107 feet to a point on the northern property line of Chief Logan Corporation; thence north 65 degrees 56 minutes east 27.38 feet to a point, the place of beginning.

Conditions.

The conveyances shall be made under and subject to all easements, servitudes and rights of others, including but not limited to streets, roadways and rights of any telephone, telegraph, water, electric, gas or pipe line companies as well as under and subject to any estates or tenancies vested in third persons, whether or not appearing of record, for any portion of the land or improvements erected thereon.

Approval and execution.

Section 3. The deeds of conveyance shall be approved by the Department of Justice and shall be executed by the Secretary of Property and Supplies in the name of the Commonwealth of Pennsylvania.

Disposition of proceeds.

Section 4. All moneys received from the sale of the land shall be deposited in the General Fund.

Act effective immediately.

Section 5. This act shall take effect immediately.

APPROVED—The 27th day of September, A. D. 1961.

DAVID L. LAWRENCE

No. 699

AN ACT

Relating to the regulation of the practice of pharmacy, including the sales, use and distribution of drugs and devices at retail; and amending, revising, consolidating and repealing certain laws relating thereto.

Pharmacy Act.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Short Title.—This act shall be known and may be cited as the "Pharmacy Act."

Section 2. Definitions.—As used in this act:

(1) "Person" includes individual, partnership, corporation and association.

(2) "Board" means the Pennsylvania State Board of Pharmacy.

(3) "Drugs" mean—

(i) Articles recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary.

(ii) Articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals.

(iii) Articles (other than food) intended to affect the structure or any function of the body *of man or other animals.

(iv) Articles intended for use as a component of any articles specified in subclauses (i), (ii) or (iii), but not including devices or their component parts or accessories.

(4) "Official compendium" shall mean the current revisions of the Pharmacopoeia of the United States, Homeopathic Pharmacopoeia of the United States and National Formulary.

(5) The term "device" means instruments, apparatus and contrivances, including their components, parts and accessories, intended (i) for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals, or (ii) to affect the structure or any function of the body of man or other animals.

(6) The term "Federal act" means the Federal Food, Drug and Cosmetic Act (Title 21, USC 301 et seq., 52 Stat. 1040 et seq.).

(7) "Narcotic drug," "dangerous drug," "non-proprietary drug"—any drug designated as such under the provisions of the Drug, Device and Cosmetic Act of Pennsylvania.

(8) "Prescription" means a written or oral order for drugs issued by a duly licensed medical practitioner in the course of his professional practice.

(9) "Medical practitioner" means a physician, dentist, veterinarian or other person duly authorized and licensed by law to prescribe drugs.

(10) "Pharmacist" means a person duly licensed by the State Board of Pharmacy to engage in the practice of pharmacy.

(11) "Practice of pharmacy" means the practice of that profession concerned with the art and science of preparing, compounding and dispensing of drugs and devices, whether dispensed on the prescription of a medical practitioner or legally dispensed or sold directly to the ultimate consumer, and shall include the proper and safe storage and distribution of drugs, the maintenance of proper records therefor, and the responsibility of relating information as required concerning such drugs and medicines and their therapeutic values and uses in the treatment and prevention of disease: Provided, however, That "practice of pharmacy" shall not include the operations of a manufacturer or wholesaler as defined in the Drug, Device and Cosmetic Act.

(12) "Pharmacy" means every place properly licensed by the Board of Pharmacy where the practice of pharmacy is conducted.

* "of" not in original.

(13) The words "drug" and "devices" shall not include surgical or dental instruments or laboratory materials, gas and oxygen, therapy equipment, X-ray apparatus or therapeutic equipment, their component parts or accessories, or equipment, instruments, apparatus or contrivances used to render such articles effective in medical, surgical or dental treatment, or for use or consumption in or for mechanical, industrial, manufacturing or scientific applications or purposes, nor shall the word "drug" include any article or mixture covered by the Pesticide Act of 1957, nor medicated feed intended for and used exclusively as a feed for animals other than man.

Section 3. Licensing of Pharmacists.—(a) The State Board of Pharmacy may license as a pharmacist any person who has filed an application therefor, subscribed by the person under oath or affirmation, containing such information as the board may by regulation require, and who—

(1) Is not less than twenty-one years of age and a citizen of the United States;

(2) Has satisfied the board that he is of good moral and professional character, that he will properly carry out the duties and responsibilities required of a pharmacist, and that he is not unfit or unable to practice pharmacy by reason of the extent or manner of his use of alcoholic beverages, narcotic drugs or dangerous drugs or by reason of a physical or mental disability;

(3) Holds a degree in pharmacy granted by a school or college of pharmacy which is accredited by the American Council of Pharmaceutical Education or its successor;

(4) Has completed the internship requirements as prescribed by the board pursuant to this act;

(5) Has satisfactorily passed such examinations given by the board.

