

No. 902, A.]

[Published July 1, 1907.

CHAPTER 455.

AN ACT to amend section 4102 of the statutes, relating to the taking of depositions.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. Section 4102 of the statutes is amended to read:
* * * * *

Approved June 29, 1907.

(In effect from and after date of publication.)

No. 206, A.]

[Published July 1, 1907.

CHAPTER 456.

AN ACT to amend sections 1409b, 1409c, 1409d, 1409f and 1409g, statutes of 1898, as amended, and to create section 1409e—1, relating to the practice of pharmacy.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. Section 1409b, statutes of 1898, is amended to read:
* * * * *

SECTION 2. Section 1409c, statutes of 1898, is amended to read:
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SECTION 3. Section 1409d, statutes of 1898, as amended by chapter 340, laws of 1901, is amended to read:
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SECTION 4. There is added to the statutes of 1898 a new section to read:
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8. In any examination under these provisions the judge or commissioner before whom the same is had may compel the party examined to answer all questions relevant to the issues involved and also compel the production by him of books and papers relevant and pertinent to the issues and may enforce such answers and the production of such books and papers by contempt proceedings.

9. Whenever a party shall be examined and his deposition taken under the provisions of this section the party taking such examination and the party examined, or their counsel, may stipulate upon the record before the judge or court commissioner before whom the examination is had, that the reading of the deposition to or by the deponent and his signature thereto are waived by consent, and that the deposition may be used with the same force and effect as if read over and signed; and in cases where such stipulation is made the said examination or deposition may be used in the action in which the same is taken and in any other action or proceeding in that or in any other court where it could have been used if read over and signed, with the same force and effect in all respects as if the deponent had read and signed the same.

10. In all cases where the reading and signature shall not be waived as aforesaid, the said deposition shall be read over to or by the deponent and signed by him before the officer before whom the same was taken, and the attendance of the party examined for the purpose of reading and signing said deposition may be compelled in the same manner as his attendance for the purpose of submitting to such examination may now be compelled by law.

It shall in all cases be delivered or transmitted by the officer before whom taken to the clerk of the court, magistrate or other person before whom the action or proceeding is pending securely sealed, and shall remain sealed until opened by the court or clerk thereof or such magistrate or other person.

(Ch. 369, 1907.)

Taking of depositions: if opposite party fails to appear, proceedings. SECTION 4102. Such deposition may be taken, within the territory within which he is authorized to act, by a justice of the peace, notary public, court commissioner or other person authorized by law to take depositions at any time after the action or proceeding is commenced or after a submission to arbitration. Notice in writing shall be given to the adverse party, his attorney or agent, that the deposition of

the witness or witnesses named will be taken before the officer, naming him, at a time and place appointed therein, for one of the causes mentioned in the preceding section; and three days' notice shall be given of the taking of such deposition whether taken within or without the state and additional time at the rate of one day for each three hundred miles or fraction thereof after the first ten miles from the place where the notice is served; provided, that one day's notice shall be sufficient to authorize the taking of depositions of additional witnesses desired to be examined, given during the course of the taking of any deposition where the parties on each side appear. In case the officer before whom the deposition is noticed for being taken shall not appear or attend at the time and place noticed for taking the same, the deposition may be taken before any other officer authorized by law to take depositions, said officer to be designated by the party having served the notice of taking deposition and notice of such designation given the opposite party, giving him sufficient time to attend before such officer so designated *if he shall have appeared at the time and place mentioned in such notice; but if he shall not appear at such time and place, the party having served such notice may, after waiting one hour, proceed to take such deposition before such other officer without further notice.* But in any action or proceeding no notice of taking a deposition need be given to a defendant who, having been duly served with process, shall not have appeared, if the time limited by law thereunder shall have expired.

(Ch. 455, 1907.)

Evidence: officer's certification of non-filing, presumptive. SECTION 4163. Whenever any officer to whom the legal custody of any document, instrument or paper belongs, shall certify (under his official seal, if he have any) that he has made diligent examination in his office for such paper, instrument or document, and that it cannot be found *or that the same has not been filed or recorded in his office,* such certificate shall be presumptive evidence of the fact so certified as if such officer personally testified to the same. Such a certificate, when made by the chief clerk of the commissioners of public lands of this state under their official seal, shall be presumptive evidence of the fact so certified as to any document, instrument or paper required by law to be kept in the office of said commissioners.

(Ch. 276, 1907.)