

Original sponsor: Labor and Commerce Committee

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 716 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Board of Pharmacy; and pro-
7 viding for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 08.03.010(c)(4) is amended to read:

10 (4) Board of Pharmacy (AS 08.80.010) -- June 30, 1988
11 [1984].

12 * Sec. 2. AS 08.80.030 is amended to read:

13 Sec. 08.80.030. POWERS OF THE BOARD. The board may

14 (1) elect a president and secretary from its membership and
15 adopt rules for the conduct of its business;

16 (2) examine applicants for registration as pharmacists;

17 (3) adopt [INVESTIGATE INDIVIDUALLY, COLLECTIVELY, OR
18 THROUGH ITS AGENT, FOR VIOLATIONS OF THIS CHAPTER, OR OF ANY OTHER
19 STATE OR FEDERAL STATUTE RELATING TO THE PRACTICE OF PHARMACY;

20 (4) ADOPT REGULATIONS AND DO WHATEVER ELSE IS NECESSARY AND
21 ADVISABLE TO CARRY OUT THE PURPOSES OF THIS CHAPTER;

22 (5) PROMULGATE] regulations to carry out the purposes of
23 this chapter;

24 [(6) Repealed]

25 (4) [(7)] register intern pharmacists and adopt [PROMUL-
26 GATE] rules relating to their minimum experience requirements;

27 (5) adopt [(8) PROMULGATE] regulations to ensure adequate
28 security for all dangerous drugs;

29 (6) [(9)] adopt requirements for licensing in addition to

1 the requirements set out in this chapter.

2 * Sec. 3. This Act takes effect immediately in accordance with AS 01.-
3 10.070(c).

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STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

FISCAL DETAIL

Bill/Resolution No. CSHB 716 (fin) Agency Affected: _____
 Title: An Act relating to the Program Category Affected: _____
Board of Pharmacy; & providing for an effective date
 Sponsor: Labor & Commerce Comm. BRU, Program or Subprogram(s) Affected: _____
 Requestor: _____
 Date of Request: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

| | FY 84 | FY 85 | FY 86 | FY 87 | FY 88 | FY 89 |
|------------------------|-------|-------|-------|-------|-------|-------|
| OPERATING | | | | | | |
| 100 PERSONAL SERVICES | | | | | | |
| 200 TRAVEL | | | | | | |
| 300 CONTRACTUAL | | | | | | |
| 400 SUPPLIES | | | | | | |
| 500 EQUIPMENT | | | | | | |
| 600 LAND & STRUCTURES | | | | | | |
| 700 GRANTS, CLAIMS | | | | | | |
| 800 MISCELLANEOUS | | | | | | |
| TOTAL OPERATING | | 0 | 0 | 0 | 0 | |
| CAPITAL | | | | | | |
| REVENUE | | | | | | |

FUNDING: (Thousands of Dollars)

| | | | | | | |
|---------------|--|--|--|--|--|--|
| GENERAL FUND | | | | | | |
| FEDERAL FUNDS | | | | | | |
| OTHER | | | | | | |
| TOTAL | | | | | | |

POSITIONS:

| | | | | | | |
|-----------|--|--|--|--|--|--|
| FULL-TIME | | | | | | |
| PART-TIME | | | | | | |
| TEMPORARY | | | | | | |

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

There is no fiscal impact related to this CS, as no new positions will be funded.

ANALYSIS: Attach a separate page for analysis

Prepared By: Rep. Al Adams, Chairman *APA* Phone: 465-3724
 Division: House Finance Date: 5-4-84

Approved by Commissioner: _____ Date: _____
 Agency: _____

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83

FISCAL NOTE

Revision Date: _____

Page 1 of 4

REQUEST
 Bill/Resolution No CSHB 716 (L&C)
 Title: An Act relating to the
Board of Pharmacy; & providing for
 Sponsor: Labor & Commerce Committee
 Requestor: _____
 Date of Request: _____

FISCAL DETAIL
 Agency Affected: Commerce & Economic Dev.
 Program Category Affected: Public Protection
 an effective date
 BRU, Program or Subprogram(s) Affected:
Division of Occupational Licensing

EXPENDITURES/REVENUES: (Thousands of Dollars)

| | FY 84 | FY 85 | FY 86 | FY 87 | FY 88 | FY 89 |
|------------------------|-------|-------|-------|-------|-------|-------|
| OPERATING | | | | | | |
| 100 PERSONAL SERVICES | | 46.5 | 49.8 | 53.3 | 57.0 | 61.0 |
| 200 TRAVEL | | 51.6 | 55.2 | 59.0 | 63.2 | 67.6 |
| 300 CONTRACTUAL | | 28.0 | 30.0 | 32.0 | 34.3 | 36.7 |
| 400 SUPPLIES | | 1.2 | 1.3 | 1.4 | 1.5 | 1.6 |
| 500 EQUIPMENT | | 4.2 | | | | |
| 600 LAND & STRUCTURES | | 3.6 | 3.9 | 4.1 | 4.4 | 4.7 |
| 700 GRANTS, CLAIMS | | | | | | |
| 800 MISCELLANEOUS | | | | | | |
| TOTAL OPERATING | | 135.1 | 110.2 | 149.8 | 160.4 | 171.6 |
| CAPITAL | | | | | | |
| REVENUE | | | | | | |

FUNDING: (Thousands of Dollars)

| | | | | | | |
|---------------|--|-------|-------|-------|-------|-------|
| GENERAL FUND | | 135.1 | 110.2 | 149.8 | 160.4 | 171.6 |
| FEDERAL FUNDS | | | | | | |
| OTHER | | | | | | |
| TOTAL | | | | | | |

POSITIONS:

| | | | | | | |
|-----------|--|---|---|---|---|---|
| FULL-TIME | | 1 | 1 | 1 | 1 | 1 |
| PART-TIME | | | | | | |
| TEMPORARY | | | | | | |

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Jennifer Strickler, Management Analyst Phone: 465-2144
 Division: Occupational Licensing Date: 4/17/84

Approved by Commissioner: Richard A. Lyon Date: 4/23/84
 Agency: Commerce & Economic Development

(NOTE: 7% inflation factor projected for FY '86 through FY '89 for operating costs)

100 PERSONAL SERVICES:

1 Executive Secretary, Range 18A
PX, 12 months to be located in Anchorage 46,519.88

200 TRAVEL:

Executive Secretary Board meetings (2 days ea. @ \$80
per day/ per diem = \$160 x 3) \$480.00
Transportation - 3 board mtgs @
\$400 ea. 1,200.00

Note: There are 119 licensed pharmacies which require inspections. Assuming the Executive Secretary will be located in the Anchorage area, the following does not include the 41 pharmacies in the Anchorage area. These consist of 32 Retail, 2 Wholesale, 6 Hospital Pharmacies, and 1 Nursing Home Drug Room pharmacy.