(b) The State Board of Pharmacy shall, at least once in every six months, examine in the practice of pharmacy all pharmacy interns, who have completed their educational requirements, who shall make applications for said examination pursuant to regulations promulgated by the board. The said examination shall consist of two parts: the first part being a theoretical examination, and the second part consisting of a practical examination which shall be given to all pharmacy interns who have successfully passed the theoretical examination and have satisfactorily completed their internship requirements. In case of failure at a first examination, the applicant shall have within two years the privilege

of a second and third examination. In case of failure in a third examination, the applicant shall have the privilege of examination only after satisfactorily completing additional preparation as directed and approved by the board.

(c) To insure proficiency in the practical aspects of pharmacy, the board shall, by regulation, prescribe internship requirements which must be satisfactorily completed prior to issuance of a pharmacist license. The board shall specify the period of time of not less than six months nor more than one year and when and in what manner the internship shall be served.

(d) The board may, by regulation, accept in lieu of the experience as a registered pharmacy intern as herein required other equivalent experience obtained prior to January 1, 1962.

(e) Any person enrolled as a student of pharmacy in an accredited college shall, before the commencement of his third year of college, file with the State Board of Pharmacy an application for registration as a pharmacy intern in which said application he shall be required to furnish such information as the board may, by regulation, prescribe and, simultaneously with the filing of said application, shall pay to the board a fee of ten dollars ($10). All certificates issued to pharmacy interns shall be valid for a period not exceeding six years from the date of issue exclusive of time spent in the military service.

(f) To assure adequate practical instruction, pharmacy internship experience as required under this act shall be obtained by employment in any licensed pharmacy meeting the requirements promulgated by regulation of the board, and shall include such instruction in the practice of pharmacy as the board by regulation shall prescribe.

(g) All pharmacy apprentice certificates shall, within one year from the effective date of this act, be returned to the board and, upon receipt thereof, the board shall issue therefor a pharmacy intern certificate.

(h) The board may, without examination, license as a pharmacist any person who, at the time of filing application therefor, is and, for at least one year next preceding, has been licensed as a pharmacist in any other state, territory or possession of the United States: Provided, That the said person shall produce evidence satisfactory to the board of having had the required secondary and professional education and training and is possessed of good character and morals as required of applicants for registration under the provisions of this act: Provided, That persons of good character and morals who have become registered as pharmacists by

examination in other states prior to the time this act takes effect shall be required to satisfy only the requirements which existed in this Commonwealth at the time they became licensed in such other states: Further provided, That the state in which said person is licensed shall under similar conditions grant reciprocal registration as pharmacist without examination to pharmacists duly licensed by examination in this Commonwealth. Every application under this subsection shall be accompanied by a fee of fifty dollars ($50) for the application and expense of investigation by the Pennsylvania Board of Pharmacy. A fee of twenty-five dollars ($25) shall be paid for the registration and certificate prior to its approval and issuance by the board.

(i) Each pharmacy intern applying for examination shall pay to the State Board of Pharmacy an examination fee of fifteen dollars ($15). Upon passing the required examinations and complying with all the rules and regulations of the board and the provisions of this act, the board shall grant the applicant registration as a pharmacist and issue to him a certificate qualifying him to enter into the practice of pharmacy. Said certificate shall not be issued until a fee of twenty dollars ($20) shall be paid to the board.

(j) The board shall provide for, regulate and require all persons registered as pharmacists or assistant pharmacists to renew their registration biennially, and shall prescribe the form of such registration and information required to be submitted by all applicants. Unless the board shall have given ten days' previous notice to the applicant for renewal of registration of objections to the renewal of his license based upon a final conviction of or plea of guilty or nolo contendere of any charge based upon the laws of the United States or of this Commonwealth relating to the practice of pharmacy, narcotics or dangerous drugs, the license of a licensee shall be renewed when the applicant shall file with the board his application accompanied by a biennial registration fee of five dollars ($5).

(k) An additional fee not to exceed twenty-five dollars ($25) shall be paid for late registration of a pharmacist.

(l) Assistant pharmacist—(1) Any person duly registered as an assistant pharmacist prior to the date of this act may continue to act as such.

(2) From the date of this act, no person who is not already licensed as an assistant pharmacist shall be so licensed.

Section 4. Licensing of Pharmacies.—(a) The State Board of Pharmacy shall license any person to conduct

a pharmacy who has filed an application therefor, subscribed by the applicant under oath or affirmation, and containing such information as the board may require, and whose proposed pharmacy complies with all requirements of this act, including the following:

(1) Possesses a copy of the latest revision of the Pharmacopoeia of the United States, the latest edition of the National Formulary, and, if homeopathic remedies are compounded or dispensed, a copy of the latest revision of the Homeopathic Pharmacopoeia, the current supplements to them, and such other pharmaceutical equipment, reference books, professional and technical equipment as the board may by regulation establish;

(2) Has sufficient physical facilities, including equipment, size, space and sanitation for adequately distributing and dispensing drugs and devices consonant with the protection of the public health, safety and welfare as the board may by regulation establish;

(3) Contains a suitable book or file in which shall be preserved, for a period of not less than five years, every prescription compounded or dispensed therein;

(4) Has insured that a pharmacist duly registered in Pennsylvania shall be in charge of said pharmacy at all times that the pharmacy is open;

