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PHARMACIST—PERSON WHO FILED APPLICATION SUBSEQUENT TO JULY 1, 1945 TO BE EXAMINED AND REGISTERED AS PHARMACIST—PRESENTED CREDENTIALS:

- a. HE ENTERED RECOGNIZED SCHOOL OR COLLEGE OF PHARMACY PRIOR TO OCTOBER 1, 1941.
- b. COMPLETED MINIMUM FOUR YEAR COURSE THEREIN.
- c. GRADUATED FROM SUCH COLLEGE OR SCHOOL SUBSEQUENT TO JULY 1, 1945.
- d. MEETING ALL OTHER REQUIREMENTS OF SECTION 1302 G. C., EXCEPT PROVISION FOR MINIMUM OF ONE YEAR OF EXPERIENCE IN RETAIL DRUG STORE,

MAY NOT BE LEGALLY EXAMINED AND REGISTERED AS PHARMACIST.

SYLLABUS:

A person who filed an application subsequent to July 1, 1945 to be examined and registered as a pharmacist and presents credentials showing that (a) he had entered a recognized school or college of pharmacy prior to October 1, 1941, (b) had completed a minimum four year course therein, (c) had graduated from such a college or school subsequent to July 1, 1945, and (d) meeting all other requirements of Section 1302, General Code, except the provision therein contained for a minimum of one year of experience in a retail drug store, may not be legally examined and registered as a pharmacist.

Columbus, Ohio, January 21, 1946

Hon. M. N. Ford, Secretary, State Board of Pharmacy
Columbus, Ohio

Dear Sir:

Your request for my opinion reads:

“At a recent meeting of our Board, I was directed to request an opinion from your office with respect to the interpretation of several provisions of Section 1302 of the General Code of Ohio.

It will be noted in Section 1302, that every applicant for examination and registration as a pharmacist, shall meet certain pro-

visions, unless he was duly matriculated in a recognized school or college of pharmacy or department of pharmacy of a University, prior to October 1, 1941. The last paragraph of Section 1302 provides that this Act shall not apply to applicants on or before July 1, 1945 and shall not affect those who have qualified under the present requirements and have failed to register as a pharmacist.

Please be advised the words 'present requirements' are construed by this department to mean the requirements required of applicants for examination and registration as a pharmacist that were in effect at the time this Act was passed by the legislature. Requirements at that time for admission to our examination for registration as a pharmacist, are set forth in Section 1302 of the General Code of Ohio. It should be noted Section 1302 provides 'an applicant shall be a graduate from a school of pharmacy in good standing as defined in Section 1303-2 and shall have completed at least a minimum two year course in such school and have two years practical experience in a drug store in charge of a registered pharmacist.' The section also provides that if the applicant has taken a longer course in a school of pharmacy in good standing, each additional year successfully passed, shall be counted as one year practical experience.

It should be noted, at the time of the passage of the Act in 1941, there was no school or college of pharmacy giving less than a minimum four year course, therefore, all applicants with a college certification showing four years attendance and graduation, and meeting all other requirements, would be eligible provided they had graduated prior to July 1, 1945.

Our Board has ruled that applicants entering a recognized college of pharmacy prior to October 1, 1941 and graduating from the minimum four year course subsequent to July 1, 1945, are required to have at least one year practical drug store experience obtained while he is not enrolled and in attendance in the school or college of pharmacy.

Therefore, our direct question is, if an applicant for examination and registration as a pharmacist, presents credentials showing he had entered a recognized college of pharmacy prior to October 1, 1941 and had graduated from the minimum four year course subsequent to July 1, 1945, and meeting all other requirements, is such applicant entitled to admission to our examination without having had at least one year drug store experience while he is not enrolled and in attendance in a school or college of pharmacy."

It might be noted preliminarily that the General Assembly heretofore passed an act "To amend sections 1302, 1303-1, 1303-2 and 1303-3 of the

General Code, relating to requirements for registered pharmacists and colleges of pharmacy." This act, which was *passed* April 24, 1941, became effective July 31, 1941 (119 O. L. 133). Under former Section 1303-2, General Code, a school of pharmacy had to meet certain statutory requirements before it could be considered in good standing within the meaning of the laws then in force and effect. One of these conditions was that the school provide "(2) a *two years* course in pharmacy", which was required to cover "a period of not less than fifty weeks of actual instruction, occupying two school years * * *". By reason of the amending of said Section 1303-2, General Code, the educational requirements were increased, the same now reading in part as follows:

"The state board of pharmacy shall consider a school or college of pharmacy or a department of pharmacy of a university for recognition and approval which requires the following: * * *

(2) A *four year* course in pharmacy covering at least the course in pharmacy as outlined by the American council on pharmaceutical education, inc. A school or college of pharmacy or a department of pharmacy of a university without the state that seeks recognition and approval of the board shall require all applicants to be a graduate from a legally constituted first grade high school or its equivalent and shall meet all requirements demanded from schools and colleges of pharmacy or departments of pharmacy of a university within this state."

