop, a registered pharmacist within the full meaning of this act, except as hereinafter provided for.

§ 2. WHO MAY BE REGISTERED PHARMACISTS.] In order to be registered within the full meaning of this act, all persons must either be graduates in pharmacy, or shall have been engaged in the dispensing of drugs and medicines for a period of not less than four years in the preparation of physician's prescriptions, or shall be licentiates in pharmacy.

§ 3. LICENTIATES IN PHARMACY, WHO QUALIFIED.] Licentiates in pharmacy shall be such persons as have had two successive years' practical experience in drug stores wherein the prescriptions of medical practitioners are compounded, and have sustained a satisfactory examination before the State Board of Pharmacy, hereinafter mentioned. The Board of Pharmacy may grant certificates of registration to graduates in pharmacy who have obtained a diploma from such colleges or schools of pharmacy as shall be approved by said board, or to licentiates or such other state or territorial boards as it may deem proper without further examination.

§ 4. BOARD OF PHARMACY, HOW APPOINTED—VACANCIES, HOW FILLED.] Upon the passage of this act the North Dakota Phar-

maceutical Association shall select five reputable and practicing pharmacists doing business in the State, from which number the Governor of the State shall appoint three. The said three pharmacists duly elected and appointed shall constitute the Board of Pharmacy of the State of North Dakota, and shall hold office as designated in their appointments for the term of one, two and three years, as hereinafter provided, and until their successors have been appointed and qualified. Annually thereafter the North Dakota Pharmaceutical Association shall select three pharmacists who shall be members in good standing, from which number the Governor of the State shall appoint one to fill the vacancy annually occurring in said board. The term of office shall be three years. In case of resignation or removal from the State of any member of said board, or of a vacancy occurring from any cause, the Governor shall fill the vacancy by appointing a pharmacist from the names last submitted, to serve as a member of the board for the remainder of the term.

§ 5. ORGANIZATION — DUTIES — EXAMINATION MEETINGS—BOOK OF REGISTRATION.] Said board shall, within thirty days after their appointment and qualification, meet and organize by the selection of a president and a secretary from the number of its own members, who shall be elected for the term of one year, and shall perform the duties prescribed by the board. It shall be the duty of the board to examine all applications for registration submitted in proper form; to grant certificates of registration to such persons as may be entitled to the same under the provisions of this act; to cause the prosecution of all persons violating its provisions; to report annually to the Governor, and to the North Dakota Pharmaceutical Association, upon the condition of pharmacy in the State, which said report shall also furnish a record of the proceedings of said board for the year, as well as the names of all pharmacists duly registered under this act. The board shall hold meetings for the examination of all applicants for registration and transaction of such other business as shall pertain to its duties, at least twice, or not more than four times a year, at the discretion of the board; and the said board shall give thirty days public notice, in three of the pharmaceutical journals of general circulation of the State, of the time and place of such meeting. The said board shall also have power to make by-laws for the proper execution of its duties under this act, and shall keep a book of registration in which shall be entered the names and places of business of all persons registered under this act, which registration book shall also contain such facts, as such persons claim to justify their registration. Two members of said board shall constitute a quorum.

§ 6. REQUIREMENT OF PERSONS CLAIMING REGISTRY.] Every person claiming the right of registration under this act, who shall within three months after the passage of this act, and the organization of this board forward to the board of pharmacy, satisfactory proof supported by his affidavit that he was engaged in the

business of a dispensing pharmacist on his own account in the State of North Dakota at the time of the passage of this act as provided in Section 2 shall, upon the payment of the fee hereinafter mentioned, be granted a certificate of registration; *Provided*, That in case of failure or neglect to register as herein specified, then such person shall, in order to be registered, comply with the requirements provided for registration as licentiates in pharmacy within the meaning of this act.

§ 7. PERSONS NOT AFFECTED.] That the foregoing provisions of this act shall not apply to or effect any person having four consecutive years' experience in the dispensing of and compounding of prescriptions of regular practitioners, and employed as a pharmacist in North Dakota, at the passage of this act, only in so far as relates to registration and fees hereinafter provided for.

§ 8. CERTIFICATES—FEES.] Every person claiming registration as a registered pharmacist under Section 6 of this act shall, before a certificate is granted, pay to the secretary of the State Board of Pharmacy, the sum of two (2) dollars, and a like sum shall be paid to said secretary by such licentiates of other boards who shall apply for registration under this act; and every applicant for registration by examination shall pay to the said secretary the sum of five (5) dollars before such examination be attempted; *Provided*, That in case of failure to pass a satisfactory examination, he may be re-examined at any regular meeting of the board by paying a fee of three (3) dollars.