(5) Complies with the regulations of the board setting up minimum requirements regarding adequate facilities for safe storage of drugs, and protection from theft of or improper access to dangerous drugs and narcotics, equipment for compounding and dispensing of prescriptions, and size, space and sanitation requirements of pharmacies;

(6) If an individual or partnership is the applicant, that the individual or copartner if not a pharmacist, has not previously been found or pleaded guilty or nolo contendere to any crime concerning the practice of pharmacy or involving moral turpitude; or if a pharmacist, that he is presently licensed by the board; if an association that no director or officer or if a corporation that no director, officer or person having a beneficial interest in more than ten per centum of the stock has been found or pleaded guilty or nolo contendere to said crimes or had a pharmacy or pharmacist's license revoked or renewal refused.

(b) All applicants shall be of good moral and professional character: in determining this qualification, the board may take into consideration among other things the conduct and operation of other pharmacies conducted by said applicant.

(c) Every pharmacy shall, at all times when open, be under the constant direct and personal supervision

and management of a pharmacist duly registered in Pennsylvania who shall have personal supervision of not more than one pharmacy at the same time.

(d) All licenses issued under the provisions of this act shall be displayed in a conspicuous place in the pharmacy for which it was issued.

(e) Separate applications and permits shall be required for each establishment, and each permit shall be issued bearing the name of the pharmacist who will be in charge of the pharmacy and who will be responsible for all operations involving the practice of pharmacy.

(f) All registrations prior to approval shall be accompanied by an initial registration fee of fifty dollars ($50). The board shall renew each permit for the succeeding biennium unless the board shall have given ten days' previous notice to the applicant for renewal of registration of objections to the renewal of registration based upon a finding or plea of guilty or nolo contendere by the registrant of any of the laws of the United States or of this Commonwealth relating to the practice of pharmacy, narcotics or dangerous drugs, upon payment of a fee of ten dollars ($10) for each pharmacy, and such application for renewal shall be made on or before September 1 of each odd-numbered year.

(g) All licenses granted under this section, unless sooner revoked or suspended, shall expire on the date set forth therein: Provided, however, That the board may promulgate regulations authorizing the application by a personal representative of a deceased licensee for an extension of deceased licensee's permit.

(h) No person shall operate or advertise a pharmacy until the person has been granted a pharmacy permit by the board.

(i) The full name or names of the proprietor, or if a partnership, the partners, or if an association or a corporation, the name of the pharmacist manager, must be conspicuously displayed so as to be visible from the exterior of the pharmacy along with any corporate association or duly registered fictitious name.

(j) The board may promulgate regulations in accordance with the above requirements and, in addition, shall have the power to promulgate rules and regulations governing standards of practice and operation of pharmacies including, but not limited to, rules and regulations governing the method of advertising, promotion and standards for filling and refilling prescriptions, such regulations to be designed to insure methods of operation and conduct which protect the public health, safety and welfare and prevent practices or operations which may tend to lower professional standards of conduct.

Section 5. Revocation and Suspension.—(a) The board shall have the power to revoke or suspend the license of any pharmacist upon proof satisfactory to it that:

(1) His license was procured through fraud, misrepresentation or deceit;

(2) He has been found guilty, pleaded guilty or entered a plea of nolo contendere to any offense in connection with the practice of pharmacy or involving moral turpitude before any court of record of any jurisdiction;

(3) He is unfit to practice pharmacy because of habitual intemperance in the use of alcoholic beverages, narcotics, dangerous drugs or any other substance which impairs the intellect and judgment to such an extent as to impair the performance of professional duties;

(4) He is unfit or unable to practice pharmacy by reason of a physical or mental disease or disability;

(5) His license to practice pharmacy issued by any other properly constituted licensing authority of any other state has been suspended or revoked;

(6) He has violated or permitted the violation of any provision of this act or regulation of the board;

(7) He has engaged in the practice of pharmacy with an unlicensed person or has allowed any unlicensed person to take charge of a pharmacy or engage in the compounding, distribution or dispensing of prescriptions, dangerous drugs or narcotics, except a pharmacy intern in the presence of and under the immediate supervision of a licensed pharmacist;

(8) He has compounded, dispensed, sold or caused the compounding, dispensing or sale of any drug or device which contains more or less than the proportionate quantity of ingredient or ingredients specified by the person who prescribed such drug or device or which is of a brand or trade name other than that specified by the person prescribing such brand or trade name product or which contains an ingredient or ingredients of a brand or trade name other than that specified by the person prescribing such drug or device, unless the consent of the prescriber is first obtained to each such specific *prescription: Provided, however, That nothing herein shall be construed to prevent the addition of such inert ingredients as may be required in the art of compounding, preparing, mixing or otherwise producing drugs or devices.

(9) He is guilty of grossly unprofessional conduct. The following acts on the part of a pharmacist are hereby declared to constitute grossly unprofessional conduct of a pharmacist:

* "prescripiton" in original.

