

Original

IN THE HOUSE

BY MR. BOARDMAN
BY REQUEST

HOUSE BILL NO. 91

IN THE LEGISLATURE OF THE TERRITORY OF ALASKA

TWENTY-FIRST SESSION

A BILL

For an Act entitled: "An Act to create the Alaska Pharmacy Code; repealing Sections 35-3-61 through 35-3-79 ACLA 1949."

BE IT ENACTED BY THE LEGISLATURE OF THE TERRITORY OF ALASKA:

Section 1. (Name of Act) This Act may be cited as the Alaska Pharmacy Code.

Section 2. (Definitions)

"Board" means the Territorial Board of Pharmacy.

"Owner" means the owner of a place of business for wholesaling, retailing, compounding or dispensing drugs, medicines or poisons.

"Pharmacy" includes every place of business in which physicians prescriptions are compounded or dispensed and where drugs and medicines are compounded or dispensed.

"Practical experience" means experience in a pharmacy.

"Prophylactic" means any device or medical preparation which is designed, intended or may be used for the prevention or treatment of venereal disease.

"Recognized College of Pharmacy" means a college, school or department of pharmacy whose entrance requirements and courses of study are approved by the Board.

"Retail" means a sale to the ultimate user.

"Retail dealer" means a person who sells to the ultimate user.

1 "Sell" includes: Possess in violation of the intent
2 of this Act, exchange, barter, give away or otherwise
3 dispose of.

4 "Wholesale" means a sale by a manufacturer, whole-
5 sale dealer, distributor, or jobber to a person who sells
6 or intends to sell directly to the user.

7 "Wholesale dealer" means a manufacturer, wholesale
8 dealer, distributor or jobber.

9 Section 3. (Board of Pharmacy Created.) There is hereby
10 created the Territorial Board of Pharmacy, which shall consist
11 of ^{two} members from each of the four judicial divisions, ^{and one} to be
12 appointed by the Governor, ^{and who shall hold office as respec-}
13 tively designated in their appointments, which shall be for
14 one, two, three and four years, or until their successors have
15 been duly appointed. The Governor shall appoint two members
16 annually to fill the vacancies that occur in the Board, or one
17 member at large to fill a vacancy that may occur in any division.
18 The members of the Board shall, within thirty (30) days after
19 their appointment, individually take and subscribe before a
20 clerk of the District Court or the United States Commissioner
21 in the judicial division in which they reside, an oath to faith-
22 fully and impartially discharge the duties prescribed by this
23 Act.

24 Section 4. (Election of Board Officers) The Territorial
25 Board of Pharmacy shall elect a president and a secretary from
26 its own members, who shall hold office for two years, or until
27 their successors are elected, and who shall perform the duties
28 prescribed by the Board.

29 Section 5. (Duties of the Board) It shall be the duty of

1 the Board to examine all applicants for registration who are
2 qualified for examination, the examination given to be graded
3 by a member of any other division; to grant certificates of
4 registration to such persons as may be entitled to the same
5 under the provisions of this Act; to cause prosecution of all
6 persons violating the provisions of this Act; to report annu-
7 ally to the Governor upon the condition of Pharmacy in the
8 Territory, which report shall furnish a record of the proceed-
9 ings of the Board for the year as well as the names of all
10 persons registered under this Act, and also an itemized account
11 of all monies received and disbursed by the Board.

12 Section 6. (Temporary Certificates) Any member of the
13 Board of Pharmacy may examine applicants orally, or in writing,
14 and issue a temporary certificate to practice pharmacy, which
15 shall authorize such applicant to practice for a period not
16 to exceed three months, until the regular meeting of the Board.
17 The issuance of such temporary certificate shall not entitle
18 the holder thereof to a permanent certificate (and no permanent
19 certificate shall be issued to such applicant) until he passes
20 a satisfactory examination by the Board. Only one temporary
21 certificate shall ever be issued to the same applicant, and
22 no temporary certificate shall be granted to any person whose
23 application has been denied by the Board. The member conduct-
24 ing the examination for temporary certificate shall be entitled
25 to charge and receive the sum of five dollars (\$5.00) for such
26 certificate, which money shall be paid to the Secretary of the
27 Board.

