Electronically scanned images of the published statutes.

CHAPTER 450

PHARMACY EXAMINING BOARD

450.01 Pharmacy examining board. (1) In this chapter, "examining board" means pharmacy examining board.

(2) Meetings for examination shall be held at least semiannually. Thirty days' public notice shall be given of examinations.

(3) The department shall keep a record of the proceedings and a register of the names and places of business of persons registered under this chapter, and the books, registers and records of the examining board shall be prima facie evidence of the matters therein recorded.

(4) The examining board shall cause prosecution of violations of this chapter.

History: 1971 c. 125; 1977 c. 29; 1979 c. 34.

450.02 Registration. (1) All candidates for entrance to examination for registration as pharmacists must submit an application to the examining board and pay the amount specified by s. 440.05 (1) at least 15 days before the date of examination. All candidates must be 18 years of age or older, not have an arrest or conviction record, subject to ss. 111.321, 111.322 and 111.335, and must be graduates of a standard, recognized high school, or must have acquired the equivalent of a high school education in some other institution of equal rank or standing, or must have passed an examination for the equivalent of high school given by a state university or by a state department or bureau of education, issuing a qualifying certificate for the necessary high school units recognized by the university of Wisconsin system, or any other equivalent of a high school education recognized by the university of Wisconsin system.

(2) Every such applicant for examination and registration as pharmacist must, in addition, submit proof satisfactory to the examining board, of having had at least 48 months of pharmaceutical training consisting of:

(a) Graduation from a school or college of pharmacy or a department of pharmacy of a university, which is recognized by the examining board and which requires for graduation at least a 4-year course. Credit for actual time of attendance at the school, college or department of pharmacy of a university shall be given on the required 48 months of pharmaceutical training. The remainder of the 48 months must be practice and experience in a retail pharmacy or drugstore under the direction and supervision of a registered pharmacist, which practice and experience shall be predominantly work directly related to the selling of drugs, preparing and compounding of pharmaceutical preparations and physicians' prescriptions, and keeping of records and making of reports required under state and federal statutes. The practice and experience shall include an aggregate of 12 calendar months commencing not earlier than the close of the sophomore college year. Credit for periods of practice and experience shall be allowed in the discretion of the director of the university of Wisconsin pharmacy internship program in accordance with rules adopted by the pharmacy internship board. The examining board may upon satisfactory proof recognize and accept evidence of practice and experience performed in whole or in part in any other state provided the same is approved and verified by the pharmacy examining board or equivalent agency of such other state.

(b) Any candidate who was registered as an assistant pharmacist prior to the date of his application for examination, and for 4 years prior thereto was employed in a licensed drugstore, or personally operated a drugstore, shall be eligible to take the examination for registered pharmacist. In computing such 4-year period, service of the candidate in the armed forces of the United States shall not be deemed to have interrupted the required drugstore employment or operation.

(3) Applicants filing proofs, satisfactory to the examining board, of qualifications and

Electronically scanned images of the published statutes.

training as outlined in sub. (2) shall, after having passed the examination by the examining board and upon payment of the fee, be granted certificates as registered pharmacists. Proof satisfactory to the examining board covering experience, preliminary education, college of pharmacy graduation and character shall be submitted to the examining board. Every registered pharmacist may continue to be registered by biennially, at such time as the department determines, renewing the certificate upon paying the fee specified in s. 440.05 (3). Failure to obtain renewal for 60 days after the department has given a 2nd notice of the expiration of registration shall terminate the right of any person to be a registered pharmacist within the meaning of this section, and such right can only be acquired by compliance with the provisions concerning the original registration, again applying for and passing an examination satisfactory to the examining board.

(5) Every registered assistant pharmacist may continue to be registered by biennially, at such time as the department determines, applying for renewal and paying the fee specified in s. 440.05 (3). Failure to obtain renewal for 60 days after the department has given a 2nd notice of the expiration of registration shall terminate the right of any person to be a registered assistant pharmacist within the meaning of this section, and such right can only be acquired by compliance with the provisions concerning original registration, again applying for and passing an examination satisfactory to the examining board. The issuance of either of the certificates provided for in this section shall entitle the person to whom it is issued to be registered in the proper class.