(i) Willfully deceiving or attempting to deceive the State Board of Pharmacy or its agents with respect to any material matter under investigation by the board;

(ii) The advertising to the public of prices for prescriptions, dangerous or non-proprietary drugs, or any reference to the price of said drugs or prescriptions either specifically or as a percentile of prevailing prices;

(iii) The public assertion or implication of professional superiority in the compounding of prescriptions;

(iv) The engaging by any means in untrue, false, misleading or deceptive advertising of drugs or devices;

(v) Paying rebates to physicians or any other persons, or the entering into any agreement with a medical practitioner or any other person for the payment or acceptance of compensation in any form for the recommending of the professional services of either party;

(vi) The entering into of any agreement with a licensed medical practitioner for the compounding or dispensing of secret formula (coded), prescriptions;

(vii) The misbranding or adulteration of any drug or device and the sale, distribution or dispensing of any misbranded or adulterated drug or device as defined in the Drug, Device and Cosmetic Act;

(viii) Engaging in the sale or purchase of drugs or devices whose package bears the inscription "sample" or "not for resale;"

(ix) Displaying or permitting the display of his license in a pharmacy of which he is not the proprietor or in which he is not employed;

(x) Any holder of a license or certificate to fail to display same while actually engaged in the practice of pharmacy;

(xi) The acceptance back and redistribution of any unused drug, or a part thereof, after it has left the premises of any pharmacy, whether issued by mistake or otherwise;

(xii) To accept employment as a pharmacist, or share or receive compensation in any form arising out of, or incidental to, his professional activities from any medical practitioner or any other person or corporation in which one or more medical practitioners have a proprietary or beneficial interest sufficient to permit them to exercise supervision or control over the pharmacist in his professional responsibilities and duties;

(xiii) To accept employment as a pharmacist, or share or receive compensation in any form arising out of, or incidental to, his professional activities from any person who orders said pharmacist, directly or indirectly, to

engage in any aspect of the practice of pharmacy in contravention of any provision of this act.

(b) The board shall have the power to revoke or suspend the permit of any pharmacy upon proof satisfactory to it that:

(1) The license was procured through fraud, misrepresentation or deceit;

(2) The holder thereof has violated any of the provisions of this act or regulations of the board applicable to him or any provision of the Drug, Device and Cosmetic Act or the Federal act, or has ordered a pharmacist in his employ to engage in any aspect of the practice of pharmacy in contravention of any provisions of the aforesaid acts or regulations thereunder;

(3) The holder thereof sold, dispensed or caused or allowed to be sold or dispensed any narcotic drug, dangerous drug or non-proprietary drug, except by a licensed pharmacist;

(4) The holder thereof, after issuance of a permit, fails to continue to comply with all requirements of section 4 hereof;

(5) Upon the suspension or revocation of a license of a pharmacist employed by said person, it is shown that the illegal acts of the pharmacist were within the knowledge or should have been within the knowledge of the permit holder.

Section 6. Board of Pharmacy.—(a) The State Board of Pharmacy, hereinafter designated as the "board," established by section 415, act of April 9, 1929 (P. L. 177), known as "The Administrative Code of 1929," is continued.

(b) The board shall consist of the Superintendent of Public Instruction, ex officio, and five members who shall be citizens of Pennsylvania and registered as pharmacists in Pennsylvania for a period of at least ten years previous to their appointment, and must at the time of appointment be engaged in the practice of pharmacy.

(c) The Governor shall, upon the expiration of the term of office of any member, appoint a person with the above-specified qualifications for a term of six years, or until a successor is appointed and qualified. Vacancies shall be filled in like manner. A list of at least six persons with the above specified qualifications may be submitted to the Governor by the executive committee of the Pennsylvania Pharmaceutical Association.

(d) No person may serve more than two terms as a member of said board.

(e) Three members of the board shall constitute a

quorum for the transaction of all business, except as otherwise specified in this act.

(f) The board shall meet prior to December 30 of each year for the purpose of organizing for the following year. At such organization meeting, the board shall elect a chairman and a vice-chairman for the ensuing calendar year. The board shall meet at least once every thirty days at the board offices and at such other times and places as the chairman deems necessary. The members of the board shall be paid by the Department of Public Instruction thirty dollars ($30) per diem in addition to expenses incurred when actually engaged in official meeting or otherwise in the performance of their official duties as directed by the chairman.

(g) The board shall elect an administrative secretary who shall not be a member of the board but who shall be a pharmacist duly licensed in Pennsylvania. Upon the approval of the Governor, said secretary shall be installed and shall serve during the pleasure of the board. Said secretary shall receive compensation of nine thousand five hundred dollars ($9500) per year from the Department of Public Instruction. The secretary shall be a full-time employe of the Department of Public Instruction, and shall:

(1) Be responsible for the administration of all professional and public affairs as directed by the board;

(2) Report to and proceed with the instructions of the board;

(3) Carry out all policies and instructions emanating from said board;

(4) Make, keep and be in charge of all records and record books required to be kept by the board, including a register of all registrants who are required to be registered;

(5) Attend to the correspondence of the board and perform all other duties as the board may require;

(6) Receive and receipt for all fees collected under provisions of this act.