28 Section 7. (Meetings of Board) The Board shall hold
29 meetings for the examination of applicants for registration and

1 the transaction of such other business as shall pertain to its
2 duties at least once in twelve months, Provided, that the
3 president of the Board may call special meetings of the Board
4 not more than ^{four times} twice in any one year for the purpose of trans-
5 acting such business as may properly come before it, and the
6 Board shall give thirty (30) days public notice of the time
7 and place of all its meetings. ^{shall} Two members of the Board shall
8 constitute a quorum for the transaction of all business that
9 may properly come before it.

10 Section 8. (Powers of Board) The Board shall have power
11 to make such by-laws, rules and regulations not inconsistent
12 with the laws of the Territory, as may be necessary to carry
13 into effect the provisions of this Act. The Board shall have
14 the power to investigate all alleged violations of the pro-
15 visions of this Act, regulating the dispensing or sale of drugs,
16 medicines or poisons or the practice of pharmacy, which may
17 come to its notice, and whenever there appears reasonable cause
18 therefore, to take and hear testimony with reference to the
19 same.

20 Section 9. (Board Records) The Board shall keep a book
21 of registration in which shall be entered the names and places
22 of business of persons registered under this Act together with
23 a record of the conditions justifying such registration.

24 Section 10. (Compensation and expenses of Board members)
25 The members of the Board shall each receive the sum of thirty-
26 five dollars ~~(\$35.00)~~ for every day actually engaged in their
27 official duties, as well as travel expenses to and from the
28 place of meeting by the best method of travel. The Secretary
29 of the Board shall give such bonds as the Board shall from time

1 to time direct.

2 Section 11. (Other Board functions) The Territorial
3 Board of Pharmacy, pursuant to authority vested in it by the
4 Legislature, and for the protection of public health, will
5 issue from time to time, as deemed necessary by the Board,
6 a list of ingredients or preparations as may be sold only
7 under the direct supervision of a registered pharmacist. The
8 failure to include in such listing any ingredient or preparation
9 will not authorize the sale thereof by other than a registered
10 pharmacist where the Statutes of the Territory or other valid
11 regulations require that such sales be made only under the
12 direct supervision of a registered pharmacist.

13 Section 12. (Qualifications) Any person making applica-
14 tion for a license as registered pharmacist shall be over 21
15 years of age, shall be a citizen of the United States; shall
16 be able to read, write and speak the English language, and shall
17 furnish affidavits from not less than two reputable citizens
18 that he is of good moral character, not addicted to the use of
19 alcoholic liquors or drugs.

20 Section 13. (Scholastic requirements) No person shall
21 be granted a license as a registered pharmacist except by re-
22 ciprocity through the National Association of Boards of Pharmacy
23 and/or by examination before the Territorial Board of Pharmacy
24 after completion of a course in pharmacy in any recognized
25 school of Pharmacy. Graduates in pharmacy shall be such persons
26 as have obtained a diploma from a college or school of pharmacy
27 which is approved by the Board.

28 Section 14. (Examination requirements) Every applicant
29 for license as a registered pharmacist by examination must

1 attain a general average of not less than seventy-five percent
2 (75%) and grade of not less than sixty percent (60%) in each
3 of the following subjects: (1) Pharmacy (2) Materia Medica
4 (3) Chemistry (4) Toxicology and Posology (5) Compounding of
5 Prescriptions (6) Laws relating to the practice of pharmacy,
6 except practical pharmacy at discretion of the examiner.

7 Section 15. (License Fees) The fee for a wholesale dealer's
8 license shall be five dollars (\$5.00) and for a retail dealer's
9 license shall be two dollars (\$2.00), payable to the Secretary
10 of the Board annually. A separate license shall be required
11 for each store, warehouse, or place of business from which
12 sales are made. All licenses shall expire on the thirty-first
13 of May next following the date of issue, and shall be renewed
14 annually. The Board shall issue the license required, upon
15 application and exhibition of a duplicate receipt showing pay-
16 ment of the fee to the Secretary of the Board.

17 Section 16. (Renewal of License) Every registered phar-
18 macist who desires to continue the practice of his profession
19 shall, on or before the first day of June each year, secure
20 from the Board a renewal license, the fee for which shall be
21 five dollars (\$5.00). If the license fee remains unpaid for
22 ninety (90) days from the date due, no renewal or new license
23 shall be issued except upon payment of an additional ten dollars
24 (\$10.00). Any person who has not paid for renewal of his
25 pharmacy license for a period of three years or more shall
26 appear before the Board for oral examination before reinstate-
27 ment.