(6) The examining board may register as a pharmacist, without examination, any person who is duly registered in some other state, if the person produces satisfactory evidence of having had the required secondary and professional education and training, does not have an arrest or conviction record, subject to ss. 111.321, 111.322 and 111.335, and pays the fee specified in s. 440.05 (2), but persons who became registered pharmacists in some other state prior to July 31, 1927, shall be required to meet only the requirements which existed in this state at the time they became registered in such other state, and if the state from which the applicant applies, under like conditions, grants reciprocal registration as a pharmacist without examination to pharmacists duly registered in this state. The examining board may require an applicant under this subsection to pass an equivalency examination administered by the examining board. If the examining board requires an equivalency test any person registered as a pharmacist in another state who is engaged in the active practice of pharmacy, as defined by the examining board, may only be required to pass a test on state and federal laws, rules and regulations.

(7) (a) Subject to ss. 111.321, 111.322 and 111.335 and to the rules promulgated under s. 440.03 (1), the examining board, upon notice and hearing, may reprimand or may limit, suspend or revoke the registration of any person who is guilty of a felony, who is addicted to alcohol beverages or controlled substances to an extent affecting fitness as a pharmacist, whose registration was secured by fraud or mistake or the giving of misinformation in any of the applications submitted to the examining board, who has been guilty of a violation of this chapter or ch. 161 or of violations of any of the rules of the examining board or who has been guilty of acts of unprofessional conduct as defined in par. (b). No revocation shall become effective until 20 days after notice of the decision of the examining board has been served upon the person accused. Decisions of the examining board under this section are subject to review as provided in ch. 227 and if the provisions of ch. 227 are invoked by the accused within such 20-day period, the order of revocation shall become effective only when ordered by the court.

(b) Unprofessional conduct means:

1. Sale of adulterated drugs.

2. Compounding, dispensing or selling, or causing or permitting the compounding, dispensing or sale of any drug which contains more or less than the proportionate quantity of ingredient or ingredients specified by the person ordering or prescribing such drug, or which contains an ingredient or ingredients other than those specified by the person ordering or prescribing such drug except prescriptions dispensed in accord with s. 450.075. Nothing in this subdivision shall be construed to prohibit the addition of such inert ingredients as emulsifiers, wetting agents, solvents, or like items as may be required in the art of compounding, preparing, mixing or otherwise producing drugs unless otherwise directed by the prescriber, or the operation of a hospital formulary system.

3. Violation of such standards as may from time to time be established or approved by the examining board.

4. Violation of s. 450.075.

(8) No person shall use the title "pharmacist" or "assistant pharmacist" unless duly registered as such under this chapter, nor shall any person use or display the title "drugstore", "pharmacy", "apothecary", or any other title, symbol, insignia (including without limitation because of enumeration, mortar and pestle, colored show globes, the sign Rx and the like)

Electronically scanned images of the published statutes.

having the same or similar meaning for such place of business unless such place of business is one where drugs are sold in accordance with s. 450.04.

(9) No drugstore, pharmacy, apothecary shop or any similar place of business shall be opened or kept open for the transaction of business until it has been registered with and a permit therefor has been granted by the examining board. This section shall not be construed to apply to any stores opened for the sale of proprietary or so-called patent medicines which conform to state and federal laws.

(a) Every pharmacy and store conducted under the supervision of a registered pharmacist shall be registered on June 1 of even-numbered years with the examining board on application forms prescribed by the examining board and provided for that purpose by the department, on request, and the department shall thereupon issue a suitable certificate of registration to such persons which permit shall be conspicuously displayed in a front window or door of the place of business. Applications for registration as a pharmacy or drugstore shall include information regarding the names of all pharmacists, assistant pharmacists and registered apprentices who are employed therein. Only places in charge of a registered pharmacist and holding a permit as a pharmacy may use the title "pharmacy", "pharmacists", "apothecary" or "drugstore", or use customary titles, symbols or insignia and each shall be under the separate management of a registered pharmacist who shall not engage to manage or supervise more than one such place, except that a registered pharmacist may be in charge of not more than 2 hospital pharmacies which provide only pharmaceutical services to patients registered by a hospital having 100 beds or less. This section does not prevent a person from owning and conducting more than one pharmacy if each is under the separate supervision of a registered pharmacist.