(h) The board shall have power, and it shall be its duty:

(1) To regulate the practice of pharmacy;

(2) To prepare, grade and administer or to determine the nature of and supervise the grading and administration of examinations for applicants for pharmacists' licenses;

(3) To examine, inspect and investigate all applicants for registration as pharmacists, pharmacies or pharmacy interns and to grant certificates of registration to all applicants whom it shall judge to be properly qualified;

(4) To employ inspectors, chemists and other agents to assist it for any purpose which it may deem necessary;

(5) To investigate violations of the provisions of this act and to cause prosecutions to be instituted in the courts upon advice from the Attorney General;

(6) To make inspections of all pharmacies and other places in which drugs or devices are stored, held, compounded, dispensed or sold to the ultimate consumer, to take and analyze any drugs or devices and to seize and condemn any drugs or devices which are adulterated, misbranded or stored, held, dispensed, distributed or compounded in violation of the provisions of this act or the provisions of the Drug, Device and Cosmetic Act;

(7) To conduct hearings for the revocation or suspension of licenses, permits or registrations, with the approval of the Attorney General, for which hearings the board shall have the power to subpoena witnesses;

(8) To assist the regularly constituted enforcement agencies of this Commonwealth in enforcing all laws pertaining to drugs, narcotics, and practice of pharmacy;

(9) To promulgate rules and regulations to effectuate the purposes of this act and to regulate the distribution of drugs and devices and the practice of pharmacy for the protection and promotion of the public health, safety and welfare.

(i) The powers and duties of the board, as enumerated in subsection (h) of this section, shall not be applicable to manufacturers and wholesalers as defined in the Drug, Device and Cosmetic Act or to their operations as such.

Section 7. Hearings.—(a) (1) Upon refusal of the board to issue any license, permit or certificate, written notice of the grounds supporting such decision shall be given to the applicant, either personally or by registered or certified mail, return receipt requested, and the board shall accord the applicant opportunity of a hearing, upon written request received within fifteen days from the date of the giving of said written notice.

(2) The board may, upon its own motion, and shall, promptly, upon the verified complaint in writing of any person setting forth specifically the wrongful act or acts complained of, investigate any alleged violations of this act by any persons, and shall have the power temporarily to suspend or permanently to revoke licenses theretofore issued by the department under the provisions of this act at any time when, after due proceedings as hereinafter provided, it shall find the holder thereof to have been guilty of any violation of the provisions of this act.

(b) Such hearings, appeals from, and rulings resulting therefrom, unless otherwise provided herein, shall be in accordance with the provisions of the "Administrative Agency Law."

(c) A majority of the board shall designate the member or members to be present at each hearing. Subsequent to each hearing, the notes of testimony shall be transcribed and a copy of the transcription shall be given to each member of the board who shall review same prior to voting thereon. All decisions shall be reached by a majority vote of the entire board. The board shall, by regulation, establish and publish procedural rules concerning the conduct of hearings.

(d) (1) The board shall maintain in its office a private docket or other record in which it shall record, from time to time as made, the rulings or decisions upon all complaints filed with it, and all investigations instituted by it in the first instance upon or in connection with which any such hearing shall have been had or in which the licensee charged shall have made no defense. The board shall also give immediate notice, in writing, of such ruling or decision to the licensee affected thereby and as well, where the investigation shall have been instituted by complaint filed, to the party or parties by whom the complaint was made. If such ruling shall be to the prejudice of or shall injuriously affect the licensee, the board shall also state in said notice the date upon which the said ruling or decision shall become effective. If the licensee cannot at such time be found, his whereabouts being then unknown, such notice may be given by the board by advertisement inserted in one issue of a newspaper of general circulation published within the county where was located the principal office of the licensee as designated in the license. When any revocation or suspension shall become final, the board shall publish notice thereof in one issue of one or more newspapers of general circulation published within the county in which the licensee was practicing or engaged in the practice of pharmacy at the time of such revocation or suspension.

(2) Such ruling or decision of the board shall be final when in favor of the licensee and in dismissal of the complaint filed, if any. If against the licensee or in any way to licensee's injury or prejudice, the licensee may, at any time prior to the date fixed by the board in its said notice as the date it shall become effective, appeal from such decision in accordance with the procedure prescribed in the "Administrative Agency Law."

(e) Within thirty days after the service of such notice of appeal, the board shall file with the prothonotary of the said court of common pleas a transcript of the

records of the proceedings in its office duly certified over the seal of the department, which record shall include all papers on file with the board affecting or relating to the inquiry or investigation conducted by the board and all the evidence taken in the said hearing, including the stenographic notes of testimony. Notice of the filing of the said transcript with the term and number to which filed shall be forthwith given by the board to the licensee and as well to the party or parties, if any, upon whose complaint the proceedings before the board were instituted. The cost of the said transcript at twenty-five cents (25¢) per folio and one dollar ($1) for certification shall be entered as part of the record costs in the cause to be paid as the said court may direct. In all proceedings upon such appeal, the Department of Justice shall appear for and represent the Commonwealth.

