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OFFICIAL OPINION NO. 19

May 9, 1961

Mr. M. Joseph Schwartz
Executive Secretary
Indiana Board of Pharmacy
1005 State Office Building
Indianapolis 4, Indiana

Dear Mr. Schwartz:

I have your letter of March 27, 1961, which asks the following questions:

- “1. Will all apprentice pharmacist licenses that have been issued by this office be void as of August 1, 1961?”
- “2. Will all those now holding apprentice pharmacist licenses in Indiana be required to again submit an application for apprentice pharmacist license as of August 1, 1961?”

The issuance of pharmacist apprentice licenses was first provided by Acts of 1911, Ch. 177, Sec. 2, as found in Burns' (1951 Repl.), Section 63-1119, which states as follows:

“It shall be the duty of registered pharmacists, who take into their employ an apprentice for the purpose of becoming a pharmacist, to require said applicant, within ninety [90] days thereof, to apply to the Indiana board of pharmacy for registration as an apprentice, and the said board of pharmacy shall have the right to require such an examination as shall establish the educational qualifications of the applicant, and the date of experience required of applicants for assistant or registered pharmacist shall be computed from the date of registration as apprentice, and if he fails to register then, he shall receive no credit for experience as an employee in a drug store or pharmacy when he makes application for assistant or registered pharmacist. The said board of pharmacy shall furnish proper blanks for this purpose and issue a certificate of registration as a registered apprentice upon the payment of fifty cents [50¢].”

It should be noted that the above-quoted section does not provide for the expiration of licenses issued under its provision. However, in this connection the provisions of Acts of 1899, Ch. 108, Sec. 4, as amended, as found in Burns' (1959 Supp.), Section 63-1110, are pertinent and state, in part, as follows:

“* * * All licenses issued under the provisions of this act shall expire on the thirtieth day of June next succeeding the date of issuance thereof. * * * Any registered pharmacist who shall take into his employ any person as an apprentice for the purpose of acquiring a knowledge of the profession and of becoming a pharmacist, shall require such apprentice, within ninety [90] days after accepting such employment, to make written application to the board of pharmacy for a license as a pharmacist apprentice, and the board of pharmacy may, upon receipt of such application, require such apprentice to undergo an examination for the purpose of ascertaining his educational qualifications. The period of experience required by law for applicants for registered pharmacist or assistant registered pharmacist shall be computed from the date of registration as a pharmacist apprentice and any such persons [person] who fails or refuses to register as a pharmacist apprentice shall receive no credit for experience as an employee in a pharmacy. The fee for the registration of a pharmacist apprentice shall be one dollar [\$1.00]. * * *”

The above-quoted language relating to the expiration of pharmacist apprentice licenses first appeared in Acts of 1923, Ch. 30, Sec. 2, as the same amended Acts of 1899, Ch. 108, Sec. 4. The provision that all licenses expire on June 30th next succeeding the date of issuance would apply to licenses issued after the effective date of Acts of 1923, Ch. 30, Sec. 2.

A license has none of the elements of a contract, and, when given by a state, is subject to conditions which may later be imposed by the Legislature.

Stone, Superintendent v. Fritts (1907), 169 Ind. 361,
82 N. E. 792;

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The State v. Harrison (1904), 162 Ind. 542, 70 N. E. 877.

Further, an amendatory act may repeal by implication a prior so-called independent act.

O'Donnell v. Krneta *et al.* (1958), 238 Ind. 582, 154 N. E. (2d) 45.

I note that your letter states in part as follows:

“For your information, apprentice licenses were formerly issued for an indefinite period of time * * *.”

This practice of considering the licenses indefinitely valid would seem to be contrary to the statutory provisions set forth above.

In order to fully answer your questions, the provisions of Acts of 1961, Ch. 43, Sec. 3, must be studied as the same relate to the issuance of pharmacist apprentice licenses. These provisions are set forth as follows:

“* * * All licenses issued under the provisions of this act shall expire on the thirtieth day of June next succeeding the date of issuance thereof. * * * Any registered pharmacist who shall take into his employ any person as an apprentice for the purpose of acquiring a knowledge of the profession and of becoming a pharmacist, shall require such apprentice, within ninety days after accepting such employment, to make written application to the board of pharmacy for a license as a pharmacist apprentice, and the board of pharmacy may, upon receipt of such application, require such apprentice to undergo an examination for the purpose of ascertaining his educational qualifications. An applicant for registration as an apprentice pharmacist shall be a high school graduate and furnish proof thereof to the satisfaction of the board. The period of experience required by law for applicants for registered pharmacist shall be computed from the date of registration as a pharmacist apprentice and any such person who fails or refuses to register as a pharmacist apprentice shall receive no credit for experience as an employee in a

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pharmacy. The fee for the registration of a pharmacist apprentice shall be five dollars (\$5.00). *The certificate as an apprentice shall be valid for a period of five years from its issuance and may be renewed for an additional period of five years upon presenting proof to the satisfaction of the Indiana Board of Pharmacy that the applicant for renewal has enrolled or taken steps to enroll in a school of pharmacy, or has been prevented from doing so as a result of military service, serious illness, or other reason satisfactory to said Indiana Board of Pharmacy. The renewal fee shall be five dollars (\$5.00). * * ** (Our emphasis)

From a reading of the above-quoted section it appears that pharmacist apprentice licenses issued after August 1, 1961, the effective date of Acts of 1961, Ch. 43, *supra*, will be valid for a period of five years from the date of issuance and will be renewable another five years after the applicant proves to the satisfaction of the Board the necessary statutory requirements. These provisions are an exception to the provision of the same section that all licenses will expire on June 30th following the date of their issuance.

Statutes should be construed so as not to render any portion meaningless.

Sutherland, Statutory Construction, 3d Ed., Vol. 2, Sec. 4705.

In summary it is my opinion that pharmacist apprentice licenses heretofore issued by the Indiana Board of Pharmacy expire on June 30th next succeeding the date of issuance except that such licenses issued after August 1, 1961, are valid for a period of five years and may be renewed for another period of five years if the applicant proves to the satisfaction of the Board the necessary statutory requirements.