(b) For the registration of every new drugstore or any drugstore upon a change of ownership required to be registered, there shall be paid the registration fee under s. 440.05 (8) and an inspection shall be performed. Premises considered to be unsatisfactory at the time of the original inspection may be reinspected. Renewal fees are payable on June 1 of even-numbered years after registration. Duplicate permits for the operation of a drugstore, pharmacy or any similar place of business shall be granted by the examining board and issued by the department on receipt of the fee under s. 440.05 (7).

(c) Any person failing to register his place of business as herein required, failing to have in charge of each pharmacy a registered pharmacist who does not manage or supervise more than one pharmacy or otherwise failing to comply with this section may be fined not less than $25 nor more than $50 for each separate offense. Each day's violation is deemed a separate offense. Issuance or continuation of the permit for the conduct of a drugstore, pharmacy or any similar place of business may be refused when the applicant for the registration thereof has been found to be in violation of this chapter or ch. 161. No refusal to continue the permit shall become effective until 20 days after notice of the decision of the examining board to refuse the continuation has been served upon the applicant.

(10) Every pharmacy shall be equipped with proper pharmaceutical utensils so that compounding of prescriptions and dispensing of medicaments can be properly performed. The examining board, with the advice and consent of the faculty of the university of Wisconsin school of pharmacy, shall prescribe the minimum standards of such professional and technical equipment, which shall include copies of the latest revisions of the U.S. Pharmacopoeia and the National Formulary and any supplement to either of them. No permit shall be issued or continued for the conduct of a pharmacy unless this subsection has been complied with. Failure to maintain a pharmacy equipped with proper sanitary appliances or in a clean and orderly manner constitute grounds for reprimand or for denial, limitation, suspension or revocation of a pharmacy permit. There shall be kept in every pharmacy a suitable book or file, in which every prescription compounded or dispensed shall be preserved for a period of not less than 5 years.

History: 1971 c. 125; 1971 c. 213 s. 5; 1971 c. 219; 1973 c. 90, 243; 1975 c. 168, 421; 1977 c. 29, 125, 418; 1979 c. 34, 221; 1981 c. 79 s. 17; 1981 c. 162; 1981 c. 334 s. 25 (1); 1981 c. 380, 1981 c. 391 ss. 171, 211.

The pharmacy examining board lacks power to regulate or prohibit advertising of prescription prices. Osco Drug, Inc. v. Pharmacy Examining Bd. 61 W (2d) 689, 214 NW (2d) 47.

Post-examination review with applicants discussed. 68 Atty. Gen. 48.

450.04 Practice. (1) Certificates of registration, renewals, and permits shall be conspicuously exposed to public view in the place of business.

(2) No person may sell, give away, barter, compound or dispense drugs, medicines or poisons, nor permit it, in a town, village or city having a population of 500 or more unless he or she is a registered pharmacist, nor may any person institute or conduct a place therefor without a registered pharmacist in charge, except that a registered assistant pharmacist may do so under the personal supervision of a registered pharmacist, and may have charge during

Electronically scanned images of the published statutes.

the pharmacist's necessary absence, not to exceed 10 days. If the population of the city, village or town is less than 500, only a registered assistant pharmacist is required and in such case a registered assistant pharmacist, if otherwise qualified, may continue to operate his or her drug store, until death or retirement, even though the population increases beyond 500.

(3) This section does not apply to the following:

(a) The dispensing of drugs, medicines or other articles by physicians.

(b) The sale of any nonprescription drug in sealed packages, labeled to comply with the United States food, drug and cosmetic act under 21 USC 301 to 392, with directions for using, and the name and location of the manufacturer, packer or distributor.

(c) The sale of economic poisons for use in industrial arts, or the sale of economic poisons which comply with ss. 94.67 to 94.71.

(4) No person shall manufacture, package or prepare within this state any drugs or medicines except under the personal and immediate supervision of a registered pharmacist or such other person as is approved by the examining board after an investigation and a determination that such other person is qualified by scientific training and education to perform such supervision in a manner adequate to protect the public health and safety. No person shall manufacture, package or prepare any drugs or medicines within this state without first obtaining a permit from the examining board.