(f) In an appeal from the order of the board after a hearing held in accordance with this section, the findings and rulings of the board shall be given similar weight, force and effect as are accorded to the findings and report of a referee selected or appointed under the provisions of the act, entitled "An act to provide for the submission of civil cases by agreement of the parties to a referee learned in the law," approved May 14, 1874 (P. L. 166), and its supplements.

Section 8. Unlawful Acts.—It shall be unlawful for:

(1) Any person to procure or attempt to procure a license, permit or certificate for himself or for any other person by making or causing to be made any false representations.

(2) Any person not duly licensed as a pharmacist, pursuant to section 3 hereof, to engage in the practice of pharmacy, including the preparing, compounding, dispensing, selling or distributing at retail to any person any drug, except a pharmacy intern under the immediate personal supervision of a pharmacist: Provided, however, That nothing herein shall be construed to prevent a duly licensed medical practitioner from dispensing, compounding or otherwise giving any drug to his own patients after diagnosis or treatment of said patient, if such compounding, preparing and dispensing is done by said licensee himself, nor shall anything herein prevent any person from selling or distributing at retail household remedies or proprietary medicines when the same are offered for sale or sold in the original packages which have been put up ready for sale to consumers, provided household remedies or proprietary medicines shall not include any narcotic drug, dangerous drug or non-proprietary drug under the Drug, Device and Cosmetic Act.

(3) Any unlicensed person to operate or conduct, or to have charge of or to supervise any pharmacy, for a violation of this section, the owner of said pharmacy shall be equally liable as principal.

(4) Any person representing himself to be licensed under this act when in fact he is not.

(5) Any person to knowingly prevent or refuse to permit any member of the board, or its duly authorized agents, to enter a pharmacy or any other place where drugs or devices are kept, stored, dispensed or distributed to the ultimate consumer, for the purpose of lawful inspection or other purposes in accordance with the provisions of this act and regulations pursuant thereto.

(6) Any person whose license, permit or certificate has been revoked, suspended or refused renewal to fail to deliver the license permit or certificate to the board upon demand.

(7) Any person to sell at auction drugs or devices in bulk or in open or unopened packages, unless such sale has been approved in advance by the board and unless such sale shall be under the personal supervision of a licensed pharmacist appointed by the board and whose fee shall be paid by the seller thereof.

(8) Any person, firm or corporation to use the title "pharmacist", "assistant pharmacist", "druggist", "apothecary", except a person duly licensed as a pharmacist in Pennsylvania, or any person to conduct or transact business under a name which contains as part thereof the words "drug store", "pharmacy", "drugs", "medicine store", "medicines", "drug shop", "apothecary", or any term having a similar meaning, or in any manner by advertisement, display of show globes or otherwise describe or refer to the place of the conducted business or person, unless the place is a pharmacy duly licensed by the State Board of Pharmacy.

(9) Any person who buys, sells or causes to be sold or offers for sale any drug or device which bears or which package bears, or originally did bear, the inscription "sample" or "not for resale" or "for investigational or experimental use only" or other similar words.

(10) Any person using to his own advantage or revealing to anyone other than the board, its duly authorized representatives, or to the courts, when relevant to any judicial proceeding under this act, any information acquired under authority of this act or concerning any method or process which is a trade secret.

(11) Any pharmacist or owner of a pharmacy advertising or promoting dangerous drugs, narcotics or drugs

containing either by name or prices *therefor to the general public.

(12) Any person who knowingly and willfully forges or counterfeits upon any goods, wares or merchandise the private stamps or labels of any mechanic or manufacturer, with intent to defraud the purchasers or manufacturers of any goods, wares or merchandise, or keeps in possession or conceals any goods, wares or merchandise bearing forged or counterfeited private stamps or labels of any mechanic or manufacturer, with intent to defraud the purchasers or manufacturers of any goods, wares or merchandise, or keeps in control, custody or possession any punch plate, stone or other thing in the likeness of any punch plate or stone designated for the printing or imprinting of the private stamps or labels of any mechanic or manufacturer, or who vends any goods, wares or merchandise having thereon any forged or counterfeited stamps or labels purporting to be the stamps or labels of any mechanic or manufacturer, knowing the same to be forged or counterfeited, without disclosing the fact to the purchaser.

(13) Any person by himself or through another to procure or attempt to procure for himself or another any drug:

(i) by fraud, deceit, misrepresentation or subterfuge;

(ii) by the forgery or alteration of a prescription or any written order;

(iii) by the concealment of a material fact;

(iv) by use of a false statement in any prescription, order or report.

(14) Any person to advertise the filling or refilling of prescriptions for any consumer or patient in Pennsylvania if said person is not licensed under this act or the said prescription is not filled or refilled in a pharmacy licensed by the board.

(15) Any person who violates any of the provisions of this section 8 is guilty of a misdemeanor, and upon conviction thereof, shall be sentenced to undergo imprisonment for not more than one year or pay a fine of not more than five thousand dollars ($5000), or both, and for each subsequent offense, shall be sentenced to undergo imprisonment of not more than three years or to pay a fine of not more than fifteen thousand dollars ($15,000), or both.