Transportation for Inspections not in the
Anchorage area, at \$400 ea. x 78 31,200.00

Per Diem for Inspections not in the Anchorage
area, at \$80 per day x 3 days ea. x 78 18,720.00
\$51,600.00

300 CONTRACTUAL:

Postage, telephone, printing, publication and
operating costs: \$2,000.00

(With the authority to investigate violations, the
following will apply:)

Legal fees: Estimated 2 investigations annually will
result in disciplinary proceedings: Fees cover all costs
including hearing officer fees, court costs, court recorder
costs, appeals cost, witness fees, and all other related costs;
(Estimated each hearing process cost is \$10,000.00 x 2) 20,000.00

Executive Secretary leased vehicle, dry w/maintenance:

Anchorage: 1 vehicle @ \$410.00 per month x 12 months 4,920.00

Fuel: 1 leased vehicle @ est. \$87.50 per month
x 12 months 1,050.00
\$27,970.00

400 COMMODITIES:

CSHB 716 (L&C)

Stationery, typewriter ribbons, pens, pencils,
tablets, and other miscellaneous desk top supplies 1,200.00

500 EQUIPMENT: (one time costs only)

| | |
|--|---------------|
| 1 desk, double pedestal, 60" x 30" @ 568.22 ea. | 568.22 |
| 1 chair, executive swivel, with arms @ \$313.30 | 313.30 |
| 1 typewriter, IBM correcting Selectric with dual pitch, 15.5 inch paper capacity @ \$1,369.36 ea. | 1,369.36 |
| 1 typewriter table @ \$135.65 ea. | 135.65 |
| 1 chair, side without arms, contour style @ \$114.60 ea. | 114.60 |
| 1 recording machine, portable, Lanier @ \$775.87 ea. | 775.87 |
| 1 bookcase with 3 adjustable shelves @ \$164.69 ea. | 164.69 |
| 1 file cabinet, 5 drawer, legal w/lock @ \$406.91 ea. | 406.91 |
| 1 calculators, desk, printing and display, 12-digit, @ \$364.66 ea. | <u>364.66</u> |
| | \$4,213.26 |

600 LAND & STRUCTURES:

150 sq. ft. @ \$2.00 per ft. per mo. x 12 mos. \$3,600.00

TOTAL OPERATING COSTS: \$135,103.14

| | | | | | | | | | |
|---|--|---------------------------|-----------|--------------------------|--|------------------------|---------------------------------|---------|---------|
| 1. | POSITION TITLE Executive Secretary | | | RAISE/STEP 18A | DIAG. UNIT GGU | FORM 12 PAGE/LINE | GOV. | APPROV. | DISAPP. |
| 2. | TYPE OF POSITION PX | STAFF MONTHS 12 | RP NUMBER | PCN NUMBER | BRU PRIORITY | LOCATION EBA | ELECTION DISTRICT ALL | LEG. | |
| 3. | CONTINUATION LEVEL | | | ADDITION | JUSTIFICATION As requested by the House Labor & Commerce Committee in House Bill 716. | | | | |
| 4. | TYPE OF EXPENDITURE | | | AMOUNT | | | | | |
| | PERSONAL SERVICES | | | | | | | | |
| 5. | Salary | 35.8 | | | | | | | |
| 6. | Benefits | 5.8 | | | | | | | |
| 7. | Supplemental Benefits | 2.2 | | | | | | | |
| 8. | Fixed Benefits | 2.7 | | | | | | | |
| 9. | TOTAL PERSONAL SERVICES | 01 | | 46.5 | | | | | |
| 10. | Travel | 02 | | 51.6 | | | | | |
| 11. | Contractual | 03 | | 28.0 | | | | | |
| 12. | Commodities | 04 | | 1.2 | | | | | |
| 13. | Equipment | 05 | | 4.2 | | | | | |
| 14. | Other | | | 3.6 | | | | | |
| 15. | TOTAL COST | | | 135.1 | | | | | |
| | RECEIPT CODE | FUNDING SOURCE | | | | | | | |
| 16. | | Federal Receipts 1002 | | | | | | | |
| 17. | | G.F. Match 1003 | | | | | | | |
| 18. | | General Funds 1004 | | 135.1 | | | | | |
| 19. | | I-A Receipts 1005 | | | | | | | |
| 20. | | Program Receipts 1028 | | | | | | | |
| 21. | | Other | | | | | | | |
| FOR B&H USE ONLY 4A KEY NUMBER _____ | | | | | | | | | |

13 REQUEST FOR
NEW POSITION

AGENCY Department of Commerce and Economic Development
 PROGRAM Public Protection
 BRU Occupational Licensing
 COMPONENT _____

CSHB 716 (L&C)
 Page 4 of 4
 Revised Date _____

FY 85

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

May 2, 1984

SUBJECT: Board of Pharmacy (CSHB 716 (L&C))
TO: Representative Al Adams
Chairman, House Finance Committee
FROM: Teresa B. Cramer *TBC*
Legislative Counsel

You have asked whether there are constitutional due process issues in permitting the Board of Pharmacy to both investigate and then conduct an adjudicatory hearing on complaints that the chapter has been violated. You have also asked whether the bill permits the board to delegate its power to conduct disciplinary hearings to the executive secretary.

Due process. The Alaska Supreme Court has held that the combination of judicial and investigative functions in an administrative agency does not violate either federal or state constitutional due process rights. Either a board or a person appointed to act for a board may make a preliminary factual inquiry to determine whether charges should be filed and then conduct the hearing on those charges. In re Hanson, 532 P.2d 303 (Alaska 1975) and In re Cornelius, 520 P.2d 76 (Alaska 1974).

Delegation of powers. AS 08.80.095 in section 3 of the bill permits the board to hire an executive secretary. AS 08.80.097 sets out specific duties of the executive secretary. AS 08.80.095 also contains general language that the executive secretary assist the board in implementing the chapter. The board might interpret this general language as authorizing it to delegate its responsibility for conducting hearings to the executive secretary. The clearest way to limit delegation by the board is to say so in the bill, either by amending the new section 08.80.095 to indicate that the secretary shall only assist the board in conducting investigations or by prohibiting the board from delegating its duty to hold hearings, as set out in 08.80.040, which reads:

Representative Al Adams
Page 2
May 2, 1984

The board shall ... (9) hold hearings and order disciplinary sanctions against a person who violates this chapter or the regulations of the board.

If I may be of further assistance, please advise.

TBC:ojb
J7/017

A PERFORMANCE REPORT
ON THE
BOARD OF PHARMACY

July 1, 1980 to February 28, 1983

Audit Control Number

08-1114-51-83-R

Commissioner, Department of
Commerce and Economic Development

Richard A. Lyon

Deputy Commissioners, Department of
Commerce and Economic Development

Vincent O'Reilly
Terry Elder

Members of the Board of Pharmacy

Chairman
Secretary
Member
Member
Member
Member
Member

Eldon Ulmer
Margaret Soden
Susan Roberts
Robert Snider
James McCorcle
Charles Rush
Sidney Fry

STATE OF ALASKA

AUDIT DIVISION
POUCH W
JUNEAU, ALASKA 99811

THE LEGISLATURE
BUDGET AND AUDIT COMMITTEE

May 17, 1983

Members of the
Legislative Budget and Audit Committee:

In accordance with the provisions of Titles 24 and 44 of the
Alaska Statutes (sunset), the attached report is submitted
for your review.

