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IN THE HOUSE

BY MR. BOARDMAN  
BY REQUEST

SUBSTITUTE FOR 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 ACIA 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" or "drug store" includes every place of  
business in which physicians' prescriptions are compounded  
or dispensed and where drugs and medicines are compounded  
or dispensed.

"Recognized College of Pharmacy" means a college,  
school or department of pharmacy whose entrance require-  
ments and courses of study are approved by the National  
Association of Boards of Pharmacy.

"Retail" means a sale to the ultimate user.

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

"Sell" includes: Possess in violation of the intent  
of this Act, exchange, barter, give away or otherwise

1 dispose of.

2 "Wholesale" means a sale by a manufacturer, wholesale  
3 dealer, distributor, or jobber to a person who sells or  
4 intends to sell directly to the user.

5 "Wholesale dealer" means a manufacturer, wholesale  
6 dealer, distributor or jobber.

7 "Drug" or "drugs" means drugs or medical supplies  
8 which contain poisonous, potent, habit forming or  
9 deleterious ingredients or medicines containing ingredients  
10 which may be considered dangerous or harmful if taken in  
11 over dose.

12 "Medical supplies" means items for the cure or  
13 treatment of disease or injury which do not require  
14 prescription by a physician and which do not contain  
15 poisonous, potent, habit forming or deleterious ingredients,  
16 or any ingredient or ingredients which may be considered  
17 dangerous or harmful if taken in over dose.

18 Section 3. (Board of Pharmacy Created.) There is hereby  
19 created the Territorial Board of Pharmacy, which shall consist  
20 of one member from each of the four judicial divisions and one  
21 member at large to be appointed by the Governor with the consent  
22 of a majority of the Senate and House of the Legislature of  
23 Alaska in Joint Session Assembled, and who shall hold office as  
24 respectively designated in their appointments, which shall be for  
25 one, two, three, four and five years, or until their successors  
26 have been duly appointed. The Governor shall appoint one member  
27 annually to fill the vacancies that occur in the Board, or one  
28 member at large to fill a vacancy that may occur in any division.  
29 Each member of the Board shall, within thirty (30) days after

1 their appointment, give and subscribe to the oath required of  
2 officers and employees of the Territory of Alaska and file the  
3 oath with the Secretary of Alaska.

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

9 Section 5. (Duties of the Board) It shall be the duty of  
10 the Board to examine all applicants for registration who are  
11 qualified for examination, the examination given to be graded  
12 by a member of any other division; to grant certificates of  
13 registration to such persons as may be entitled to the same  
14 under the provisions of this Act; to initiate prosecution of  
15 all persons violating the provisions of this Act; to report  
16 biennially to the Legislature upon the condition of Pharmacy in  
17 the Territory, which report shall furnish a record of the  
18 proceedings of the Board for the biennium as well as the names  
19 of all persons registered under this Act, and also an itemized  
20 account of all monies received and disbursed by the Board.

21 Section 6. (Temporary Certificates) Any member of the  
22 Board of Pharmacy may examine applicants orally, or in writing,  
23 and shall certify as to their competency to the Secretary of the  
24 Board, who shall issue a temporary certificate to practice  
25 pharmacy, which shall authorize such applicant to practice for  
26 a period not to exceed three months, or until the next regular  
27 meeting of the Board. No permanent certificate shall be issued  
28 to such applicant until he passes a satisfactory examination by  
29 the Board. Only one temporary certificate shall ever be issued

1 to the same applicant, and no temporary certificate shall be  
2 granted to any person whose application has been denied by the  
3 Board. The applicant shall pay the sum of five dollars (\$5.00)  
4 for said temporary certificate to the examining member, which  
5 money shall be forwarded with the certificate to the Secretary  
6 of the Board.

7 Section 7. (Meetings of Board) The Board shall hold its  
8 regular meeting once every twelve months at which meeting three  
9 members shall constitute a quorum and may transact all business  
10 pertaining to the duties of the Board. At special meetings of  
11 the Board solely for the purpose of examining applicants, two  
12 members shall constitute a quorum. The Secretary shall give  
13 thirty (30) days written notice to all Board members or regular  
14 and special meetings.

15 Section 8. (Powers of Board) The Board shall have power  
16 to make such by-laws, rules and regulations not inconsistent  
17 with the laws of the Territory, as may be necessary to carry  
18 into effect the provisions of this Act. The Board or any member  
19 thereof shall have the power to investigate all alleged  
20 violations of the provisions of this Act or any other Territorial  
21 or Federal statute relating to the practice of pharmacy.