Section 9. Poisons.—(a) Poison means and includes the compositions of the following schedules:

* "therefore" in original.

Schedule "A".

(1) Arsenic compounds and preparations.

(2) Cyanides and preparations including hydrocyanic acid.

(3) Fluorides soluble in water and preparations.

(4) Mercury compounds and preparations, except preparations made and labeled for external use only and containing not more than five-tenths per centum total mercury and except ointments or soaps containing not more than two per centum total mercury or not more than ten per centum ammonium mercuric chloride or mercuric oxide.

(5) Phosphorous and preparations.

(6) Thallium compounds and preparations.

(7) Aconite, belladonna, cantharides, cocculus, conium, digitalis, gelsemium, hysocyamus, nux vomica, santonica, stramonium, strophanthus, veratrum, or their contained or derived active compounds and preparations, except preparations made and labeled for external use only, and except preparations containing not more than four-thousandths per centum total belladonna alkaloids, or not more than two-hundredths per centum total nux vomica alkaloids, and except preparations in dosage forms each containing not more than two-tenths milligram total belladonna alkaloids, or not more than one milligram total nux vomica alkaloids.

(8) Zinc phosphide and preparations.

(9) Sodium fluoroacetate and preparations.

Schedule "B".

(1) Antimony, barium, copper, lead, silver or zinc compounds soluble in water, and preparations containing five per centum or more of these compounds.

(2) Bromine or iodine and preparations.

(3) Hypochlorous acid free or combined, and preparations that yield ten per centum or more of available chlorine, excepting chloride of lime or bleaching powder.

(4) Permanganates soluble in water and preparations containing five per centum or more of these compounds.

(5) Nitric acid and preparations containing five per centum or more of the free acid.

(6) Hydrochloric, hydrobromic or sulfuric acids, and preparations containing ten per centum or more of the free acids.

(7) Oxalic acid or oxalates, and preparations containing ten per centum or more of these compounds.

(8) Acetic acid, and preparations containing twenty per centum or more of the free acid.

(9) Potassium or sodium hydroxides, and preparations containing ten per centum or more of the free *alkalies.

(10) Ammonia solutions or ammonium hydroxide, and preparations containing five per centum or more of free ammonia.

(11) Chloroform or ether, and preparations containing five per centum or more of these compounds, except preparations made and labeled for external use only.

(12) Methyl alcohol or formaldehyde, and preparations containing one per centum or more of these compounds, except when used as a preservative and not sold to the general public.

(13) Phenol or carbolic acid, cresole or other phenol derivatives soluble in water, and preparations containing five per centum or more of these compounds.

(14) Nitroglycerine and nitrites.

(15) Nicotine, and preparations containing nicotine expressed as alkaloid more than two per centum.

(16) Ergot, cotton root, pennyroyal and larkspur, or their contained or derived active compounds or mixtures thereof.

(b) The board may add to, or delete from, any of the aforementioned schedules when, in the opinion of the board, it is in the interest of the public health. Notice of the adoption of rules pursuant to this section shall be given to the public in such manner as the board deems necessary.

(c) The board shall adopt and maintain a schedule of the most suitable common antidotes for the poisons listed in Schedules "A" and "B", and shall distribute same to each person registered with it.

(d) No person shall sell, distribute or furnish, either directly or indirectly, except on prescription, any poisons enumerated in Schedules "A" and "B" (or those poisons which may subsequently be added to said schedules by the board) unless there is affixed a poison label to the package, box, bottle or paper, in which the poison is contained. The word "poison" shall be distinctly shown on said label, together with the name of said place of business of the seller, all of which shall be printed in red ink. In addition the name of such poison shall be printed or written thereupon in clear print.

(e) No person shall sell, distribute or furnish any poison named in Schedule "A" or "B", or any poison hereinafter added to Schedule "A" or "B" by the board,

* "aklalies" in original.

unless on inquiry it is found that the person desiring it is aware of its poisonous character and it satisfactorily appears that the poison is to be used for a legitimate purpose.

(f) No poison enumerated in Schedule "A" and "B", or poisons which may hereinafter be added to said schedules, shall be sold, delivered or furnished to any person who is less than sixteen years of age.

(g) No person shall sell, distribute or furnish any poisons included in Schedule "A", or the additions thereto, without making or causing to be made at the time of selling an entry in a poison book kept solely for that purpose, stating the date of sale, the name, address and signature of the purchaser, the name and quantity of the poison sold, the statement of the purchaser of the purpose for which it is required, and the name of the dispenser who shall be a registered pharmacist. The provisions of this paragraph do not apply to the dispensing of drugs or poisons by registered pharmacists pursuant to prescriptions.

(h) Drug manufacturers and wholesalers are exempt from subsections (d), (e), (f) and (g), when said poisons are sold, distributed or furnished to drug manufacturers, wholesalers, hospitals, duly licensed pharmacists or medical practitioners. Pharmacists are exempt from subsection (g) when said poisons are sold to duly licensed pharmacists or medical practitioners.

