

The Journal of the American Pharmaceutical Association

Volume III

M A Y , 1 9 1 4

No. 5

Office of Publication, 79-89 North Third St., Columbus, Ohio.

Subscription, \$4.00 per annum, within the United States. To Canada, \$4.35. To other foreign countries in Postal Union, \$4.50 per annum.

Entered at the Postoffice at Columbus, Ohio, as Second-Class matter.

A QUESTION OF PROFESSIONAL ETHICS.

“I PRACTICE in a small town and do a prescription business. I write, say a prescription for a cough. A neighbor or friend has a cough, they get the number off the bottle and take it to the druggist who fills it, knowing that the mixture was not prescribed for the person for whom he is now filling it. I told him [the druggist] not to do so. Has he a legal right to do this? This has happened so many times that I am ordering a small stock of drugs to dispense my most common remedies.”

The above, being purely an *ex parte* statement of facts, does not present the qualifying or extenuating circumstances which the druggist might be able to set forth if given his day in court, and we shall therefore express no opinion as to his guilt or innocence of the offense as charged.

While there have been a few cases in the lower courts where the ownership of prescriptions has been under consideration, the writer has not been able to discover any authoritative ruling by a court of last resort upon the rights of physicians to control the fate of their prescriptions after they have been delivered to the patient.

In the absence of any legal authority one guess is about as good as another. A court might rule that the pharmacist was merely the custodian of the piece of paper upon which the recipe was written, and not the owner either of the paper or the recipe; or it might take the ground that the physician passed over all of his property rights to the patient and that the latter alone had the right to control the number of times the prescription should be refilled. To the writer it would seem to be a reasonable doctrine to regard the prescription as an order for a specific transaction, like a check on a bank, and that when the medicine has been compounded and delivered the virtue of the order is exhausted, except as a record of the transaction.

The question is of such importance that an authoritative ruling is much to be desired, and it would be a work of merit for some pharmaceutical society to join with some medical society in a friendly suit to determine the matter. The value of the decision would, of course, depend largely upon the manner in which the case was framed and the distinctness with which its several issues were set forth. One well considered decision by a state appellate court would no doubt be generally accepted as settling the subject until set aside by positive legislative enactments.

It is because a proper spirit of professional comity has so generally controlled the relations of pharmacists and physicians that these have been permitted to go unregulated by statute. It is only when some exceptional case arises, like the present one, that they are brought into question.

The legal questions involved are, however, the least important part of the query.

By common consent it is agreed that the man who is merely "law-honest," that is, who recognizes only such obligations as the law imposes in set terms and definitions, is neither a good neighbor nor a desirable citizen. And it is equally true that the druggist who measures his obligations to the medical profession and the public solely by the positive declarations of the statutes is neither a good citizen nor a desirable member of the pharmaceutical fraternity.

Upon what ethical or professional ground can a pharmacist justify his act in refilling a prescription, when such repetition has been expressly forbidden by the prescriber?

It is so common for physicians to give a patient verbal directions to have a prescription refilled that we believe pharmacists are justified in refilling them when they have no notice of any contrary desire on the part of the prescriber. But when the physician has plainly expressed the wish that a prescription shall not be refilled, then that wish must in every case be respected by the custodian of the prescription. This, it is believed, represents both the theory and the practice of the great majority of pharmacists. Any other rule would be a menace to the public health and direct invitation to reprisals by the medical profession.

That all druggists do not rigidly observe the rule of comity must be admitted with regret, but so far as the writer's observation extends the men of this class are comparatively few in number and far between. The majority of pharmacists are far too anxious to convince the prescribing physician of their trustworthiness to take any undue liberties in the way of refilling or in other respects.

In fact it would be difficult to explain or define the motives that could influence a pharmacist to deliberately disregard the prescriber's wishes concerning refills. Certainly it cannot be self-interest, since properly enlightened self-interest would dictate just the opposite course of conduct. When such things do occur, they can be due only to that mixture of general perversity, stupidity and petty meanness which is colloquially expressed as "pure cussedness."

If only the druggists who did such things were concerned, their punishment might safely be left to the physicians whose confidence they have betrayed, but unfortunately as things exist in this vale of tears, the innocent too often must suffer with the guilty, and all of the members of a class for the faults of a few.

Such actions make a mockery and a joke of the propaganda for better pro-

professional comity. One deliberate disregard of a physician's request not to refill a prescription can do more harm than a dozen get-together meetings can remedy. To invite physicians to a propaganda dinner and meeting, and then conduct one's business in violation of professional ethics amounts to chucking them under the chin with one hand and clubbing them over the head with the other.