28 Section 17. (Registration or Examination Fee) On and after
29 the passage of this Act, every person desiring or claiming

1 registration as graduate in pharmacy or as a licentiate of a
2 State Board of the United States, shall, before a certificate
3 be granted, pay the Secretary of the Board, the sum of fifteen
4 dollars (\$15.00) and every applicant for registration by
5 examination under this Act shall pay the Secretary the sum of
6 fifteen dollars (\$15.00) before the ^{final and complete exam} examination be attempted;
7 Provided, that in case the applicant fails to pass a satisfac-
8 tory examination, he shall have the privilege of a second ex-
9 amination without any charge at any time within one year.

10 Section 18. (Duties and Responsibilities of Registered
11 Pharmacists and Owners)

12 a. (To report names of employees) Every registered
13 pharmacist shall report to the Board the names of all
14 clerks and apprentices employed in his pharmacy at least
15 once during each year, at such time as the Board may
16 direct.

17 b. (Responsibility for quality of drugs, etc.) Every
18 owner shall be responsible for the quality of all drugs,
19 chemicals or other medicines sold or dispensed by him,
20 except those sold in original packages of the manufac-
21 turer, and except those articles and preparations known
22 as patent or ^{proprietary} proprietary medicines.

23 c. (Labels required) To every box, bottle, jar, tube,
24 or other container of a prescription which is dispensed,
25 there shall be affixed a label bearing the name and
26 address of the pharmacy wherein the prescription is
27 compounded the corresponding serial number of the pre-
28 scription, the name of the prescriber, his directions,
29 the name of the patient, date and initials of the

1 registered pharmacist who compounded the prescription.

2 d. (Record keeping requirements) The proprietor (Owner
3 or Registered pharmacist) of every drug store, general store, or
4 road house, shall keep in his place of business a record in
5 which shall be entered all sales of the compounds and salts
6 of arsenic, mercury, (calomel excepted), caustic hydrates of
7 sodium and potassium, the concentrated mineral acids, hydro-
8 cyanic acids and their salts, yellow phosphorus, the essential
9 oils of pennyroyal, tansy and savine, croton oil, opium, aconite,
10 carbolic acid, or any of the poisonous alkaloids or alkaloidal
11 salts. This record shall state the quantity purchased, the
12 date of purchase, for what purpose to be used, buyer's name
13 and address, and this record shall at all times during busi-
14 ness hours be readily available and subject to the inspection
15 of the Prosecuting Attorney, U. S. Marshal or Deputy Marshal,
16 Town Marshal or any duly authorized agent of the Board.

17 Section 19. (Sale by registered pharmacist only) Except
18 as otherwise provided in this Act, the sale and distribution
19 of drugs and medical supplies shall be limited to pharmacies
20 or drug stores operating under licenses as required by this
21 Act and the actual sale or distribution of drugs, and medical
22 supplies shall be made by a registered pharmacist or other
23 persons under his immediate personal direction and supervision.
24 Provided, however, that whenever drugs or medical supplies are
25 requested which contain poisonous, potent, habit forming or
26 ~~deleterious~~ deleterious ingredients, the sale shall be made by a registered
27 pharmacist only and the nature of such drug or medical supply
28 shall be made known to the purchaser by the registered pharma-
29 cist at the time of the sale.

1 Section 20. (Registered pharmacist on duty at all times)
2 In every store, shop or other place defined in this Act as a
3 pharmacy, there must be a registered pharmacist on duty at
4 all times during the hours the pharmacy is open for business
5 and the compounding and dispensing of physician's prescriptions
6 shall be limited to registered pharmacists only.

7 Every non-registered proprietor (owner) of a drug store
8 shall place in charge of such store a pharmacist registered
9 in the Territory of Alaska who shall be known as a "responsible
10 manager", and who shall comply with all laws, rules and re-
11 gulations affecting such pharmacy. In such towns that have
12 only one drug store and one doctor, such stores shall employ
13 regularly not less than one full time registered pharmacist,
14 either on duty or subject to ^{call} call at all times. Prescriptions
15 in such stores shall be filled only by the registered pharma-
16 cist or the residing doctor.

17 Responsible managers of drug stores owned by non-registered
18 proprietors are responsible for the management of such stores
19 so far as they are affected by the pharmacy laws. Every part
20 of the establishment coming under the regulations of the
21 pharmacy laws shall be under the full and complete control of
22 such responsible manager. Registered pharmacists employed as
23 responsible managers shall immediately notify the Board of
24 such responsibility and shall comply with such instructions as
25 may be received from the Board.