22 Section 9. (Board Records) The Board shall keep a record  
23 which shall contain the names and places of business of persons  
24 registered under this Act together with a record of the condi-  
25 tions justifying such registration.

26 Section 10. (Compensation and expenses of Board members)  
27 Board members shall be reimbursed for actual traveling expenses  
28 and shall be entitled to receive a per diem allowance when  
29 attending Board meetings and otherwise carrying out the purposes

1 of this Act. The Secretary of the Board shall give such bonds.  
2 as the Board shall from time to time direct.

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

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

21 Section 13. (Scholastic requirements) No person shall be  
22 granted a license as a licensed pharmacist except by reciprocity  
23 through the National Association of Boards of Pharmacy, or by  
24 examination by the Board after graduation from a school approved  
25 by the National Association of Boards of Pharmacy.

26 Section 14. (Examination requirements) Every applicant by  
27 examination must attain a general average of not less than  
28 seventy-five percent (75%) and grade of not less than sixty per-  
29 cent (60%) in each of the following subjects: (1) Pharmacy

1 (2) Materia Medica (3) Chemistry (4) Toxicology and Posology  
2 (5) Compounding of Prescriptions (6) Laws relating to the  
3 practice of pharmacy. Examination in practical pharmacy may be  
4 given in the discretion of the examiner.

5 Section 15. (Registration or Examination Fee) On or after  
6 the passage of this Act, every person desiring or claiming re-  
7 gistration as a graduate in pharmacy or as one licensed in phar-  
8 macy by the Board of any State or Territory shall, before a  
9 certificate be granted, pay the Secretary of the Board, the sum  
10 of fifteen dollars (\$15.00) and every applicant for registration  
11 by examination under this Act shall pay the Secretary the sum of  
12 fifteen dollars (\$15.00) before the first and any subsequent  
13 examination; Provided, that in case the applicant fails to pass  
14 a satisfactory examination, he shall have the privilege of a  
15 second examination at any time within one year.

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

26 Section 17. (License Fees) The fee for a wholesale  
27 dealer's license shall be five dollars (\$5.00) and for a retail  
28 dealer's license shall be two dollars (\$2.00), payable annually  
29 to the Secretary of the Board. A separate license shall be

1 required for each such store, warehouse, or place of business  
2 from which sales are made. All licenses shall expire on the  
3 thirty-first day of May next following the date of issue, and  
4 shall be renewed annually. The Board shall issue such license  
5 upon application and exhibition of a duplicate receipt showing  
6 payment of the fee to the Secretary of the Board.

7 Section 18. (Duties and responsibilities of licensed  
8 Pharmacists and Owners)

9 (a) (To report names of employees) Every owner or  
10 manager of a pharmacy shall report to the Board the names  
11 of all clerks employed in his pharmacy at least once during  
12 each year, at such time as the Board may direct.

13 (b) (Responsibility for quality of drugs, etc.) Every  
14 owner shall be responsible for the quality of all drugs,  
15 chemicals or other medicines sold or dispensed by him,  
16 except those sold in original packages of the manufacturer,  
17 and except those articles and preparations known as patent  
18 or proprietary medicines.

19 (c) (Labels required) To every box, bottle, jar,  
20 tube, or other container of a prescription which is dis-  
21 pensed, there shall be affixed a label bearing the name and  
22 address of the pharmacy wherein the prescription is com-  
23 pounded the corresponding serial number of the prescription,  
24 the name of the prescriber, his directions, the name of the  
25 patient, date and initials of the registered pharmacist who  
26 compounded the prescription.

27 (d) (Record keeping requirements) The proprietor  
28 (Owner or Registered pharmacist) of every drug store,  
29 general store, or road house, shall keep in his place of

1 business a record in which shall be entered all sales of  
2 the compounds and salts of arsenic, mercury (calomel except-  
3 ed), caustic hydrates of sodium and potassium, the concen-  
4 trated mineral acids, hydrocyanic acids and their salts,  
5 yellow phosphorus, the essential oils of pennyroyal, tansy  
6 and savine, croton oil, opium, aconite, carbolic acid, or  
7 any of the poisonous alkaloids or alkaloidal salts. This  
8 record shall state the quantity purchased, the date of pur-  
9 chase, for what purpose to be used, buyer's name and  
10 address, and his record shall at all times during business  
11 hours be readily available and subject to the inspection  
12 of the U. S. Attorney, U. S. Marshal or Deputy Marshal, any  
13 Territorial or Municipal Police Officer, or any duly author-  
14 ized agent of the Board.