If ever thoroughly harmonious relations are to prevail between medicine and pharmacy they must come mainly through the growth of a good understanding and of a spirit of mutual helpfulness between them, and whatever will help in promoting this better understanding or make either profession more useful to the other is a desirable instrument of the propaganda.

If the pharmacist desires the confidence of the physician he must observe that confidence when extended; if he desires the patronage of the physician, either direct or through the medium of written prescriptions, he can obtain it by serving the physician better than any one else can serve him in the same line. Whenever this kind of service has been rendered it has resulted in the professional and financial prosperity of the pharmacist.

The extent to which the law can go in promoting these good relations between the two professions is limited. It cannot properly interfere merely to protect the business of the physician against the pharmacist, nor can it compel the physician to write prescriptions simply because the pharmacist needs the money. It can take cognizance of such things only so far as they are directly connected with the general public welfare.

For example, a statute might very properly prohibit the refilling of a prescription without the express permission of the prescriber, but this prohibition would not be for the purpose of giving the physician a monopoly, but for the reason that in many cases the continued use of a given medicine or its promiscuous passing around the community would be dangerous to the public health. Such a statute would simply be converting what is generally recognized as a professional obligation into a legal obligation which all would be compelled to observe.

Again, the law might properly prescribe that physicians who desired to dispense their own medicines should demonstrate their ability to do such dispensing before an impartial and unprejudiced board or commission, because the compounding and dispensing of medicines and their application to the treatment of disease are separate arts, and a man may be well qualified to practice one and not the other.

The physician is either qualified to dispense or he is not. If qualified, it should be easy to demonstrate that fact before an impartial commission; if he is not qualified, then the more reason why he should not be permitted to dispense. Here, however, we should not lose sight of the fact that there are different grades of compounding and dispensing. If the physician prefers to use tablets, serums, or other agents the preparation of which is completed before they reach his hands, it would be difficult to convince the average legislature that he should not be permitted to do so, unless it can be shown that the use of such medicaments will be productive of injury to the public.

Again the law might very properly require that the stock of drugs and medicines kept by the physician should meet the same requirements of purity and strength as are enforced with regard to the pharmacist.

Probably no one would claim that the physician ever deliberately purchases inferior or deteriorated drugs. When he does purchase them it is because he has been careless in selecting the source of supply, or because he has permitted some smart salesman to convince him that his cheap drugs are the equal of the higher priced ones of the well known manufacturer. Before the enactment of food and drugs laws, pharmacists sometimes "took a chance" on such propositions. If they do so now the chances are that they will be sorry.

There is no reason why the physician cannot have the best of everything if he is willing to pay the price and deals only with manufacturers or retailers of established reliability, and there is also no reason why the incautious ones among them should not be discouraged from taking chances, the same as pharmacists have been discouraged.

The only sound and permanent foundation for the satisfactory adjustment of the relations between pharmacy and medicine is the creation of mutual respect and mutual confidence between the members of the two professions. All that the statute law can do is to act as a palliative or as a corrective of the grosser abuses. Laws should not be specially constructed by physicians to curb pharmacists, nor by pharmacists to curb physicians. Measures designed to define the limits between medicine and pharmacy should be draughted by joint committees chosen from both—committees composed of men who are broad enough to realize that such a boundary line cannot be drawn as sharply as the lines on an architect's blue print, and who are ready both to give and to take in the compromise of disputed points.

J. H. BEAL.



UNITY OF EFFORT.

WE live in an age of activity. Everywhere there is the bustling movement of mankind, engaged in the desire for more business, for changed conditions in almost every walk of life,—in ethics, in politics, in social conditions and in every possible outlet for superabundant vitality, until one is almost tempted to ask at times, "*Cui Bono?*" Is it for betterment that the whole world is seething and fretting and fuming for change, some of these changes being those upon which the staid and sober citizen looks with askant eye?

For change does not always mean improvement and all activity is not for the best, all speed does not always win the race. We have Biblical authority for the statement that, "The race is not always to the swift," nor is excessive activity even in trade matters always for the best. In these, as in all other things of life, moderation accomplishes most in the end. It is of little service to the betterment of our profession to seek with confused effort to accomplish real and valuable things. Attempts looking toward reform should be made with calm, deliberate thought by which only the best results can be achieved. The cause of much confusion to-day is the lack of correlation between the minor organizations of the trade and the two great national bodies. Local organizations have a most useful place but would they not be more useful if they were organized as co-ordinate parts of a greater whole, and if all these bodies were striving for a common good? Con-