26 Section 21. (Hospitals and Clinics) The hospitals and
27 clinics of the Territory, when dispensing for out-patient treat-
28 ment, shall place in charge of such dispensary a registered
29 pharmacist, or the dispensing must be done by each prescribing

1 physician in person.

2 Section 22. (Reference publications and equipment require-
3 ments) There shall be kept in every pharmacy or drug-store a
4 copy of the latest revision of the National Formulary and the
5 latest revision of the United States Pharmacopoeia together
6 with a sufficient amount of technical equipment to properly
7 care for the compounding of physicians prescriptions and pharma-
8 ^{ceutical}cautical preparations. No permit shall be issued or continued
9 for the conduct of a pharmacy unless and until the provisions
10 of this section have been complied with.

11 Section 23. (Sanitary appliances and cleanliness) With
12 the passage of this Act, the Territorial Board of Pharmacy will
13 issue no drug store registrations except to stores operating a
14 bona fide prescription department, nor shall a registration be
15 issued or continued for the conduct of a pharmacy unless the
16 premises of such pharmacy shall be equipped with proper sanitary
17 appliances and kept in a clean and orderly manner. Every certi-
18 cate of registration and every current renewal thereof shall be
19 conspicuously exposed in the pharmacy to which it applies.

20 Section 24. (Record file of prescriptions) There shall
21 be kept in every pharmacy a suitable book or file in which
22 shall be preserved for a period not less than five years, a
23 record of every prescription compounded or dispensed at such
24 pharmacy and this record shall at all times be open to inspection
25 of the members of the Board or its duly authorized agents or
26 employees.

27 Section 25. (Who may compound) It shall be unlawful for
28 any person to compound or dispense drugs, medicines or poisons
29 or to operate any place of business of wholesaling or retailing,

1 compounding or dispensing drugs, medicines or poisons, unless
2 he is a registered pharmacist, or places a registered pharma-
3 cist in charge thereof.

4 It shall be unlawful for any person, though not a regis-
5 tered pharmacist, to take, use or exhibit the title of registered
6 pharmacist, or as a registered pharmacist continue in business
7 and fail to procure the annual renewal of his license or wil-
8 fully make any false representation to procure registration
9 for himself or any other person or wilfully and knowingly violate
10 any provision of this Act.

11 It shall be unlawful for any person to take, use or exhibit
12 in or upon any place of business, or to advertise in a news-
13 paper, telephone or other directory, or elsewhere, in any manner,
14 the title of pharmacist, assistant pharmacist, druggist, pharmacy,
15 drug store, drug sundries, or any title or name of like import,
16 or to display or permit to be displayed upon said place of
17 business the characteristic pharmacy show bottles or globes,
18 either colored or filled with colored liquids without having
19 continuously and regularly employed in his place of business a
20 licensed registered pharmacist. Every day that such prohibited
21 practice continued shall constitute a separate offense.

22 Section 26. (Dangerous or harmful drug restrictions) It
23 shall be unlawful for any store other than a regularly licensed
24 drug store to sell any medical preparation containing an ingred-
25 ient or ingredients which may be considered dangerous or harmful
26 if taken in overdose, or any preparation containing such ingred-
27 ient or ingredients listed in the "United States Pharmacopoeia",
28 "National Formulary", "United States Dispensatory", or the
29 "Homeopathic Pharmacopoeia" latest editions. Bromide preparations,

1 all anti-histamine and like products, whether liquid, powder,
2 tablets, capsules, ointment or any other ^{form} from may be sold
3 only in licensed drug stores under the supervision of a regis-
4 tered pharmacist. The use of any mechanical device or vend-
5 ing machine in the sale or dispensing of drugs, medicines or
6 poisons within the meaning of this Act is prohibited. Pro-
7 vided that, nothing in this Act shall operate in any manner
8 to interfere with the business of any physician in regular
9 practice, or prevent him from supply ^{ing} to his patients such
10 medicines as he may deem proper and provided further; that
11 stores and roadhouses outside a radius of fifteen miles from
12 any city or town with registered pharmacists shall be permitted
13 to handle and sell such non-poisonous patent medicines, re-
14 medies for horses and dogs and household remedies and surgical
15 dressings, provided such remedies, medicines, or articles are
16 still in their original packages, properly and distinctly
17 labeled, as the Board shall permit.