(a) For the issuance of such permit there shall be paid the registration fee specified in s. 440.05 (8). Upon biennial renewal of registration all permit holders shall pay the amount specified in s. 440.05 (8), payable on May 31 of the even-numbered year following issuance of the permit.

(b) The issuance of such permit shall be subject to such rules as the examining board adopts for the protection of the public health and safety.

(5) No person may engage in the sale or distribution at wholesale of a prescription drug, as defined in s. 450.07 (1) (a) 1, to any of the classes of persons enumerated in s. 450.07 (8) without first obtaining a license for such purpose from the examining board. Licenses expire on May 31 of the even-numbered years after issuance. Licenses and license renewals under this subsection shall be issued in the discretion of the examining board to qualified applicants, subject to ss. 111.321, 111.322 and 111.335.

(6) No person shall wilfully make a false statement in any prescription, order, report or record, required by this chapter, nor make or utter any false or forged prescription or written order.

History: 1971 c. 40 s. 93; 1971 c. 125, 219, 307; 1977 c. 13, 29, 240; 1979 c. 162; 1981 c. 90, 162, 380, 391.

The practice of dispensing drugs, medicines or other articles by physicians' office personnel permitted by 41 Atty. Gen. 23 (1952) under (3) is not in violation of (2), prohibiting dispensing of such items by persons other than registered pharmacists or registered assistant pharmacists under pharmacist supervision, or in violation of 450.07, prohibiting the delivering of a prescription drug without a prescription of a practitioner. 63 Atty. Gen. 335.

Preparation of medication by a nurse under direction of a physician is permissible under (3) (a). 66 Atty. Gen. 178.

450.05 Penalty. (1) Anyone who violates s. 450.04 (1) shall forfeit $10 for each failure, and anyone who wilfully makes a false representation to procure registration or permit for himself or herself or another, or who violates this chapter may be fined not less than $50 nor more than $100, or imprisoned for not less than 30 days nor more than 90 days or both.

(2) Each member and officer of the examining board shall investigate and institute actions for violations of this chapter and ch. 161 and the district attorney shall promptly prosecute upon notice from any source.

History: 1979 c. 355.

450.06 Definition of drug. The term "drug", as used in this chapter, means:

(1) Articles recognized in the official U.S. Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them, intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in persons or other animals; and

(2) All other articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in persons or other animals; and

(3) Articles (other than food) intended to affect the structure or any function of the body of persons or other animals; and

(4) Articles intended for use as a component of any articles specified in subs. (1), (2) or (3); but does not include surgical, dental or laboratory instruments, gases, oxygen therapy equipment, X-ray apparatus, or therapeutic lamps, their components, parts or accessories; or equipment, instruments, apparatus, or contrivances used to render such articles effective in medical, surgical or dental treatment; or articles intended for use or consumption in or for mechanical, industrial, manufacturing, or scientific applications or purposes.

History: 1975 c. 94 s. 91 (10).

Vitamins not intended for use in the diagnosis, cure, investigation, treatment or prevention of diseases are not drugs within the meaning of this section. 66 Atty. Gen. 137.

450.07 Prescription drugs. (1) In this section, unless the context requires otherwise:

Electronically scanned images of the published statutes.

(a) "Prescription drug" means any of the following:

1. Any drug or drug-containing preparation which is subject to 21 USC 353 (b).

2. Any controlled substance, as defined in s. 161.01 (4), listed in schedules II to V in ch. 161, whether by statute or administrative action, except substances which by federal law may be dispensed without the prescription of a physician. Controlled substances are included within this definition for purposes of subs. (3), (4), (8) and (11) only and for violations thereof punishable under sub. (12).

3. Paregoric.

(b) "Delivery" has the meaning designated in s. 161.01 (6).

(c) "Patient" means the individual for whom prescription drugs are prescribed or to whom prescription drugs are administered.

(d) "Practitioner" means a person licensed by law to prescribe and administer prescription drugs.

(e) "Pharmacist" means a person duly registered with the examining board as a compounder, dispenser and supplier of drugs.

(f) "Prescription" means a written order (or an oral order later reduced to writing) by a practitioner for a prescription drug for a particular patient, which specifies the date of its issue, the name and address of such practitioner, the name and address of the patient, the name and quantity of the prescription drug prescribed, directions for use of the drug and in case of a written order the signature of the practitioner.

