

2710.

APPROVAL, DEFICIENCY BONDS OF WALNUT TOWNSHIP RURAL SCHOOL DISTRICT IN AMOUNT OF \$15,000.

COLUMBUS, OHIO, December 17, 1921.

*Department of Industrial Relations, Industrial Commission of Ohio, Columbus, Ohio.*

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2711.

APPROVAL, BONDS OF MILTON TOWNSHIP RURAL SCHOOL DISTRICT, WAYNE COUNTY, IN AMOUNT OF \$50,000.

COLUMBUS, OHIO, December 17, 1921.

*Department of Industrial Relations, Industrial Commission of Ohio, Columbus, Ohio.*

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2712.

PHARMACISTS—REGISTRATION OF APPRENTICESHIP OF APPLICANTS MANDATORY—SEE SECTIONS 1302 AND 1303-3 G. C.—FAILURE TO COMPLY RENDERS APPLICANTS INELIGIBLE TO ADMISSION FOR EXAMINATION.

*The provisions of section 1303-3 G. C. requiring the registration of apprenticeship of applicants acquiring the two years of practical experience in a drug store, required by the provisions of section 1302 and 1303-3 G. C. are mandatory, and failure to comply with the same renders ineligible applicants to the admission of the examination of pharmacists and assistant pharmacists designated by section 1301 of the General Code.*

COLUMBUS, OHIO, December 19, 1921.

*State Board of Pharmacy, Columbus, Ohio.*

GENTLEMEN:—Receipt is acknowledged of your letter of recent date, reading as follows:

“You will note that section 1303-3 of the General Code provides for apprenticeship registration in pharmacy. In part it states it shall be the duty of registered pharmacists, or other employers, who take into their employ an apprentice for the purpose of his becoming a pharmacist, to register said apprentice within ninety days.

The same section also provides if he or she fails to register, then he or she shall receive no credit for experience in a drug store or pharmacy when he or she makes application for examination.

We have had applicants seeking admission to our examinations, who began their apprenticeship subsequent to the date when this law

became effective, and who have had the required practical experience, but did not register as an apprentice.

The question is this: If an applicant appears for admission to our examinations and has all of the requirements, with the exception of apprenticeship registration, has this board the legal right to admit such applicants for examination? It is understood the applicant began and completed his apprenticeship subsequent to the date when this law became effective."

It is believed the question submitted involves the consideration of sections 1301, 1302, 1303-3 and 1303-4 G. C.

Section 1301 G. C. provides as follows:

"A person desiring to be registered as a pharmacist or assistant pharmacist, shall file with the secretary of the state board of pharmacy a verified application, giving his age, place or places at which he studied or practiced pharmacy, and the time spent in such study or practice, and appear before the board and take an examination in the following subjects: chemistry, botany, materia medica, toxicology and the theory and practice of pharmacy. Examination of those so applying for registration as pharmacists or assistant pharmacists shall be held at such times, during each year, and at such places as the board may determine."

It is observed that this section requires that the person desiring to be registered as a pharmacist or assistant pharmacist shall file with the secretary of the state board of pharmacy a verified application, giving his age, place or places at which he studied or practiced pharmacy, and the time spent in such study or practice, and appear before the board and take an examination in the subjects of chemistry, botany, materia medica, toxicology and the theory and practice of pharmacy. The section does not state that the registration as an apprentice required by the provisions of section 1303-3 is to be considered such a preliminary qualification as to come within the meaning of the verified application mentioned. Neither does it appear clear that section 1302 G. C., providing for the qualifications of pharmacists, intended that such qualifications should necessarily be a prerequisite to the examination provided for in section 1301 G. C., although such an inference is believed to be fairly implied from the general context of the section.

Section 1302 G. C. provides:

"An applicant for certificate as pharmacist shall be a citizen of the United States, shall be not less than twenty-one years of age, shall be a graduate from a school of pharmacy in good standing as defined in section 1303-2 of the General Code, shall have completed at least a two-years' course in such school as defined in section 1303-2 of the General Code and shall have had at least two years of practical experience in a drug store in charge of a registered pharmacist where physicians' prescriptions are compounded; provided, however, 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 of practical experience."

As previously stated, this section provides for the qualifications of phar-

macists, but does not state that such qualifications are required as a preliminary condition to admission to the examination designated by section 1301 G. C. That is to say, that the qualification or credit of the *two years of actual experience in a drug store* required by this section, and also by the provisions of section 1303-3 is not expressly declared in any section of the pharmacy act, to be a qualification required previous to the admission of applicant to the examination, although specifically designated as a qualification of a pharmacist generally.