18 Section 27. (Prophylactics) It shall be unlawful for any
19 person except a licensed physician and surgeon to sell any pro-
20 phylactic at wholesale or retail without having a valid and
21 subsisting wholesale dealer's license or retail dealer's
22 license, or for any licensed wholesale dealer to make any sale
23 other than at wholesale or for any retail dealer to make any
24 sale other than at retail.

25 No person shall sell any prophylactic which has no effi-
26 cacy as an agent for the prevention or treatment of venereal
27 diseases; and the decision of the Board in determining whether
28 a particular prophylactic is efficacious shall be conclusive.
29 The Board may seize and destroy any prophylactic which does

1 not conform to its requirements.

2 Section 28. (Revocation of Licenses) When upon investi-
3 gation, the Territorial Board of Pharmacy becomes convinced
4 that any one registered under this Act, or applying for exami-
5 nation and registration, is guilty of a felony, misdemeanor,
6 gross immorality, or sells, barter or gives away morphine,
7 cocaine, or any other narcotic to any person addicted to the
8 use of such drug, or is himself addicted to the liquor or drug
9 habit to such degree as to render him unfit for the practice
10 of pharmacy, the Board may examine and refuse to register, or
11 revoke, cancel or suspend the registration of such person.

12 Section 29. (Right of hearing upon revocation or refusal
13 of registration) In any case of the refusal or revocation of
14 a license by the Board under the provisions of this Act, the
15 Board shall file a brief and concise statement of the grounds
16 and reasons for such refusal or revocation in the office of the
17 Secretary of the Board, which statement, together with the
18 decision of the Board in writing shall remain in said office.
19 Before a license can be revoked by the Board under the provisions
20 of this Act, a complaint by some person, under oath, must be
21 filed in the office of the Secretary of the Board charging the
22 acts of misconduct and facts complained of against the applicant
23 or registered pharmacist accused in ordinary and concise
24 language and thereupon the Board shall cause to be served upon
25 such accused a written notice and copy of such complaint, which
26 shall contain a statement of the time and place of hearing of
27 the matters and things set forth and charged in the complaint.
28 Such notice shall be served at least thirty (30) days prior to
29 the time of such hearing. The accused may appear at such hearing

1 and defend against the accusation of such complaint, per-
2 sonally and by counsel, and may have the sworn testimony of
3 witnesses taken and present other evidence in his behalf at
4 the hearing. The Board will receive the arguments of counsel
5 at the hearing.

6 Section 30. (Right of Appeal) In any case of the refusal
7 or of revocation of a license by the Board under the provisions
8 of this Act, the applicant whose application shall be so
9 refused or the licentiate whose license shall be so revoked by
10 the Board shall have the right to appeal from the decision
11 so refusing or revoking such license within sixty (60) days
12 after the filing of such decision in the office of the Secretary
13 of the Board. Such appeal shall be to the District Court.
14 In any case the person desiring to take such appeal shall serve
15 or cause to be served upon the Secretary of the Board a written
16 notice of such appeal which shall contain a statement of the
17 grounds of such appeal. The Secretary of the Board shall,
18 within ten days after the service of such notice of appeal
19 and the filing and approval of the appeal bond, transmit to
20 the Clerk of the District Court to which the appeal is taken,
21 a certified copy, under the seal of the Board, of the decisions
22 of the Board, the grounds thereof, in the case of a refusal
23 of a license, and in addition thereto, a certified copy of the
24 complaint in the case of revocation of a license, together
25 with the bond and notice of appeal. The Clerk of the Court
26 shall thereupon docket such appeal causes, and they shall stand
27 for trial in all respects as ordinary civil actions.

28 Section 31. (Violations of Act a misdemeanor-penalties)
29 Whoever shall violate any provision of this Act shall be guilty

1 of a misdemeanor and upon conviction thereof shall be fined
2 in any sum not to exceed two hundred (\$200.00) dollars, or
3 may be imprisoned in jail for a period not exceeding three
4 months, or be punished by both such fine and imprisonment,
5 and it shall be the duty of the respective district attorneys
6 to prosecute all violations of this Act in the manner as other
7 violations of law.

8 Section 32. Nothing in this Act shall be construed as an
9 amendment, modification, change or repeal of any provision
10 of the Alaska Uniform Narcotic Drug Act or the Alaska Food,
11 Drug and Cosmetic Act, but shall be considered as completely
12 repealing and superseding Section 35-3-61 through 35-3-79,
13 of Alaska Compiled Laws Annotated, 1949.
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