15 Section 19. (Sale by registered pharmacist only) Whenever  
16 drugs or medical supplies are requested which contain poisonous,  
17 potent, habit forming or deleterious ingredients, the sale shall  
18 be made by a licensed pharmacist only and the nature of such  
19 drug or medical supply shall be made known to the purchaser by  
20 the licensed pharmacist at the time of the sale. Except as  
21 otherwise provided in this Act, the sale and distribution of  
22 drugs and potentially dangerous medical supplies shall be limit-  
23 ed to pharmacies or drug stores operating under licenses as re-  
24 quired by this Act, and the actual sale or distribution of other  
25 drugs and potentially dangerous medical supplies shall be made  
26 by a registered pharmacist or other persons under his immediate  
27 personal direction and supervision.

28 Section 20. (Licensed pharmacist on duty at all times)  
29 In every store, shop or other place defined in this Act as a

1 pharmacy, there must be a licensed pharmacist on duty at all  
2 times during the hours the pharmacy is open for business and the  
3 compounding and dispensing of physician's prescriptions shall be  
4 performed only by licensed pharmacists.

5 Every non-licensed proprietor (owner) of a drug store shall  
6 place in charge of such store a pharmacist licensed in the Terri-  
7 tory of Alaska who shall be known as a "responsible manager",  
8 and who shall comply with all laws, rules and regulations affect-  
9 ing such pharmacy. In such towns that have only one drug store  
10 and one doctor, such stores shall employ regularly not less than  
11 one full time licensed pharmacist, either on duty or subject to  
12 call at all times. Prescriptions in such stores shall be filled  
13 only by the licensed pharmacist or the residing doctor.

14 Responsible managers of drug stores owned by non-licensed  
15 proprietors are responsible for the management of such stores so  
16 far as they are affected by the pharmacy laws. Every part of  
17 the establishment coming under the regulations of the pharmacy  
18 laws shall be under the full and complete control of such re-  
19 sponsible manager. Licensed pharmacists employed as responsible  
20 managers shall immediately notify the Board of such responsibil-  
21 ity and shall comply with such instructions as may be received  
22 from the Board.

23 Section 21. (Hospitals and Clinics) The hospitals and  
24 clinics of the Territory, when dispensing for out-patient treat-  
25 ment, shall place in charge of such dispensary a licensed phar-  
26 macist, or the dispensing must be done by each prescribing phy-  
27 sician in person or under his supervision.

28 Section 22. (Reference publications and equipment require-  
29 ments) There shall be kept in every pharmacy or drug store a

1 copy of the latest revision of the National Formulary and the  
2 latest revision of the United States Pharmacopœia together with  
3 a sufficient amount of technical equipment to properly care for  
4 the compounding of physicians' prescriptions and pharmaceutical  
5 preparations. No license shall be issued or continued for the  
6 operation of a pharmacy unless and until the provisions of this  
7 section have been complied with.

8 Section 23. (Sanitary appliances and cleanliness) Upon  
9 the passage of this Act, the Board shall issue no pharmacy  
10 licenses except to stores operating a bona fide prescription  
11 department, nor shall a license be issued or continued for the  
12 operation of a pharmacy unless its premises shall be equipped  
13 with proper sanitary appliances and kept in a clean and orderly  
14 manner. Every such license and every current renewal thereof  
15 shall be conspicuously displayed in the pharmacy to which it  
16 applies.

17 Section 24. (Record file of prescriptions) Each pharmacy  
18 shall keep and preserve, for no less than five years, a record  
19 of every prescription compounded or dispensed at such pharmacy  
20 and this record shall at all times be open to inspection of the  
21 members of the Board or its duly authorized agents or employees.

22 Section 25. (Restricted advertising) It shall be unlawful  
23 for any person to take, use or exhibit in or upon any place of  
24 business, or to advertise in a newspaper, telephone or other  
25 directory, or elsewhere, in any manner, the title of pharmacist,  
26 assistant pharmacist, druggist, pharmacy, drug store, drug  
27 sundries, or any title or name of like import containing the word  
28 "drug", or to display or permit to be displayed upon said place  
29 of business the characteristic pharmacy show bottles or globes,

1 either colored or filled with colored liquids without having  
2 continuously and regularly employed in his place of business a  
3 licensed pharmacist.