(i) Any person violating any of the provisions of this section is guilty of a misdemeanor, and upon conviction thereof, shall be sentenced to pay a fine not to exceed three hundred dollars ($300) or to undergo imprisonment for not more than three months, or both.

(j) The provisions of this section shall not apply with respect to any poisons regulated and controlled by the Secretary of Agriculture pursuant to the Pennsylvania Pesticide Act of 1957, nor with respect to any poisons present in commercial feeds as defined and regulated by the Commercial Feeds Act of 1956, May 29, P. L. (1955) 1788.

Section 10. Specific Repeals.—The following acts and parts of acts are repealed absolutely:

(1) The act of May 24, 1887 (P. L. 189), entitled "An act to regulate the practice of pharmacy and sale of poisons, and to prevent adulterations in drugs and medicinal preparations, in the State of Pennsylvania."

(2) The act of June 25, 1895 (P. L. 281), entitled "A supplement to the act entitled 'An act to regulate the practice of pharmacy and sale of poisons, and to prevent adulterations in drugs and medicinal preparations, in the State of Pennsylvania,' approved the

twenty-fourth day of May, Anno Domini one thousand eight hundred and eighty-seven, requiring persons holding certificates of registrations or renewal certificates under the provisions of this act, to keep said certificates and renewal certificates in some conspicuous place in their retail drug stores and pharmacies, and providing a penalty for the violation thereof."

(3) The act of April 24, 1901 (P. L. 99), entitled "An act amending the act prescribing the fees to be paid by applicants for examination by the State Pharmaceutical Examining Board, and regulating the exhibition of their certificate."

(4) The act of May 8, 1909 (P. L. 470), entitled "An act to prevent the manufacture and sale of adulterated or misbranded drugs; defining the word 'drug'; prescribing penalties for violation of this act, and the method of its enforcement."

(5) The act of May 17, 1917 (P. L. 208), entitled "An act to regulate the practice of pharmacy and sale of poisons and drugs, and providing penalties for the violation thereof; defining the words 'drug' and 'poison'; and providing for the appointment of a board which shall have in charge the *enforcement of said law, and the power to make rules and regulations for the enforcement of said law; and providing for the purchase of samples of drugs for determining their quality, strength, and purity."

(6) The act of May 26, 1921 (P. L. 1172), entitled "A supplement to the act, approved the seventeenth day of May, one thousand nine hundred seventeen (Pamphlet Laws, two hundred and eight), entitled 'An act to regulate the practice of pharmacy and sale of poisons and drugs, and providing penalties for the violation thereof; defining the words 'drug' and 'poison'; and providing for the appointment of a board which shall have in charge the enforcement of said law, and the power to make rules and regulations for the enforcement of said law; and providing for the purchase of samples of drugs for determining their quality, strength, and purity,' requiring permits to conduct pharmacies; providing for the revocation thereof; and prescribing penalties."

(7) The act of April 27, 1925 (P. L. 299), entitled "A supplement to an act, approved the seventeenth day of May, one thousand nine hundred seventeen (Pamphlet Laws, two hundred and eight), entitled 'An act to regulate the practice of pharmacy and sale of poisons and drugs, and providing penalties for the violation thereof; defining the words 'drug' and 'poison'; and providing for the appointment of a board which shall

* "endorsement" in original.

have in charge the enforcement of said law, and the power to make rules and regulations for the enforcement of said law, and providing for the purchase of samples of drugs for determining their quality, strength, and purity,' providing for the registration of apprentices in pharmacy, requiring employers of such apprentices to see that they are registered, and imposing penalties."

(8) The act of May 16, 1945 (P. L. 615), entitled "An act to protect the public health and safety by requiring registration with and the securing of certificates of registration from the State Board of Pharmacy by persons, copartnerships, associations and corporations engaged in the manufacture or production of drugs and medical supplies; regulating the manufacture of drugs and medical supplies as herein defined; prohibiting the manufacture, possession or sale of adulterated or misbranded drugs and medical supplies; prescribing certificates of registration; providing for inspections and the suspension and revocation of certificates of registration; conferring powers on the State Board of Pharmacy and courts; and providing penalties."

Section 11. General Repeal.—All other acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

Section 12. Severability.—If any part, section, subsection, sentence, clause or phrase in this act shall be held unconstitutional or invalid for any reason, such invalidity shall not affect the validity of the remaining portion of the act.

Effective date.

Section 13. This act shall take effect on January 2, 1962.

APPROVED—The 27th day of September, A. D. 1961.

DAVID L. LAWRENCE

No. 700

AN ACT

Amending the act of May 26, 1949 (P. L. 1828), entitled "An act concerning the investment powers and duties of guardians, committees, trustees, and other fiduciaries, except personal representatives, and prescribing the nature and kind of investments which may be made and retained by such fiduciaries," making further provisions concerning authorized investments in corporate bonds and stock.

Fiduciaries Investment Act of 1949.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows: