

LEGISLATIVE WEATHER-VANES.*

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It has long been my view that pharmaceutical legislation has not kept pace with pharmaceutical education and the great advance in public health. The basic pattern of pharmaceutical legislation was formed back in the horse and buggy days, and is thus reflective of social and economic conditions essentially different from those which now prevail. Efforts at adjusting this pattern to conform to the modern point of view have done little more than to pull the original design a bit out of shape.

Little progress has been made in shaping a new pattern which will be expressive of modern thinking and in keeping with the vastly expanded domain of public health. The demands of trade are still dominant in pharmaceutical legislation, the purse string is still tied tightly around it. In some important respects pharmacy laws do not serve the intrinsic purpose of drugs and medicines in the complex life of to-day.

Pharmaceutical legislation first began to take definite shape back in the 1870's and was necessarily expressive of the manner of living and mode of thinking of that period. The world of that far off day was vastly different from the modern world. Every thing, every place and every body has undergone profound change. In 1870, social and economic conditions were isolationist in character. The country was predominantly rural, the great drift to the cities being far in the distance. Much of the country was isolated and had relatively few contacts with sections only a few miles away. Communities, large and small, were compelled to be as self sufficient as possible. Public opinion, social as well as political, was a reflection of the small town, rural village and country store. For instance, there were no telephones, the automobile was a quarter of a century in the future and there had not been developed anything approaching a system of roads. What roads there were, were largely impassable months at a time. The few miles to a trading center were, in the light of the times, a great distance. People came to town only when necessity demanded or at intervals few and far between.

Legislatures, under the circumstances, were loathe to confer privileges upon apothecaries located in the large towns which might seriously inconvenience people in the smaller towns and communities. The general merchant was a basic necessity in the economic life of that day, and he was powerful enough to place his imprint on the statute books. In this he had the aid and assistance of patent medicine manufacturers, who even in that day, had adopted the policy of no restriction in the sale of their products. Public convenience was hit upon as the slogan of the day, and thus every pharmacy act embraces exceptions and exemptions which practically nullify the purposes and objectives of the law.

At the outset there were no restrictions permitted upon the sale of patent and proprietary medicines and virtually none upon the sale of drugs and medicines generally. In Maryland, when the state-wide act was passed as late as 1902, the law contained this express provision: "Nothing, however, in this subtitle shall be construed as preventing general merchants of the counties of the State or of Balti-

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more City from selling such drugs and medicines as have heretofore been handled by the general merchants of the State of Maryland."

About the only real privilege granted to pharmacists under the pharmacy laws was that of compounding physicians' prescriptions, and this was no exclusive privilege as the pharmacist shared this right with the physician himself. As time went on, other privileges of varying degrees of importance were annexed, and many of these have been of doubtful value. In fact, even to-day, it is almost accurate to state that beyond the compounding and dispensing of physicians' prescriptions our pharmacy laws make grudging deference to the training, skill and professional function of the pharmacist.

Undoubtedly there should be a real effort to modernize pharmaceutical legislation. It should move along in step with modern views and responsive to modern forces. No branch of public health should be hobbled with legislative restrictions which are out of joint with the aims and objectives of public health. The public welfare should not be denied that protection which the very term "public welfare" suggests. Public health legislation must be expressive of the aims and objectives of public health administration and control. In other words, pharmaceutical legislation should now serve public convenience in the modern understanding of what the public really needs.

It was in the light of these general principles that we in Maryland have sought to rewrite the pharmaceutical legislation of the State. We have proceeded frankly in the belief that public opinion is more enlightened, and much more alert to its own interests. We have recognized the obvious that modern conveniences in transportation, and modern means of transmitting information have had their effect upon the public mind. The old isolationist concept has disappeared, there are no longer any remote sections of the state, good roads intersect and bisect every section. The little old red school house has given way to a magnificent system of public education, with high schools meeting every demand of the changing era.

Some of the pharmaceutical legislation recently written upon the statute books of Maryland was frankly designed to ascertain just how far public opinion has advanced. We engaged in experimentation. We purposely scratched the public mind to learn the extent of the reaction. We purposely set out to measure the reality of the step-up in the public point of view. Had the people generally profited from their increased educational and cultural advantages? This was the frank question which influenced the pharmaceutical legislative program in Maryland. We attempted to test the importance of drugs and medicines in the crucible of public opinion, and also to gage the amount of public support which may be reasonably forthcoming in the support of modernized pharmacy laws. It may be said that we have been putting out legislative weather-vanes to ascertain from what direction and with what velocity the wind blows.

At the outset we attempted to develop a pharmaceutical legislative program which would properly interpret pharmacy to the public and at the same time afford to the public the greatest amount of protection in the matter of drugs and medicine. We analyzed the existing law for the purpose of determining its good points and also its bad points so that we might hold on to those which we found capable of being adapted to modern needs. The entire drug industry in its relationship to the public and also in its relationships to the various factors which constitute it were

visualized. We sought to develop a legislative program which was all-embracing. Thus, we set out frankly to bring large scale manufacture and production of drugs and medicines under public control as well as to more adequately regulate pharmaceutical practice in the drug store itself. We set out to place our legislative house in order with respect to the drug industry in its widest aspects. We recognized the absurdity of surrounding the retail drug store with every variety of regulation and control and leaving large scale production flying in the breeze without the slightest degree of regulation and control.