4 Section 26. (Dangerous or harmful drug restrictions) It  
5 shall be unlawful for any store other than a regularly licensed  
6 drug store to sell any medical preparation containing an ingred-  
7 ient or ingredients which may be considered dangerous or harmful  
8 if taken in overdose, or any preparation containing such ingred-  
9 ient or ingredients listed in the "United States Pharmacopoeia",  
10 "National Formulary", "United States Dispensatory", or the  
11 "Homoeopathic Pharmacopoeia" latest editions. <sup>A</sup> anti-histamine  
12 and like products, whether liquid, powder, tablets, capsules,  
13 ointment or any other form may be sold only in licensed drug  
14 stores under the supervision of a licensed pharmacist. The use  
15 of any mechanical device or vending machine in the sale or dis-  
16 pensing of drugs, medicines or poisons within the meaning of this  
17 Act is prohibited. Provided that, nothing in this Act shall  
18 operate in any manner to interfere with the business of any  
19 physician in regular practice, or prevent him from supplying his  
20 patients such medicines as he may deem proper, and Provided  
21 further, that stores and roadhouses outside a radius of fifteen  
22 miles from any city or town with licensed pharmacists shall be  
23 permitted to handle and sell such non-poisonous patent medicines,  
24 remedies for horses and dogs and household remedies and surgical  
25 dressings, provided such remedies, medicines, or articles are  
26 still in their original packages, properly and distinctly  
27 labeled.

28 Section 27. (Revocation of Licenses) When upon investi-  
29 gation the Board finds that any one licensed under this Act, or

1 applying for examination and license has been found guilty of a  
2 felony, misdemeanor, gross immorality, or sells, barter or  
3 gives away morphine, cocaine, or any other narcotic to any  
4 person addicted to the use of such drug, or is himself addicted  
5 to the liquor or drug habit to such degree as to render him  
6 unfit for the practice of pharmacy, the Board may examine and  
7 refuse to license, or revoke, cancel or suspend the license of  
8 such person.

9 Section 28. (Right of hearing upon revocation or refusal  
10 of license) In any case of the refusal or revocation of a  
11 license by the Board under the provisions of this Act, the  
12 Board shall file a brief and concise statement of the grounds  
13 and reasons for such refusal or revocation in the office of the  
14 Secretary of the Board, which statement, together with the  
15 decision of the Board in writing shall remain in said office.  
16 Before a license can be revoked by the Board under the pro-  
17 visions of this Act, a complaint by some person, under oath,  
18 must be filed in the office of the Secretary of the Board charg-  
19 ing the acts of misconduct and facts complained of against the  
20 applicant or licensed pharmacist accused in ordinary and con-  
21 cise language and thereupon the Board shall cause to be served  
22 upon such accused a written notice and copy of such complaint,  
23 which shall contain a statement of the time and place of hearing  
24 of the matters set forth and charged in the complaint and shall  
25 be served at least thirty (30) days prior to the time of such  
26 hearing. The accused may appear at such hearing and defend  
27 against the accusation of such complaint, in person or by  
28 counsel, and may have the sworn testimony of witnesses taken  
29 and present other evidence in his behalf at the hearing.

1           Section 29. (Right of Appeal) In any case of the refusal  
2 to license or of revocation of a license by the Board under the  
3 provisions of this Act, the applicant whose application shall be  
4 so refused or the person whose license shall be so revoked by  
5 the Board shall have the right to appeal from such decision  
6 within sixty (60) days thereof to the District Court of the  
7 District of Alaska.

8           Section 30. (Violations a misdemeanor-penalties) Whoever  
9 shall violate any provision of this Act shall be guilty of a  
10 misdemeanor and upon conviction thereof shall be fined not to  
11 exceed two hundred (\$200.00) dollars, or imprisoned for a period  
12 not exceeding three months, or by both such fine and imprison-  
13 ment.

14           Section 31. Sections 35-3-61 to 35-3-79, both inclusive,  
15 ACLA 1949 are hereby repealed.

16           Section 32. Nothing in this Act shall be considered as an  
17 amendment, modification, change or repeal of any provisions of  
18 the Alaska Uniform Narcotic Drug Act or the Alaska Food, Drug  
19 and Cosmetic Act.  
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