A PERFORMANCE REPORT
ON THE
BOARD OF PHARMACY

July 1, 1980 to February 28, 1983



Gerald L. Wilkerson, CPA
Legislative Auditor
Division of Legislative Audit

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PURPOSE AND SCOPE OF THE REPORT

PURPOSE

In accordance with the intent of Titles 24 and 44 of the Alaska Statutes (sunset legislation), we have reviewed the activities of the Board of Pharmacy for the past three fiscal years. Our examination was conducted to determine if the Board has been operating in an efficient and effective manner.

Legislative intent requires consideration of this report during legislative oversight hearings to determine whether the Board of Pharmacy should be reestablished. The law now specifies that the Board will terminate June 30, 1984, and have one year from that date to conclude its affairs.

SCOPE

The major areas of our examination were the licensing, examination, administration, complaint, and affirmative action functions of the Board. We reviewed and evaluated the following:

1. Applicable statutes and regulations.
2. Interviews with the license examiners.
3. Tests of files and documents of licensees.
4. Complaints filed with the Division of Occupational Licensing, Human Rights Commission, Equal Employment Opportunity Office, Attorney General's Office, and the Ombudsman Office.
5. Discussions with Board members.
6. Minutes of Board meetings and Division correspondence files.
7. Attorney General Opinions applicable to professional boards.

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ORGANIZATION AND FUNCTION

The Board of Pharmacy is a regulatory board with seven members; two public members having no direct financial interest in the health care industry, and five professional members with three years practical experience and licensed in Alaska. Whenever possible, each judicial district should be represented by a Board member.

The Board regulates five types of licenses; pharmacists, retail pharmacies, wholesale pharmacies, hospital pharmacies and drug rooms. The Board sets the minimum standards to practice in Alaska by:

1. Examining and issuing licenses to qualified applicants.
2. Establishing, amending, or eliminating regulations controlling pharmacy practices.
3. Revoking, annulling or suspending licenses in accordance with the Administrative Procedures Act when a person has violated pharmacy statutes or regulations.

Applicants for registration as a pharmacist are required to pass the National Association of the Boards of Pharmacy Licensing Examination (NABPLEX), and a jurisprudence exam covering Alaska pharmacy law and the Federal Controlled Substance Act.

Pharmacists licensed to practice in another state who apply for licensure in Alaska, can be licensed by credentials, except for those applicants from California or Louisiana. These two states require applicants to pass a state exam, not the national exam. Consequently, these applicants must take the national exam when applying in Alaska.

The Board may also issue temporary or emergency permits. Temporary permits allow qualified applicants to practice until the Board can formally license them; emergency permits allow pharmacists licensed in another state to practice in Alaska in an emergency. Both permits are limited in their duration and application.

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REPORT CONCLUSION

Policy Issues

This report contains policy issues raised as a result of our evaluation of various Board practices. The final policy decisions affecting these practices are not within the scope of this report but require legislative consideration. In debating these issues, the oversight committees should take into consideration the findings and recommendations presented in this report so the potential impact of policy changes can be evaluated.

Report Conclusion

In our opinion, the Board of Pharmacy should be reestablished. The regulation and licensing of qualified professionals is necessary to protect the public's health, safety, and welfare. The Board provides this service by establishing minimum educational and experience requirements that provide reasonable assurance that persons licensed are qualified. Also, assurances that those licensed act in a competent manner is provided by active investigation of complaints and revocation or suspension of licenses where appropriate.

However, the following findings describe areas where weaknesses or conflicts exist. We have made recommendations which, if implemented, will improve the efficiency and effectiveness of the Board.

(Intentionally left blank)

FINDINGS AND RECOMMENDATIONS

Recommendation No. 1

The Board of Pharmacy should allow the Division of Occupational Licensing (OL) to perform its administrative duties as described in AS 08.01.050 to improve documentation and file management.

The Secretary of the Board receives license fees and applications, keeps applicant files, sends notification of exam results, and issues temporary permits. Each of these responsibilities has been assigned by the Legislature to the Department of Commerce and Economic Development, Division of Occupational Licensing. The above situation exists because the previous Secretary believed he could be more efficient in maintaining the files and processing the applications. We disagree.

The Division of Occupational Licensing is able to provide continuous, uninterrupted service while Board membership changes causing address changes and file transfers.

Additionally, the Secretary of the Board may not be equipped with the space or security needed to maintain confidentiality of files and to safeguard State assets. Furthermore, applicants become confused about where to send their documents.

Noncompliance with AS 08.01.050 is the major cause of the following problems:

- A. In seven of ten files reviewed for proper permanent licensure, we were unable to assure ourselves the applicant had passed the jurisprudence exam.
- B. In two of the files, we were unable to verify the applicants had satisfied the internship requirement. The Board reviewed these files and was unable to satisfy us that the requirements had been met. One file was missing documentation and the other file had documentation we considered insufficient in relation to that required of other applicants. Most applicants were required to have certified copies of hours worked from supervising pharmacists. In this case, documentation consisted of an internship permit issued by the Board with no evidence any hours had been worked.
- C. Temporary permits are being issued by individual Board members without complete documentation on file in DOL. This procedure has resulted in inconsistent issuances of temporary permits. Furthermore, it allows for the possibility of unqualified individuals being licensed.

Prior to the February 1983 Board meeting, we reviewed each application for permanent licensure scheduled for Board consideration. Each applicant had already been issued a temporary permit. In five of eleven cases, there was insufficient documentation in the applicant's file to show that all requirements for temporary licensure had been met.

By the time of the February 1983 meeting, all necessary documentation to support issuance of temporary permits, except for a jurisprudence exam, had either been received by OL or brought to the meeting by the Secretary of the Board. With the additional documentation, we determined that no temporary permit had been issued to an unqualified applicant. However, the possibility exists for a person to be improperly licensed for a short time.

The Board should ensure all documentation is sent directly to OL. When the file is complete, a member of the Board can either issue the permit or direct OL to issue the permit. This procedure will ensure that all necessary documentation is on file at OL before issuance of temporary permits.

- D. Alaska Statute 08.80.157 requires proof that an applicant for a retail or wholesale pharmacy license has the land, facilities and equipment necessary to carry on business. Also, that the applicant be free of any conviction of a federal or state drug offense and free of any addiction.

We reviewed seven pharmacy files and none of the files contained sufficient documentation to issue a license. We discussed our finding with the Board and determined it was not their policy to include this documentation. They knew who had the facilities and relied on a telephone call from the Drug Enforcement Administration to satisfy the conviction requirement.

We believe the Board should adopt a policy to document satisfaction of the licensing requirements. The procedures need not be elaborate, but should supply sufficient proof that the applicant complies with law.

We recommend the Board ensure that all files, applications, fees and exam results are sent directly to OL. Also, that temporary permits are only issued after all documentation has been received by OL.

Recommendation No. 2

The Board of Pharmacy should reevaluate its regulations governing continuing education.

The following requirements of continuing education should be reviewed.

- A. Regulations require nonacademic programs to have an examination or another method of assuring satisfactory completion of the program before continuing education credit will be given. The Board allowed continuing education credit to be given to an individual when the nonacademic requirement had not been met. The reason given for allowing these credits was that the regulations were too stringent.

If the Board believes its regulations to be arbitrary or unreasonable, those regulations should be changed before accepting nonregulation continuing education credits. Compliance with existing regulations will ensure that all licensees are treated equally and consistently until changes can be made.

- B. The Board has described four instances when they will excuse a licensee from continued competency requirements. These causes are chronic illness, retirement, military service, or hardships as individually determined by the Board.