§ 9. REGISTERED ASSISTANTS, QUALIFICATIONS OF—FEES.] Any assistant or clerk in pharmacy who shall not have the qualifications of a registered pharmacist within the meaning of this act, not less than eighteen years of age, who shall have been employed or engaged two years or more in drug stores where the prescriptions of medical practitioners are compounded, and shall furnish satisfactory evidence to that effect to the State Board of Pharmacy shall, upon making application for registration, and upon payment to the secretary of the said board of a fee of one (1) dollar, be entitled to a certificate as a "registered assistant," which said certificate shall entitle him to continue in such duties as clerk or assistant, but such certificate shall not entitle him to engage in business on his own account, unless he shall have had at least four years' practical experience in pharmacy at the time of the passage of this act. Annually thereafter, during the time he shall continue in such duties, he shall pay to said secretary a sum not to exceed fifty (50) cents, for which he shall receive a renewal of this certificate.

§ 10. ANNUAL FEES—CERTIFICATES TO BE CONSPICUOUSLY POSTED—LIST TO BE PUBLISHED.] Every registered pharmacist who desires to continue the practice of his profession shall, annually during the time he shall continue such practice on such date as the Board of Pharmacy shall determine, pay to the secretary of said board a registration fee, the amount of which shall be fixed by

the board, and which in no case shall exceed two (2) dollars, in return for which payment he shall receive a renewal of said registration. Every certificate of registration and every renewal of such certificate shall be conspicuously exposed in the pharmacy to which it applies. It shall be the duty of every registered pharmacist or assistant pharmacist upon changing his place of business to notify by letter, within thirty days, the secretary of the State Board of Pharmacy of such change, and to inclose a fee of fifty (50) cents, upon receipt of which the secretary shall make the necessary alterations. If not notified within the time specified, the name of such registered pharmacist or assistant pharmacist shall be stricken from the register. The secretary shall publish annually a list of all persons who are duly registered as "registered" pharmacists and "assistant pharmacists," a copy of which shall be mailed free to each "registered pharmacist" and "assistant pharmacist" in the State.

§ 11. SALARIES—DISPOSITION OF FUNDS—ANNUAL REPORTS.] The secretary of the State Board of Pharmacy shall receive a salary which shall be determined by said board; he shall also receive his traveling and other expenses incurred in the performance of his official duties. The other members of said board shall receive the sum of five (5) dollars for each day actually engaged in such service, and all legitimate and necessary expenses incurred in attending the meeting of said board, or while performing strictly official duties. Said expenses shall be paid from the fees and penalties received by said board under the provisions of this act, and no part of the salary or other expenses of said board shall be paid out of the public treasury. All monies received by said board in excess of said allowances and other expenses hereinbefore provided for shall be held by the secretary of said board as a special fund for meeting the expenses of said board; said secretary giving such bonds as the said board shall from time to time direct and approve. The said board shall in its annual report to the Governor, and to the North Dakota Pharmaceutical Association, render an account of all monies received and disbursed by them pursuant to this act.

§ 12. PENALTY FOR NON-COMPLIANCE WITH THIS ACT—EXCEPTIONS.] Any person not being or not having in his employ a registered pharmacist within the full meaning of this [act,] who shall retail, compound or dispense medicines, or who shall take, use or exhibit the title of a registered pharmacist shall be deemed guilty of a misdemeanor, and upon conviction shall for each and every offense be liable to a penalty not to exceed fifty (50) dollars. Any registered pharmacist or other person who shall permit the compounding and dispensing of prescriptions or the vending of drugs, medicines or poisons in his store or place of business except under the supervision of a registered pharmacist, or any pharmacist who while continuing business shall fail or neglect to procure his annual registration, or any person who shall willfully

make any false representation to procure registration for himself or any other person, or who shall violate any other provision of this act shall be deemed guilty of a misdemeanor, and upon conviction shall for each and every offense be liable to a penalty not to exceed fifty (50) dollars; *Provided*, That nothing in this act shall in any manner interfere with the business of any physician in regular practice, nor prevent him from supplying his patients with such articles as may seem to him proper, nor prevent him from receiving a certificate as a registered pharmacist upon his producing a statement from the North Dakota Board of Medical Examiners that he has answered at least 70 per cent. of the questions asked at their examination in chemistry, pharmacy and *materia medica*; *Provided, further*, That physicians registered on account of residence in the State be registered as "registered pharmacists" on presentation of their certificate from the North Dakota Medical Board; nor with the making of proprietary medicines or medicines placed in sealed packages with the name of the contents, and the pharmacist or physician by whom prepared or compounded; nor prevent shop keepers from dealing in and selling the commonly used medicines and poisons, if such medicines are put up by a registered pharmacist, or from dealing in and selling of patent or proprietary medicines, nor with the exclusive wholesale business of any dealers.