(g) "Manufacturer" means persons other than pharmacists who manufacture prescription drugs, and includes persons who prepare such drugs in dosage forms by mixing, compounding, encapsulating, entableting, or other process.

(h) "Wholesaler" means persons engaged in the business of distributing prescription drugs to persons included in any of the classes named in sub. (8).

(2) No person except a practitioner shall deliver any prescription drug except upon the prescription of a practitioner. An oral prescription, by telephone or otherwise, shall be promptly reduced to writing and filed by the pharmacist.

(3) No person, except a registered pharmacist or a practitioner, shall prepare, compound, dispense or prepare for delivery for a patient any prescription drug.

(4) No prescription drug shall be delivered unless there is affixed to the immediate container a label disclosing:

(a) The name and address of the owner of the establishment from which such drug was delivered.

(b) The date on which the prescription for such drug was filled.

(c) The number of such prescription as filed in the prescription file of the pharmacist who filled such prescription.

(d) The name of the practitioner who prescribed such drug.

(e) The name of the patient.

(f) Directions for use of the drug as contained in the prescription.

(g) The generic or common name by which the prescription drug is known, if any.

(5) No prescription for a prescription drug shall be refilled except as designated on such prescription, and unless accurate record of such refilling is entered on such prescription showing the date and amount thereof. No oral or written prescription shall be refilled unless the requirements of sub. (2) have been met first and unless either written or oral authority has been given by the prescriber.

(6) In the event of any sale in bankruptcy, at public auction or any other sale except in the normal course of business, the seller shall give written notice of such sale to the examining board at least one week prior to the date of sale and a complete and accurate report must be made in writing to the examining board by the seller within 10 days after such sale, showing the name and address of the parties to whom any prescription drugs have been sold together with an itemized inventory thereof. This does not apply to the bona fide sale of a pharmacy as a business, if the parties first notify the examining board of such impending sale.

(7) It is unlawful for any person to have any prescription drug in his or her possession unless such drug was obtained in compliance with this section.

(8) Subsections (2), (3), (4) and (7) do not apply to the wholesale delivery of prescription drugs to persons included in any of the classes named in this subsection; nor to the agents or employes of such persons for use in the usual course of their business or practice or in the performance of their official duties, as the case may be; nor to the possession of prescription drugs by such persons or their agents or employes for such use:

(a) Pharmacists.

(b) Practitioners.

(c) Persons who procure prescription drugs for the purpose of lawful research, teaching or testing and not for resale.

(d) Hospitals and other institutions which procure prescription drugs for lawful administration by practitioners.

(e) Officers or employes of the federal government.

Electronically scanned images of the published statutes.

(f) Manufacturers and wholesalers.

(9) (a) No person shall obtain or attempt to obtain a prescription drug, or procure or attempt to procure the administration of a prescription drug by fraud, deceit, wilful misrepresentation or subterfuge; or by the forgery or alteration of a prescription or of any written order; or by the wilful concealment of a material fact; or by the use of a false name or the giving of a false address.

(b) Information communicated to a physician in an effort unlawfully to procure a prescription drug, or unlawfully to procure the administration of any such drug, shall not be deemed a privileged communication.

(c) No person shall wilfully make a false statement in any prescription, order, report or record required by this section.

(d) No person shall, for the purpose of obtaining a prescription drug, falsely assume the title of, or represent himself or herself to be, a licensed drug manufacturer, a licensed drug wholesaler, pharmacist, physician, dentist, veterinarian or other authorized practitioner.

(e) No person shall make or utter any false or forged prescription or false or forged written order.

(f) No person shall wilfully affix any false or forged label to a package or receptacle containing prescription drugs.

(10) Except as authorized by this chapter, no person may possess, with intent to manufacture or deliver, a prescription drug. Intent under this subsection may be demonstrated by, without limitation because of enumeration, evidence of the quantity and monetary value of the substances possessed, the possession of manufacturing implements or paraphernalia, and the activities or statements of the person in possession of the prescription drug prior to, during and after the alleged violation.

(11) The pharmacy examining board may promulgate necessary rules for the administration of this section. The department of justice and the pharmacy examining board each may promulgate necessary rules for the enforcement of this section. In addition to all law enforcement officers and agencies, the department and the examining board shall be responsible for the enforcement of this section.