In our opinion, it is more reasonable to require individuals who have been chronically ill, retired or in the military to demonstrate their continued competency, than those who have not interrupted their practice. We also understand that those persons who have been chronically ill should not be penalized for their illness.

However, the Board has the ability, under the hardship clause, to determine each case individually. They should evaluate the changes in the profession and develop a plan for the individual that would allow him or her to practice while fulfilling the continuing education requirements. This would fulfill the Board's primary purpose to protect the public while not unduly penalizing the professional.

Recommendation No. 3

The Board of Pharmacy and the Division of Occupational Licensing should introduce legislation that will clarify certain statutory requirements.

Alaska Statute 08.01.050(19) places the responsibility for

performing investigations with the Division; Alaska Statute 08.01.070 assigns to the Board the requesting authority. However, AS 08.80.030(3) also gives the Board the authority to conduct investigations. This conflict has caused friction between the Division and the Board.

The Board is concerned that the Division is not informing them of complaints or investigations concerning pharmacy, while the Division is concerned that the Board not become involved in the investigation to such an extent as to prejudice the case. Also, the Board must remain impartial in case they become involved in any disciplinary action against the licensee.

Legislation is necessary to clarify the responsibilities of the Board and the Division so both will be confident they are properly performing their statutory duties.

Recommendation No. 4

The Office of the Governor should ensure that Board members are properly appointed.

In July of 1980, the Legislature limited the number of consecutive terms a Board member could serve to two and reduced the term from five years to four. The intent of AS 08.80.020 as amended, was to make service on the Board accessible to more individuals in the profession.

In discussions with Legislative Affairs' attorneys, it became clear that the intent of the Legislature was to include service prior to July, 1980, in determining the limitation. Three members of the Board of Pharmacy have served longer than is allowed when prior service is applied.

One member has served for sixteen years as of March 31, 1983, thirteen of those years prior to July, 1980. This same member was reappointed after the effective date of AS-08.80.020. At the end of his present term, he will have served nineteen years. Two other members will have served twelve and ten years at the end of their present terms on March 31, 1984 and March 31, 1985, respectively.

Additionally, three members of the Board appointed after the effective date of the legislation, have been appointed for five year terms instead of four.

We recommend the Office of the Governor ensure that Board members are appointed in accordance with statute.

ANALYSIS OF PUBLIC NEED

Limited Analysis

The following analyses indicate both positive and negative factors as they relate to the public need as defined in the "sunset" law. These analyses are not intended to be comprehensive, but to address those areas we were able to cover during our review.

- I. The extent to which the board, commission or program has operated in the public interest.
 - A. The Board has held public meetings three times a year.
 - B. The Board administers the pharmacy test yearly.
 - C. The Board has passed regulations concerning dangerous drugs, continuing education as proof of continued competency, false or misleading advertisement of drugs, and prepackaging of drugs in hospital drug rooms.
 - D. The Board was instrumental in passage of the Controlled Substance Act and the Marijuana Therapeutic Research Program.
- II. The extent to which the operation of the board, commission, or agency program has been impeded or enhanced by existing statutes, procedures, and practices which it has adopted, and any other matter, including budgetary, resource, and personnel matters.
 - A. The Board adopted continuing education regulations that may be too stringent. The Board is reconsidering these regulations (see Recommendation No. 2).
- III. The extent to which the board, commission or agency has recommended statutory changes which are generally of benefit to the public interest.
 - A. The Board actively supported passage of the Controlled Substance Act; it became effective January 1, 1983.
 - B. The Board succeeded in having various obsolete or vague statutory requirements repealed which provided for smoother operation of the Board.

- IV. The extent to which the board, commission or agency has encouraged interested persons to report to it concerning the effect of its regulations and decisions on the effectiveness of service, economy of service, and availability of service which it has provided.
- A. Board meetings are announced to the public. Comments on regulation changes are solicited by announcement in public newspapers. The Board does not actively solicit comments on its effectiveness.
- V. The extent to which the board, commission or agency has encouraged public participation in the making of its regulations and decisions.
- A. The Board announces proposed regulation changes or additions in newspapers according to the Administrative Procedures Act.
- VI. The efficiency with which public inquiries or complaints regarding the activities of the board, commission or agency filed with it, with the department to which a board, or commission is administratively assigned, or with the Office of the Ombudsman have been processed and resolved.
- A. We found no problems in this area.
- VII. The extent to which a board or commission which regulates entry into an occupation or profession has presented qualified applicants to serve the public.
- A. We found no instances where the Board had licensed unqualified practitioners.
- B. The Board has licensed 83 pharmacists in the last three years, all but eight were licensed by credentials.
- VIII. The extent to which state personnel practices, including affirmative action requirements, have been complied with by the board, commission or agency to its own activities and the area of activity or interest.
- A. Applications for licensure as a pharmacist require information and photographs which the Division of Equal Employment Opportunity (EEO) believes may not be necessary to determine the qualifications of the applicant.

- IX. The extent to which statutory, regulatory, budgeting or other changes are necessary to enable the agency, board or commission to better serve the interests of the public and to comply with factors enumerated in this subsection.

Please refer to the recommendation section of this report.

(Intentionally left blank)

APPENDIX A

BOARD OF PHARMACY
REVENUES COMPARED WITH EXPENDITURES
For the Fiscal Year Ended June 30, 1982

(UNAUDITED)
(Note 1)

| | |
|---|-----------------|
| Average Revenues (Note 2) | \$42,763 |
| Less: Expenditures (Note 3) | <u>46,166</u> |
| Excess of Expenditures Over Revenues | <u>\$ 3,403</u> |

| <u>Revenue Type</u> | <u>Amount</u> | <u>Collection Time</u> |
|--|---------------|------------------------|
| Examination Fee | \$ 50 | With application |
| Re-examination Fee | 15 | With application |
| Investigation Fee | 25 | With application |
| Pharmacist Fee | 200 | With license issuance |
| Pharmacist Renewal Fee | 200 | Every four years |
| Temporary License Fee | 20 | With permit issuance |
| Wholesale Drug Dealer Fee | 200 | With license issuance |
| Wholesale Drug Dealer Renewal Fee | 200 | Every four years |
| Retail Pharmacy Fee | 200 | With license renewal |
| Retail Pharmacy Renewal Fee | 200 | Every four years |
| Pharmacy Interim Fee | 10 | With license issuance |
| Emergency Permit Fee | 10 | With permit issuance |
| Hospital Pharmacy Fee | 200 | With license issuance |
| Hospital Pharmacy Renewal Fee | 200 | Every four years |
| Hospital Drug Room Fee | 100 | With license issuance |
| Hospital Drug Room Renewal Fee | 100 | Every four years |
| Nursing Home and Related Facility Fee | 100 | With license issuance |
| Nursing Home and Related Facility Renewal Fee | 100 | Every four years |
| License Amendments or Renewal Fee | 10 | When applicable |

Note 1

This revenue/expenditure comparison was prepared from available records and discussions with Occupational Licensing personnel. The records were not audited by us and accordingly we do not express an opinion on the Board's Revenues Compared with Expenditures.

Note 2

The majority of the revenues collected are composed of license renewal fees. These fees are collected by most boards once every two or four years and causes revenues in one year to be much greater than the revenues collected in the next year. Therefore, we calculated and reported an average of the revenues collected in Fiscal Years 1981 and 1982 in order to obtain a more accurate representation of revenues collected.

Note 3

Expenditures include those made by board members, such as travel and per diem, and an allocated percentage (estimated) of total administrative expenses of the Division of Occupational Licensing. They do not include expenditures for efforts of other departments (such as the Department of Law) assisting the boards and the Division.

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STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

POUCH D
JUNEAU, ALASKA 99811
PHONE: 465-2500

OFFICE OF THE COMMISSIONER

June 28, 1983

RECEIVED
JUL 06 1983
LEGISLATIVE
SERIES

Mr. Gerald Wilkerson, CPA
Legislative Auditor
Audit Division
Pouch W
Juneau, Alaska 99811

Dear Mr. Wilkerson:

Re: Board of Pharmacy -
Performance Report

Thank you for the opportunity to respond to the performance audit of the Board of Pharmacy and the Division of Occupational Licensing which is dated July 1, 1980 to February 28, 1983.

We concur with your evaluation that the Board of Pharmacy should continue to exist in interest of the public's health and safety. Your suggestions will be evaluated for implementation. Those determined to improve the efficiency and effectiveness of the division and the board will be strongly supported and recommended. We have reviewed each of your recommendations and will provide you with this agency's position if we do not agree.

RECOMMENDATION #1.

The board of Pharmacy should allow the Division of Occupational Licensing (DOL) to perform its administrative duties as described in AS 08.01.050 to improve documentation and file management.

We concur in this recommendation, and cooperative efforts have recently improved. As mandated by legislation, and in the interest of efficiency, DOL is committed to assisting the Board of Pharmacy in all areas.

RECOMMENDATION #2.

The Board of Pharmacy should reevaluate its regulations governing continuing education.

June 28, 1983

This agency is continuing a review on requirement of continuing education by licensing agencies (boards). We do not agree that continued education ensures continued competency. As a licensing agency we determine that competency is the most important. Competency ensures the safety of the consumer. We also take the position that initial licensing is based on minimum qualifications; retesting on the entrance level may serve the purpose of ensuring continued competency. Continued education would, or should, be viewed as the professional association's responsibility to ensure knowledgeable professionals. This would also be in keeping with less government regulations and letting industry regulate itself.

RECOMMENDATION #3.

The Board of Pharmacy and the Division of Occupational Licensing should introduce legislation that will clarify certain statutory requirements.

We concur with this recommendation. This agency has been working with the Legislative Code Revision Committee in rewriting Title 8. This would have deleted the fragmentation throughout Title 8 and the various chapters. This effort was resisted by the board as an effort to diminish its authority. We will seek to have legislation submitted to clarify the issue of conflict within the statutes.

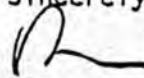
RECOMMENDATION #4.

The Office of the Governor should ensure that board members are properly appointed.

We would assure the auditors this has been addressed by the Governor's Office and by the Department of Law.

Again, thank you for the opportunity to respond to your report. Please feel free to contact this agency or the Division of Occupational Licensing if additional information or clarification is needed. Be assured, we determine your comments and findings to be fair and in the best interest of Alaskan consumers and professional pharmacist.

Sincerely,



Richard A. Lyon
Commissioner

RAL/cw#23DD1
62883B

Ulmer



DOWNTOWN REXALL DRUG
415 West 5th - P.O. Box 1420
Anchorage, Alaska 99510 • (907) 277-2567

ANCHORAGE PROFESSIONAL PHARMACY
2541 DeSarr Rd. Suite #225 • Box 1420
Anchorage, Alaska 99510 • (907) 264-1650

ULMER REXALL & TRUE VALUE HARDWARE
LAKESIDE Mall • Box 320
 Homer, Alaska 99503 • (907) 235-8594



23 March 1984

Honorable Joe L. Hayes
SPEAKER OF THE HOUSE
of Representatives
Pouch V
Juneau , Alaska 99811

Dear Joe,

Many thanks for your letter of March 17. It is gratifying to me to know that you , Representative Cowdery, and Senator Eliason are taking a hard look at what is happening regarding implementation of Alaska's Controlled Substance Act and particularly AS 17.30 of that Act.

The Board of Pharmacy was handed the ball by the Legislature, along with funding to hire an Executive Secretary and Investigator. Unfortunately these titles were not included as specific wording in the law , although these positions were repeatedly mentioned when the legislation was being considered and passed.

Board requests for an Executive Secretary , have repeatedly been ignored by the Governor, the Commissioner of Commerce , and the Director of Occupational Licensing (DOL). I believe all of them have a misconception of the intent , the importance , and the timely implementation of the Law.

Federal statistics, on file with the Alaska Department of Law , show that controlled substance from the legitimate industry account for some 60 % of deaths of patients brought to hospital emergency rooms with drug related problems (nation wide). Statistics also show , over 60% of drug related problems of patients being treated in hospital emergency rooms, come from drugs from the legitimate industry. These drugs are obtained by armed robbery, by after hour breakins, by prescriptions from unscrupulous practitioners, by forgery of prescriptions, or by sale by unscrupulous pharmacists.....but all from the legitimate industry.

The federal Drug Enforcement Administration (DEA) and state and local drug enforcement units have their hands full dealing with the "street traffic" illegitimate entrance of and use of controlled substances in all states . They rely on state laws, such as Alaska's AS 17.30 to deal with the legitimate industry. Most states effectively do this through their Boards of Pharmacy. No big bureaucracy is needed . Wyoming does it quietly, and cost effectively with one Executive Secretary and one Investigator, Under the direction of its Board of Pharmacy. Alaska would do well to emulate this program and the Board planned just that.

Ulmer



DOWNTOWN REXALL DRUG
415 West 5th - P.O. Box 1420
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ULMER REXALL & TRUE VALUE HARDWARE
Lakotita Mall • Box 520
Homer, Alaska 99603 • (907) 235-8594



23 March 1984

Honorable Joe L. Hayes
page 2.

You and Representative Cowdery and Senator Eliason all have documented evidence of the valient effort by the Board of Pharmacy to carry out the intent of the Legislature. I will not repeat all of that here, but it is important for you to know that I did spend many long hours drafting bothproposed regulations and job qualifications and a job description for the Executive Secretary. The later may be of value to you when you propose legislation to mandate creation of the position.

Again thanks for your letter , your interest , and your help in drafting and passing legislation that will clarify legislative intent . If I can be of assistance in this effort , please call me.

Since the Governor removed me from the Board, and refused to reappoint the member from Sitka and has indicated that he will not reappoint the present experienced Secretary of the Board, the Board will be down to one professional and one lay member with any real experience . The new inexperienced Board will desperately need the Executive Secretary .

Sincerely,

A handwritten signature in cursive script that reads 'Eldon R. Ulmer'.

Eldon R. Ulmer, R.Ph

Copy: Representative John Cowdery
Senator Dick Eliason
Charles Rush , R.PH. Secretary Board of Pharmacy

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

**DEPARTMENT OF COMMERCE &
ECONOMIC DEVELOPMENT**

DIVISION OF OCCUPATIONAL LICENSING

POUCH D
JUNEAU, ALASKA 99811
PHONE: (907) 465-2534

MARCH 16, 1984

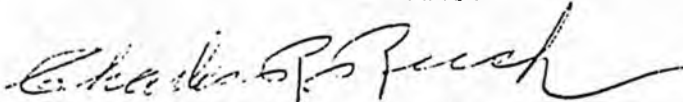
REPRESENTATIVE JOHN J. COWDERY
8120 LAKE OTIS PARKWAY
BOX 10-1623
ANCHORAGE, ALASKA
99511

DEAR REPRESENTATIVE COWDERY:

ENCLOSED ARE THE LETTER OF MR. ULMERS WHERE HE
REQUESTED THE EXECUTIVE SECRETARY AND FURNISHED
THE JOB DESCRIPTION.

APPRECIATE YOUR HELP.

SINCERELY,
ALASKA BOARD OF PHARMACY



CHARLES R. RUSH, R.PH.
SECRETARY & MEMBER

CRR/JD
ENCLOSURES:

STATE OF ALASKA

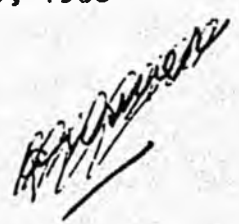
DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

DIVISION OF OCCUPATIONAL LICENSING

BILL SHEFFIELD, GOVERNOR

POUCH D
JUNEAU, ALASKA 99811
PHONE: (907) 465-2534

July 29, 1983



Eldon Ulmer, R.Ph.
Chairman
Board of Pharmacy
P.O. Box 101420
Anchorage, Alaska 99510

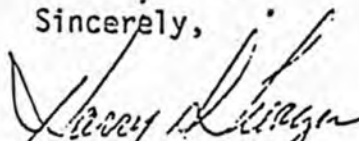
Dear Mr. Ulmer:

Re: Executive Officer Position

This correspondence is to advise you that efforts of Mr. Jim Lawson, personnel officer, Department of Commerce and Economic Development, were to no avail in changing the position of the investigator to an executive officer.

We should proceed immediately to fill the position as mandated by legislation.

Sincerely,



Harry D. Treager
Director

HDT/cw#2707
72983A
cc: Dick Long

William Sheffield,

~~XXXXXXXXXXXX~~ Governor

**DEPARTMENT OF COMMERCE &
ECONOMIC DEVELOPMENT**

DIVISION OF OCCUPATIONAL LICENSING

POUCH D

JUNEAU, ALASKA 99811

5 March 1983

Eldon R. Ulmer , R.Ph.
President, Board of Pharmacy
P.O. Box 101420
Anchorage, Alaska 99510

Mr. Harry Treager
Director
Division of Occupational Licensing
Pouch "D"
Juneau , Alaska 99811

Dear Mr. Treager:

Please consider this letter and supportive information attached , as an official request for action by you , from the Board of Pharmacy .


When you met with the Board in Juneau on February 25, 1983, you requested that I write to you asking your help in obtaining changes in the "designation of personnel" portion of the budgeted line items for implementation of AS 17.30 and AS 17.35 by the Board of Pharmacy.

You also asked for a job description for the Boards designation of "EXECUTIVE-SECRETARY-INSPECTOR" . In the five pages, attached, stating purpose , and including narrative , conclusion , and an addendum, I have attempted to do that . It is complex , to say the least, but I do believe it conveys the intent of the legislature and a means of implementing that intent.

Please expedite your request for the line item change so we may proceed at once. We are already two months into 1983 , and need to go at full speed in the next month or two .

Let me know as soon as you have hired the regulation specialist that you promised to hire and base in Anchorage. I have five pages of suggested regulations covering not only AS 17.30, but also AS 17.35 . I have a commitment from all four of the physicians to serve in the various categories on the Patient Qualification Review Committee and need the specialist to aid in getting my proposed applications for those positions . into printed form, so letters of appointment may be sent.

Sincerely,


Eldon R. Ulmer, R.Ph.

William Sheffield,
Governor

**DEPARTMENT OF COMMERCE &
ECONOMIC DEVELOPMENT**

DIVISION OF OCCUPATIONAL LICENSING

POUCH D

JUNEAU, ALASKA 99811

5 March 1983

Eldon R. Ulmer , R.Ph.
President, Board of Pharmacy
P.O. Box 101420
Anchorage, Alaska 99510

Mr. Harry Treager
Director, Division of Occupational Licensing.....

Enclosure: Five pages of supportive material.

COPY TO: Honorable William Sheffield,
Governor, State of Alaska
Pouch "A" State Capitol Building
Juneau , Alaska 99811

Richard A. Lyon, Commissioner Commerce & Econ. Dev.
Pouch "D"
Juneau , Alaska 99811

Honorable Joe Hayes, Speaker of House of Representatives
Pouch "V"
Juneau , Alaska 99811

Honorable Jalmar Korttula, President of the Senate
Pouch "V"
Juneau , Alaska 99811

Norman Gorsuch, Attorney General
Department of Law
Pouch "K"
Juneau , Alaska 99811

Dan Hickey, Chief Prosecutor,
Department of Law
Pouch "K"
Juneau , Alaska 99811

ALL MEMBERS OF ALASKA BOARD OF PHARMACY

Gerald Wilkerson, CPA
Legislative Auditor
Pouch "W"
Juneau, Alaska 99811

ALASKA STATE BOARD OF PHARMACY

IMPLEMENTATION

CONTROLLED SUBSTANCE STATUTE AS.17.30
AND

MARIJUANA THERAPEUTIC RESEARCH
PROGRAM STATUTE AS.17.35

The Legislature passed the CONTROLLED SUBSTANCE STATUTE AS 17.30 AND THE MARIJUANA THERAPEUTIC RESEARCH PROGRAM STATUTE AS 17.35 IN 1982 with an effective date of January 1, 1983.

Much of the responsibility for the implementation of these two statutes rests with the Board of Pharmacy. The legislation did not specifically address the funding for the implementation, nor the number or type of personnel that would be needed for implementation.

The Board of Pharmacy has been planning, since 1981, for the responsibilities that many believed would be vested with the Board, but could make no definite plans until enactment was accomplished and an effective date established.

The Board is now faced with problems of selecting and funding personnel to insure a timely implementation of its responsibility.

N A R R A T I V E:

Under Sec 17.30.010 Regulations must be promulgated.

Under Sec 17.30.020, (a), (b), (c), (d), (e) & (f) Registration requirements must be met.

Under Sec 17.30.030 (a), (b), & (c) Registration must be accomplished.

Under Sec 17.35 Marijuana Therapeutic Research, a program must be established, physicians interviewed and appointed to the Patient Qualification Review Committee and regulations must be adopted to assure this program is administered at a state level that is compatible with Federal Statutes.

All of above can not be accomplished in three meetings of two days each presently budgeted for the Board.

Competent, qualified and experienced personnel must be hired, and fast, to accomplish the mandate of the legislature.

With this in mind the Board as early as June 1981, started setting up a proposed budget and establishing goals and objectives, even though no law was on the books at that time.

At two of its three meetings in 1982, after the enactment of the legislation, but still prior to the effective date, the Board again established goals and an accompanying proposed budget. This fact may be verified by the minutes of all of the above cited meetings and the attached goals and objectives to those minutes.

Throughout the meetings, evidence of the Board's intent can be clearly identified. Never did the Board waver from its intent to hire a "Executive-Secretary" type person to come on board in a full time position. Various budget figures were submitted in the range of \$ 85,000.00 for the period January 1, 1983 through June 30, 1983 (a half year) to fit the fiscal budget time frame from effective date of January 1, 1983.

N A R R A T I V E : (continued)

The Board does not enjoy budget-bypass privileges and must submit a budget through the Division of Occupational Licensing . It is the Board's understanding that this budget is then submitted through the Division of Commerce and Economic Development and on to the House and Senate Budget Committees .

The Board DID submit a budget , both for the fiscal year 1983 and again for the half-fiscal year 1983(January 1, 1983 through June 30 , 1983. The 1983-84 Fiscal year budget was submitted to the Division of Occupational Licensing also, and it is presently in the process.

With each budget request , a breakdown was also submitted. In every request there is an audit trail established in the minutes of meetings and in letters. The Board always included expenses for a position that was labeled various ways , but either was called " Executive-Secretary" or a combined position of "Executive-Secretary-Investigator-Examiner.

The Board realized that a regulation specialist would be needed to promulgate all of the regulations mandated by statute and budgeted for that position also . The Board also realized that , although it has always been assigned an inspector , by the DOL , that a full time inspector would also be needed , in addition to sharing the one used in the past . This would then amount to an investigator and a half (the half one being shared with other boards) and the full time one being used in the extensive investigatory work anticipated in the drug enforcement area .

Somewhere, in the translation from Board minutes and vocal requests, made by the Board to the Director of Occupational Licensing , MUCH WAS LOST. The Board recently was made aware that line item budget items were requested OR AT LEAST GRANTED in the budget , TIED to specific personnel. This personnel is defined, according to the DOL for two regulation specialists and two investigators . These people are in addition to the regular licensing examiner that is assigned to each board and usually shared by at least one other board. The regulation specialists and the two investigators were to be the people that would aid the Board in implementing its work.

This will just NOT WORK. The Board needs an Executive-Secretary type person , comparable to those in the employee of other states , such as Washington, Oregon, and Wyoming, where state pharmacy boards have full responsibility for their states controlled substance statutes. The Board has in mind at least three people , two of which would be excellent, and who have indicated a desire to come to Alaska . These people have been employed for at least five years as executive-secretaries, and also have investigate experience , and have been involved in the administration of both controlled substance legislation and marijuana research programs . Just the type of person with just the type of experience needed in the initial

NARRATIVE : (continued)

stage of the program in Alaska . Unfortunately ,no such position is specifically listed in the job classification program of the state, directly identified with the Pharmacy Board . Similiar positions do exist with the Board of Nursing and others, but not Pharmacy.

The Board of Pharmacy does not need, in the initial organization , two investigators . The Board does desperately need an experienced executive-secretary type, on a day-by-day basis to get the programs initiated and then properly administrated .

The Director of the Division of Occupational Licensing has agreed to submit the Boards desires as to changing the budget line item identification from two regulation specialists and two investigators to the personnel that could do the job , as long as the Board stays within the budgeted dollars. The Board has been informed that it has , budgeted dollars covering the four people mentioned above, in the amount of \$ 75,000.00 for the period January 1, 1983 through June 30 ,, 1983 . The Board has asked the director of DOL to make the following request:

| | |
|---|-------------------------|
| Executive-Secretary-Inspector | range of \$45,000.00/yr |
| Estimated 30 % of salary for office etc | 13,500.00/yr |
| One full time regulation specialist | 33,000.00/yr |
| Estimated 30% of salary for office | 9,900.00/yr |
| Licensing Examiner(or secretary type) | 28,000.00/yr |
| Estimated 30 % for office etc. | 8,400.00/yr |
| <u>TOTAL FOR ONE YEAR</u> | <u>\$ 137,800.00/yr</u> |

This would break down to \$ 68,900.00 for the remainder of fiscal year 1983(half year Jan 1 through June 30 , 1983).and well under the \$75,000.00 budgeted . The figures above may be slightly off , but should be fairly close and definitely on the conservative side considering the licensing examiner budgeted above for full time Pharamcy Board work , when she would probably be used part time with another board.

The Director of The Division of Occupational Licensing has , asked that the President of The Board Of Pharmacy write him a letter asking for his cooperation in requesting the change and in addition attempt to write a job experience qualification requirements and a job description for the position of Executive-Secretary-Investigator .

The letter has been written and will be sent to the Director along with this narrative and a conclusion statement. Copies of all material will also be sent to The Governor, The Commissioner of Commerce & Economic Development, The Speaker of the House of Representatives, The President of the Alaska State Senate. all Board of Pharmacy Members, and Legislative Sunset Review Committee, and The Attorney General , and Department of Law.

CONCLUSION:

EXECUTIVE-SECRETARY-INVESTIGATOR FOR BOARD OF PHARMACY:

Qualifications:

1. Five years experience with another Board of Pharmacy, of which three years must be in the position of executive-secretary and the remainder in the position of investigator.
2. Experienced in administering controlled substance law of a state, under direction and supervision of a pharmacy board.
3. Experience in administering a marijuana therapeutic research program under the direction and supervision of a board of pharmacy.
4. Experience maintaining files and registration and licensing of pharmacists and controlled substance registrants at the direction and under the supervision of a board of pharmacy.
5. Be a registered pharmacist in a state recognized by the National Association of Boards of Pharmacy and be required to become registered as a pharmacist in the State of Alaska within six months of being hired as Executive-Secretary-Investigator by the State of Alaska.

JOB DESCRIPTION:

UNDER THE SUPERVISION AND AT THE DIRECTION OF THE BOARD OF PHARMACY AND UNDER THE MANDATES OF AS 08.01., CENTRALIZED licensing statute and AS 08.80 PHARMACY ACT.:

1. Assist Board in process of registration of all Drug enforcement registrants under the Federal Law under the AS 17.30 Alaska State Statute, including design of application form and license.
2. Maintain record of registration and licensure under AS 17.30 with such records properly maintained at the Division of Occupational Licensing.
3. INVESTIGATE violations of any state or federal law under the jurisdiction of the Board of Pharmacy and at the direction of the Board of Pharmacy and the Division of Occupational Licensing.
4. Aid Board in the administration of the Marijuana Therapeutic Research Program AS.17.35, including maintaining records at the Division of Occupational Licensing, and aiding the Patient Qualification Review Committee in processing applicants under that program.
5. Cooperate with all state and federal law enforcement agencies at direction of Board of Pharmacy.

C O N C L U S I O N . . : (continued)

6. Follow direction of DOL in maintaining records, issuing licenses, receiving fees, and any other job requirements assigned to licensing examiners, including:
 - (a) Collecting fees & issuing receipts;
 - (b) Maintaining records and files;
 - (c) Issuing & receiving application forms;
 - (d) Notifying applicants of acceptance or rejection of applicants as determined by Board;
 - (e) At direction of DOL & Board, notifying applicants for any licensure under AS 08.80 or AS 17.30 of examination dates or license renewal dates.
 - (f) Arrange space for holding examinations
 - (g) Notify applicants of results of examinations;
 - (h) Issue licenses & certificates or temporary licenses or certificates as authorized by Board
 - (i) Answer routine inquiries;
 - (j) Maintain a current registry of all licenses issued under AS 08.80 & AS 17.30
 - (k) Perform other services as requested by board consistent with requirements of AS 08.80 & AS -7.30 & AS 17.35.