It seemed monstrous to us that the retail pharmacist must meet a high educational standard, must satisfy exacting State Board requirements and must subject himself to almost continuous regulation and control, while the manufacturer, even though his products are much more wide-spread in distribution, is required by law to meet no standard whatsoever. In other words, while exacting requirements were thrown around the man who would compound a prescription for a dozen pills, there was no such restriction surrounding the man who might produce these same pills by the ton.

Thus, our first job was to bring manufacturing under public regulation and control. The Maryland Pharmacy Act was amended in 1935 to place the manufacturing and drug industries largely under the supervision of the Maryland Board of Pharmacy. For instance, all manufacturing of drugs, medicines, toilet articles, dentifrices and cosmetics is required to be manufactured under the personal and immediate supervision of a registered pharmacist or such other persons as may be approved by the Maryland Board of Pharmacy after an investigation and determination by the Board that they are qualified by scientific and technical training to perform such duties of supervision as may be necessary to protect the public health and safety.

Also, all manufacturing of any of the above mentioned products may only be done under permits issued by the Maryland Board of Pharmacy, and the Board is further authorized to make rules and regulations with respect to sanitation and equipment. So far as I know, Maryland was the first State to approach this situation in such a constructive way. While this legislative weather-vane has only been blowing in the breeze for a little more than a year, I think I can say it has received full and enthusiastic support on the part of the public, whose interest it is designed to serve.

We visualized the retail drug store from the standpoint of its function as well as its personnel, and we felt that, in far too many cases, the drug store was not properly equipped to meet the demands of pharmaceutical practice. In many instances defective weighing apparatus was used, and in many instances, too, there was a very marked lack of the most elementary pharmaceutical equipment. Recognizing that the proper tools are just as necessary to the performance of the job as the knowledge of how to use the tools, the Maryland Legislature in 1935 directed the Maryland Board of Pharmacy to prescribe the minimum of professional and technical equipment which a pharmacy shall at all times possess, and the permit under which a drug store operates was conditioned upon its having met this requirement of the law. There was some opposition on the part of pharmacists themselves to this forward looking movement, and some few expressed the view that the Board was given arbitrary powers to unduly and unnecessarily interfere with the

operation of drug stores. However, I can say with full and complete confidence that this was a minority view and one which has practically disappeared.

This legislation on the face of it has a broad public purpose and received enthusiastic support on the part of the legislature itself. At the several Committee hearings, fine references were made to the spirit underlying this legislation, and equally fine comment upon the objective which the legislation sought. Since the enactment of these new laws there have been numerous comments on the part of civic bodies, women's clubs and organizations of this kind. *The Baltimore Sun*, in a feature article a few months ago entitled "Maryland Tightens Up on Drugs," gave a most enlightened and constructive analysis of this legislation.

I am very happy to record that the legislative program adopted in Maryland, and which I have in no sense covered in these few brief remarks, has been adopted in Virginia, and is now receiving close study in other states. I might say, too, that the provisions of the Maryland law dealing with manufacturing have met with the approval of the National Drug Trade Conference, certainly so far as the principle is concerned.

In connection with this basic change in pharmaceutical legislation itself, there was an equally basic change in the law regulating the control and distribution of poisons. We departed purposely from the old conception that poisons were articles of merchandise and framed legislation on the theory that products dangerous to the public welfare should be sold and distributed only by persons familiar with their dangerous qualities and capable of affording the public the necessary degree of protection. Thus, the articles included within the Maryland Poison Law were greatly extended and their sale limited to the registered pharmacist himself or the registered assistant pharmacist.

Positive duties are placed upon the pharmacist and the assistant pharmacist to inquire into all the conditions surrounding the sale of poisons. The sale of poisons was not only restricted to the drug store but to its professional personnel. Unregistered employees are not permitted to handle poisons. Express provision is made empowering the Board of Pharmacy to add to the list of poisons whenever in its judgment this is found necessary. Also, the State Board of Health, when public necessity requires, is authorized to restrict the sale of any poison to physicians' prescriptions.

While it is true that there are other features of the new law that are of interest, these are sufficient to indicate the broad conception of public welfare which accentuated the entire movement. It is from such experimentation that a real modernization of pharmacy laws is certain to come, and I, for one, hope that legislative weather-vanes may be erected in many states so that public opinion may be definitely tried out.

While no one is in a position to indicate the limits within which this experimentation should be carried on, nevertheless, I do believe that there is a certain basic principle that should govern. Speaking from my own experience, I am convinced that pharmacy and the drug industry serve their own interests best when they predicate these interests upon a sound conception of the public welfare, and conversely I have convinced myself that pharmacy and the drug industry stand in their own light when they take a position inconsistent with what the public welfare actually demands.