(12) (a) Any person who violates this section, except as provided in par. (b), may be fined not more than $500 or imprisoned not more than 6 months or both.

(b) Any person who delivers, or who possesses with intent to manufacture or deliver, a prescription drug in violation of this section may be fined not more than $10,000 or imprisoned not more than 5 years or both.

(13) In any complaint, information or indictment, and in any action or proceeding brought for the enforcement of this section, it shall not be necessary to negative any exception, excuse, proviso or exemption, contained in this section and the burden of proof of any such exception, excuse, proviso or exemption, shall be upon the defendant.

History: 1971 c. 219; 1975 c. 168; 1977 c. 272; 1979 c. 162 s. 38 (7), (9); 1981 c. 114, 230.

See note to 450.04, citing 63 Atty. Gen. 335.

450.075 Use of drug product equivalent in filling prescriptions. (1) DEFINITIONS. In this section:

(a) "Average wholesale cost" means the average wholesale cost as determined by the department under s. 140.90.

(b) "Drug product" has the meaning designated in s. 140.90 (1) (b).

(c) "Drug product equivalent" means a drug listed as a drug product equivalent in the formulary prepared under s. 140.90.

(d) "Formulary" has the meaning designated under s. 140.90 (1) (d).

(2) DRUG PRODUCT OR EQUIVALENT TO BE USED. Subject to sub. (3), a pharmacist shall fill every prescription with the drug product prescribed or its drug product equivalent, if such equivalent has an average wholesale cost, as established by the department, which is not greater than the drug product named in the prescription, and shall inform the consumer of the options available in filling the prescription. If a drug product listed in the formulary is prescribed generically, the prescription shall be filled with one of its drug product equivalents having a cost not higher than the average wholesale cost of all of its drug product equivalents. The pharmacist shall inform the consumer that the drug product with which the prescription is filled has a cost not higher than the average wholesale cost of all its drug product equivalents. The full difference in wholesale cost resulting from any substitution under this subsection shall be passed on to the consumer.

(3) EXCEPTION. If a prescriber indicates, by writing on the face of the prescription the phrase "No substitutions" or words of similar meaning or the initials "N.S.", that no drug product equivalent may be dispensed because only a specific brand of a drug can be tolerated by or is effective for a particular patient, sub. (2) does not apply. Such indication may not be made by means of a preprinted statement.

(4) REFILLING PRESCRIPTIONS. Prescriptions filled with a drug product equivalent may be refilled only with the same drug product used to fill the original prescription.

Electronically scanned images of the published statutes.

(5) POSTING REQUIRED. The most current edition of the formulary prepared by the department under s. 140.90 shall be conspicuously posted in every place where prescription drug products are sold in a manner prescribed by the department.

History: 1975 c. 168.

Under (2), only limited substitution of prescribed drugs through a formulary is allowed. 65 Atty. Gen. 137.

450.077 Labeling of drugs and drug products. Every prescription drug or prescription drug product delivered to any pharmacist, medical practitioner or hospital shall bear a label containing the generic name of the drug or drug product, its brand name if any, and the name and address of the distributor and the manufacturer of the drug or drug product.

History: 1975 c. 168, 224.

450.08 Poisons, dispensing regulated. **(1)** No person shall sell or deliver any of the poisonous salts or compounds of antimony, arsenic, chromium, lead, mercury, silver, tin or zinc, the concentrated mineral acids; oxalic, carbolic or hydrocyanic acids or their salts, formaldehyde, yellow phosphorus, the essential oils of almonds, pennyroyal, rue, savin or tansy; croton oil, creosote, chloroform, cantharides, aconite, belladonna, bitter almonds, colchicum, cotton root, digitalis, ergot, hyoscyamus, lobelia, nux vomica, physostigma, strophanthus, stramonium, veratrum viride, or any of the poisonous alkaloids or glucosides derived from the foregoing or in any other virulent poison, unless it be upon the prescription of authorized practitioners of medicine, dentistry or veterinary medicine, except as follows:

(a) The dispenser shall ascertain that the applicant is aware of the poisonous character and desires it for a lawful purpose.