(Emphasis added.)

With the foregoing in mind, I now quote in part, Section 1302, General Code, as amended, and specifically referred to in your inquiry, viz :-

"Every applicant for examination and registration as a pharmacist shall be a citizen of the United States, or shall have made application therefor, shall be not less than twenty-one years of age, shall be of good moral character and habits, shall be a graduate from a school or college of pharmacy or a department of pharmacy of a university recognized and approved by the state board of pharmacy, and shall file proof satisfactory to the board, substantiated by proper affidavits, *of a minimum one year of experience in a retail drug store*, under the personal supervision of a registered pharmacist; * * * *provided further*, the applicant shall have completed at least the four year course in pharmacy as outlined by the American council on pharmaceutical education, inc., *unless he was duly matriculated in a recognized school or college of pharmacy or department of pharmacy of a university prior to October 1, 1941*; the board may accept for admission to the examination as a part of the required course of study, subjects com-

pleted in an institution other than a school or college of pharmacy or department of pharmacy of a university, provided they are subjects included in the course of study in the recognized school or college of pharmacy or department of pharmacy of a university or their equivalent and have been credited by the recognized school or college of pharmacy or department of pharmacy of a university toward the completion of its course of study, and further, that such subjects or their equivalent cover not more than the equivalent of one year of the required four year course of study.

This act shall not apply to applicants on or before July 1, 1945 and shall not affect those who have qualified under the present requirements and have failed to register as a pharmacist.
(Emphasis added.)

It is manifest that Sections 1302 and 1303-2, General Code, having been included in the same amendatory act and relating to the same subject matter, are *in pari materia*. See Sutherland on Statutory Construction (3rd ed.) Volume 2, page 535, section 5202. There has therefore been introduced into the current legislation a requirement that, in addition to the completion of a four year course of study, the applicant must furnish satisfactory proof of a minimum of one year of experience in a retail drug store.

It is clear from the concluding paragraph of Section 1302, General Code, that the act shall not apply to applicants "who have qualified under the present requirements". Whether the words "present requirements" mean applicants who possessed the requisite qualifications at the time the aforementioned act was *passed*, or at the time it *became effective*, need not be determined for the purposes of this opinion. The context of your letter is of such a nature as to lead to the conclusion that this question is not involved. The other class of applicants to whom the act shall not apply is included in the phrase "This act shall *not* apply to applicants *on or before* July 1, 1945." This language immediately suggests that the act *does* apply to applicants who seek registration *subsequent* to July 1, 1945. In this connection, I am, of course, eliminating from consideration said applicants who are referred to as meeting "present requirements".

I come now to a consideration of that portion of said Section 1302, as amended, that refers to applicants who matriculated in a school prior to October 1, 1941. It is patent that there must have been some reason for the General Assembly making reference to said date of matriculation,

as well as for the July 1, 1945 date. In the normal course of events, a person who entered a school or college prior to October 1, 1941 would have the opportunity of completing the four years of required schooling on or before July 1, 1945. Consequently, those individuals who successfully completed such schooling and meeting all other requirements and making application for registration on or before July 1, 1945, would thereby be exempted from the necessity of furnishing proof of a minimum of a year of retail drug store experience.

It is recognized, of course, that by virtue of circumstances certain persons who matriculated in a school or college before October 1, 1941 might not be able to complete the four years of schooling within the time specified in said Section 1302. However, the dates in question having been fixed by the General Assembly, I am without authority to hold that they should be otherwise.

It may be suggested that matriculation in a school or college on or before October 1, 1941, without regard to the date of the completion of the educational requirements, is all that is necessary. At first blush such a conclusion might appear as having merit. But if that were the situation, then a person who entered a school or college prior to above said date could complete a year of schooling or any portion thereof and then wait for an unlimited period of time before completing the required four years of schooling. In fact such schooling might be completed on July 1, 1955 or ten years later than the date mentioned in Section 1302. It could hardly be maintained that under such circumstances the person who filed an application for registration in 1955 would be entitled to base a claim for registration solely upon the proposition that he matriculated in a school or college prior to October 1, 1941. Such a construction or interpretation of the section in question would manifestly lead to an absurd conclusion. The very purpose of the express provisions of the section with respect to the minimum of one year of retail drug store experience would be ignored. Certainly such was not the legislative intent.

In specific answer to your inquiry, it is therefore my opinion that a person who filed an application subsequent to July 1, 1945 to be examined and registered as a pharmacist and presents credentials showing that (a) he had entered a recognized school or college of pharmacy prior to October 1, 1941, (b) had completed a minimum four year course therein, (c) had graduated from such a college or school subsequent to July 1, 1945,

and (d) meeting all other requirements of Section 1302, General Code, except the provision therein contained for a minimum of one year of experience in a retail drug store, may not be legally examined and registered as a pharmacist.

Respectfully,

HUGH S. JENKINS

Attorney General.