Section 1303-3 G. C. provides:

"It shall be the duty of registered pharmacists, or other employers, who take into their employ an apprentice for the purpose of his becoming a pharmacist, to register said apprentice within ninety days thereafter, with the state board of pharmacy. The date (time) of experience required of applicant for registered or assistant pharmacist shall be computed from the date of entering said apprenticeship; and if he or she fails to register, then he or she shall receive no credit for experience in a drug store or pharmacy when he or she makes application for examination. The said state board of pharmacy shall furnish proper blanks for this purpose and issue a certificate of registration as a registered apprentice upon payment of fifty cents. An apprentice having served part or all of his time in a pharmacy without the state shall be given credit for the same when affidavit of his said employment is made by his employer showing the exact time served."

It is noted that this section was enacted by House Bill No. 376, 106 O. L., entitled, "An act to amend sections 1302 and 1303 of the General Code, and to enact supplementary sections 1303-1, 1303-2, 1303-3 and 1303-4 to provide for the control of the educational requirements and registration of pharmacists." Pertinent to the subject under consideration, the following excerpt is made from the provisions of section 1303-3 quoted, supra:

"The date (time) of experience required of applicants for registered or assistant pharmacist, shall be computed from the date of entering said apprenticeship; and *if he or she fails to register*, then he or she shall receive *no credit* for experience in a drug store or pharmacy when he or she *makes application* for examination."

The language used in this portion of the section clearly indicates that the legislature intended to require the registration generally of all applicants for certificates to practice pharmacy, although it is not expressly stated that the apprenticeship registration mentioned therein is required necessarily as a qualification or preparation previous to admission for examination. However, it is not thought reasonable to suppose that the legislature intended that applicants to practice pharmacy should first take an examination, and subsequently comply with the provisions of section 1303-3 G. C. by registering for the two years of practical experience required in a drug store, or obtain a credit for such experience subsequent to examination and by any method otherwise than is that provided by section 1303-3 G. C.

It would seem rather, from a reading of the various sections in *pari materia* that the legislative intention expressed by the provisions of section 1303-3 G. C. is to require registration of apprenticeship as a qualification preliminary or previous to admission to examination, since there does not seem to be any provision of law for the offering of such a credit at any other stage

of the proceedings which logically or reasonably seems to be applicable. It is true, section 1304 G. C. provides that the state board of pharmacy, if satisfied that the applicant for examination is of the required age, possessed of the practical experience required, and passes a satisfactory examination, shall issue him a certificate to practice the profession of pharmacist or assistant pharmacist; yet it is not reasonably contended that the provisions of this section may be so stressed as to cure the defect of a failure to comply with the provisions of section 1303-3.

It is true that such a construction of the law may operate as a hardship to the particular applicants mentioned in your communication, who, possessing all other qualifications essential for the practice of pharmacy, may be excluded from the examinations held by the state board of pharmacy by reason of their technical failure to comply with the registration requirements of section 1303-3 G. C., yet it cannot be seen, in view of the positive provisions of this section, how any other construction could be adopted without defeating the general purpose of the apprenticeship registration therein contained.

Upon such considerations, therefore, you are advised that a negative answer must be given to the specific question contained in the last paragraph of your communication.

Respectfully,  
 JOHN G. PRICE,  
*Attorney-General.*

2713.

STATE TEXTBOOK COMMISSION—NOT AUTHORIZED TO EXAMINE  
 SUBJECT MATTER OF TEXTBOOK FILED BY PUBLISHER UNDER  
 SECTION 7709 G. C.—DUTY IS TO FIX MAXIMUM PRICE OF SUCH  
 BOOK.

*The general assembly has not authorized the state text book commission to examine the content or subject-matter of a text book filed by a publisher under section 7709 G. C., the duty of the text book commission being to immediately fix the maximum price at which such books may be sold to or purchased by boards of education in the state.*

COLUMBUS, OHIO, December 19, 1921.

HON. VERNON M. RIEGEL, *Superintendent of Public Instruction as Director of Education, Columbus, Ohio.*

DEAR SIR:—Acknowledgment is made of the receipt of your request for an opinion of this department upon the following statement of facts:

“Section 7710 G. C. provides for a textbook commission consisting of the Governor, Secretary of State and the Superintendent of Public Instruction, and designates that said commission shall immediately fix the maximum price at which books filed in the office of the Superintendent of Public Instruction, as provided in section 7709, may be sold to or purchased by boards of education, which price must not exceed seventy-five per cent of the published list wholesale price thereof. I find no statute that prescribes duties except those above mentioned and related duties designated in section 7712.