(b) The dispenser shall plainly label the container with the name of the substance, the word "Poison," and the name and address of the dispenser.

(c) Before delivery the dispenser shall record in a book kept for that purpose the name of the article, the quantity, the purpose, the date, the name and address of the person for whom procured, and the name of the individual personally dispensing the same, such record to be signed by the person to whom the poison is delivered; and said book shall be preserved by the owner thereof for at least 3 years after the date of the last entry therein, and shall be open to inspection by authorized officers.

(d) If the applicant is under 18 years of age, the applicant must have the written order of an adult person.

(2) This section does not apply to manufacturers and wholesalers selling at wholesale, nor to economic poisons which comply with ss. 94.67 to 94.71, but containers other than for economic poisons shall be labeled with the name of the substance, the word "Poison," and the name and address of the manufacturer or wholesaler.

(3) A "Poison" label is not required when a single container or when one-half ounce fluid or avoirdupois does not contain more than an adult medicinal dose nor in the case of liniments, ointments or other external preparations sold in good faith as such, and plainly labeled "for external use only," nor in the case of pills, tablets or lozenges, when the dose recommended does not contain more than one-quarter of an adult medicinal dose.

History: 1971 c. 42; 1979 c. 162 s. 38 (4); 1979 c. 355.

450.09 Placing drugs forbidden. Except as authorized by law, no person shall put any drug, medicine or chemical, or any compound or combination thereof in any public place, or, without the consent of the owner or occupant upon any private premises, nor cause it to be done.

As applied to defendant, 450.09 was not unconstitutionally overbroad or vague. Butala v. State, 71 W (2d) 569, 239 NW (2d) 32.

450.10 Penalties. Any person who violates s. 450.08 or 450.09 may be fined not less than $100 nor more than $1,000, or imprisoned not less than one year nor more than 5 years.

450.11 Advertising or display of contraceptive articles, sale in certain cases prohibited. **(1)** As used in this section, "contraceptive article" means any drug, medicine, mixture, preparation, instrument, article or device of any nature used or intended or represented to be used to prevent a pregnancy.

(2) Except for sales to physicians and surgeons licensed under s. 448.06 (1), no person may exhibit, display, advertise, offer for sale, or sell any drug, medicine, mixture, preparation, instrument, article or device of any nature used or intended or represented to be used to produce a miscarriage.

(3) No person may exhibit, display or advertise any contraceptive article for commercial purposes.

(4) No person may manufacture, purchase, rent, or have in the person's possession or under the person's control, any vending machine, or other mechanism or means so designed and constructed as to contain and hold contraceptive articles and to release the same upon the deposit therein of a coin or other thing of value.

(5) No person except a pharmacist registered under s. 450.02, a physician or surgeon

Electronically scanned images of the published statutes.

licensed under s. 448.06 (1), or a professional nurse registered under s. 441.06, may offer to sell or sell contraceptive articles.

(6) Any person violating this section shall be fined not less than $100 nor more than $500 or imprisoned for not to exceed 6 months or both.

History: 1975 c. 346, 421.

Exhibitions and displays which are educational and informational in character are not prohibited by sub. (2), 1973 stats., whether in the context of free public lectures or even in a commercial setting. Baird v. La Follette, 72 W (2d) 1, 239 NW (2d) 536.

Professional nurse may sell contraceptive articles, including oral contraceptive drugs, under (5). 66 Atty. Gen. 158.

Under Carey v. Population Services International, 431 US 678, subs. (2), (3), (4) and (5) are constitutionally infirm. 68 Atty. Gen. 20.

450.12 Wisconsin pharmaceutical association. The Wisconsin pharmaceutical association is continued with the general powers of a domestic nonstock corporation. It may take by purchase or gift and hold real and personal property. It may adopt, alter and enforce bylaws and rules for the admission and expulsion of members, the election of officers and the management of its affairs.

450.13 Service insurance corporations for pharmaceutical services. The Wisconsin pharmaceutical association may establish a service insurance corporation for pharmaceutical services under ch. 613.

History: 1975 c. 223.

450.14 Rule making. The examining board shall adopt a rule defining the practice of pharmacy and defining the active practice of pharmacy. The rules apply to all registrants and applicants for registration under s. 450.02.

History: 1979 c. 221.