§ 13. ADULTERATION OF DRUGS—PENALTY.] Every proprietor or conductor of a drug store, shall be held responsible for the quality of all drugs, chemicals and medicines sold or dispensed by him, except those sold in the original packages of the manufacturer, and except those articles or preparations known as patent or proprietary medicines. Any person who shall knowingly, willfully or fraudulently falsify or adulterate or cause to be falsified or adulterated, any drug or medicinal substance, or any preparation authorized or recognized by any standard work on pharmacy, or used or intended to be used in medical practice, or shall mix or cause to be mixed with any such drug or medicinal substance, any foreign or inert substance whatsoever for the purpose of destroying or weakening its medicinal power and effect, or of lessening its cost, and shall willfully, knowingly or fraudulently sell, or cause the same to be sold for medicinal purposes, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall pay a penalty not exceeding five hundred (500) dollars, and shall forfeit to the State of North Dakota all articles so adulterated.

§ 14. POISONS DEFINED—DEALING IN REGULATED—REGISTER OF SALES OF POISONS TO BE KEPT.] It shall be deemed unlawful for any person to retail any poisons enumerated in schedule "A" and "B," except as hereinafter provided for.

SCHEDULE "A."

Arsenic and its preparations; corrosive sublimate; white precipitate; red precipitate; biniodide of mercury; cyanide of

potassium; hydrocyanic acid; strychnia and all other poisons; vegetable alkaloids and their salts; essential oil of bitter almonds; opium and its preparations, except paregoric and other preparations of opium with less than two grains to the ounce.

SCHEDULE "B."

Aconite; belladonna; colchicum; conium; nux vomica; henbane; savin; ergot; cotton root; cantharides; creosote; digitalis and their pharmaceutical preparations; croton oil; chloroform; chloral hydrate; sulphate of zinc; mineral acids; carbolic acid and oxalic acid.

A poison in the meaning of this act shall be any drug, chemical or preparation which, according to standard works on medicine or *materia medica*, is liable to be destructive to adult human life in quantities of sixty grains or less. No person shall sell at retail any poisons mentioned in schedules "A" and "B" above mentioned without affixing to the bottle, box, vessel or package containing them, the name of the contents, the word "poison," and the name and place of business of the seller, nor shall he deliver said poison to any person without satisfying himself that such poison is to be used for legitimate purposes; *Provided*, That nothing herein contained shall apply to the dispensing of physician's prescriptions specifying poison. It shall also be the duty of such vendor of poisons before delivering the same to the purchaser, to cause an entry to be made in a book kept for that purpose, stating the date of sale, the name and address of the purchaser, the name and quality of the poison sold, and the name of the dispenser, such book to be always kept open for inspection by the proper authorities, and to be preserved for at least five years. Any person failing to comply with the requirements of this section shall be deemed guilty of a misdemeanor and shall, upon conviction, be liable to a fine of not less than five (5) dollars for each and every such omission.

§ 15. PROSECUTIONS FOR VIOLATIONS OF THIS ACT.] All suits for recovery of the several penalties and costs prescribed in this act shall be prosecuted in the name of the State of North Dakota in any court having jurisdiction, and it shall be the duty of the state's attorney of the county wherein such offense is committed to prosecute all persons violating the provisions of this act upon proper complaint being made. All penalties collected under the provisions of this act shall inure to the Board of Pharmacy, for the expenses and costs of the proper execution of the law.

§ 16. ACTS REPEALED—FORFEITED MEMBERSHIP, HOW RENEWED.] All acts or parts of acts regulating the practice of pharmacy or adulterations of drugs, within this State, enacted prior to the passage of this act, which in any wise conflict with the provisions of this act are hereby repealed; *Provided*, That nothing in this act shall be so construed as to prevent any person who has once been a member by examination, and may have forfeited his membership

by non-payment of fines or fees, from renewing his registration within two years, by paying the required dues or fees, without examination.

§ 17. EMERGENCY.] Whereas, the existing laws do not provide any punishment for the violation of the provisions of the law now governing the practice of pharmacy, nor is there any schedule of poisons specified therein, thereby not only exposing the public to the danger arising from the acts of incompetent persons, but there is an existing confusion as to what drug, chemical or preparation is termed a poison and dangerous to life, hence an emergency exists; therefore, this act shall take effect and be in force from and after its passage and approval.

Approved March 20, 1890.

PRESIDENTIAL ELECTORS.

CHAPTER 109.

[H. F. 192.]

RELATING TO ELECTORS OF PRESIDENT AND VICE PRESIDENT.

AN ACT Relating to Electors of President and Vice President.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. WHEN ELECTORS CONVENE—VACANCIES, HOW FILLED.] The electors of President and Vice President shall convene at the capital of this State on the second Monday in January next after their election at the hour of 12 o'clock, noon, of that day, and if there shall be any vacancy in the office of an elector, occasioned by the death, refusal to act, neglect to attend or other cause, the electors present shall immediately proceed to fill by ballot, and by plurality of votes, such vacancy in the electoral college, and when all the electors shall appear, or the vacancies shall have been filled as above provided, they shall proceed to perform the duties required of such elector by the Constitution and laws of the United States.

Approved March 6, 1890.