7. Perform the following job description duties as mandated by and established by investigative procedures of DOL & Board.

- (a) (b) (c) etc.....to be inserted by DOL & consistent with job description duties of INVESTIGATORS.

NOTE: It is the intent of the Board of Pharmacy that the above person be employed, under state employment laws, by the Division of Occupational Licensing. The Director would, in effect, be the person's boss, and would direct the duties and performance of the person, at the request and with direct input, from the Board of Pharmacy. The person would reside in the Anchorage area, working out of the Division of Occupational License office in Anchorage.

ADDENDUM:

The above job description, narrative, and conclusion solves the problem temporarily., however the problem may ultimately have to be addressed by the legislature. The Board of Pharmacy in offering the solution, listed here, is attempting to carry out the wishes of the Legislature, so the important programs may be started at once and carried out to the best of the ability of all involved.

BOARD OF PHARMACY

Report to the Legislature FY ' 83.

Submitted August 11 , 1983

CONTENTS:

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| 1. Cover Letter . | ULMER |
| 2. Narrative Statement. | SODEN |
| 3. Statistical Overview . | BRANSON |
| 4. Review of prior years objectives . | ULMER |
| 5. Goals and Objectives for FY ' 84 | ULMER |
| 6. Budget Recommendations . | ULMER |

| | | |
|------------------|---|-------------------------------|
| Addendum # 1 : | Ulmer letter to Treagger | 5 March 1983 |
| Addendum # 2 : | Governor's letter to Ulmer | 28 March 1983 |
| Addendum # 3 : | Lawsen letter to Treager (cover letter Treager to Ulmer) | 13 April 1983 15 June 1983 |
| Addendum # 4 : | Treager letter to Ulmer | 29 July 1983 |
| * Addendum # 5 : | Notice of Proposed Regulation changes | 13 July 1983 |

* This is a FY '84 action item , but shown here as these regulations were reviewed in FY ' 83 & passed at a FY '83 board meeting.

STATE OF ALASKA

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

DIVISION OF OCCUPATIONAL LICENSING

August 11 , 1983

BILL SHEFFIELD, GOVERNOR

Board of Pharmacy
POUCH D
JUNEAU, ALASKA 99811
PHONE: (907) 465-2534

Mr. Harry D. Treager
Director
Division of Occupational
Licensing
Department of Commerce and
Economic Development
Pouch D
Juneau , Alaska 99811

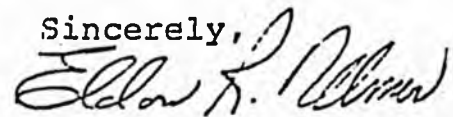
Dear Mr. Treager:

In compliance with AS 37 and AS 08 and on behalf of the Board of Pharmacy , I am submitting the enclosed Annual Report concerning the board's activities and accomplishments for Fiscal Year 1983.

In compliance with AS 37 and specifically with AS 08.80.040 (4) , and on behalf of the Board of Pharmacy , please submit this report to the Legislature.

Should there be any questions concerning this report, please feel free to contact me . Thank you.

Sincerely,



Eldon R. Ulmer, R.Ph.
President
Board of Pharmacy

Enclosure A six part report with the inclusion of five addendums.

Part 2.

Narrative Statement prepared and submitted by
Margaret Soden , R.Ph., Secretary of the Board
for FY '83

FY '83 was a significant year for the Alaska Board of Pharmacy. Not only did we have our usual number of requests for information, applicants for licensure, and general Board business to conduct at each meeting, but the Alaska Controlled Substances Act became effective on January 1, 1983. The Act impacts our Board to a great extent in that we are the responsible administrator of Title 17, Chapter 30, Regulation of Manufacture, Distribution, Prescription and Dispensing of Controlled Substances and Title 17, Chapter 35, Marijuana Therapeutic Research Program.

Because Title 17 did not become effective until January 1, 1983, we could not actually begin working on our duties as outlined in the two Sections cited above. We did, however, do much preliminary work in ascertaining how best we could handle state registration of Federal Drug Enforcement Administration (DEA) registrants (estimated to be 1000-2000 in number), the procedure for obtaining therapeutic marijuana for the research program, seeking out physicians to serve on the Patient Qualification Review Committee established in Section 35, and a number of miscellaneous administrative details.

In April 1983 the Regulations Specialist budgeted to work with the Board was hired. At our June 1983 meeting she presented regulations for the state registration of all Alaskan DEA license holders and for the Marijuana Therapeutic Research Program's Patient Qualification Review Committee. With some changes, the regulations were approved and are now in the "notice and hearing" phase. We are hopeful they will be adopted before November or December so we can begin registration and officially appoint the four physicians who have agreed to serve on the Patient Qualification Review Committee.

In general business of the Board this year we:

1. Completed inspection of all pharmacies, drug room, hospital pharmacies and nursing home drug rooms with the exception of those in Seward, Glenallen and Seldovia. We also followed up on violations observed in prior inspections such as security in two retail pharmacies and general physical conditions in one Anchorage pharmacy.

2. Observed non-compliance with prescription advertising regulations in a Fairbanks pharmacy, corresponded with the outlet in question and the problem was resolved.

3. Rewrote several questions on our Jurisprudence exam to include the Controlled Substances Statute and Marijuana Program.

4. Approved a form for the reporting of Continuing Education that will be required of pharmacists with their June 1984 renewals.

5. Asked that updated statute books be sent to all licensees. This required two printings so is in progress.

6. Sought and had preliminary approval for the Board to participate in the National Association of Boards of Pharmacy (NABP) Foundation's newsletter program. This newsletter is published quarterly with two pages of Federal regulations news and two pages of state news. It is a very worthwhile and timely publication. The DOL felt it would be more cost effective to publish a newsletter locally so withdrew approval. However no state publication has been done since Fall 1981 with the exception of a very short several paragraph letter sent to licensees in early 1982. Although \$1000 was budgeted for FY'83, no newsletter type communication from the DOL or Board of Pharmacy was sent to licensees.

7. Held a joint meeting with the Medical and Nursing Boards in February 1983 in which we discussed matters of common interest. One matter of particular concern was the emergency room dispensing of controlled substances on weekends, evenings or at other times when the pharmacist or pharmacist/consultant is not available. ~~This is a~~

This is a special problem throughout Alaska. DEA had a proposed rule change which would have allowed emergency controlled substances to be allowed in such situations, but nationally it met with a great deal of opposition. We were the "cry in the wilderness" in favor. DEA has now dropped the whole idea. The Alaska Board of Pharmacy cannot write regulations counter to Federal law so the problem will remain.

8. Reviewed several requests from individuals and groups for approval of Continuing Education programs not strictly meeting the requirements of our regulations.

9. Received a favorable opinion from Attorney General, Wilson Condon, covering our Board's desired policy regarding investigations handled by DOL.

10. Attempted to come to some understanding with the Alaska Dental Society and the Board of Dental Examiners relating to the practice by some dentists of writing prescriptions outside their area of expertise. Many pharmacists were refusing to fill prescriptions for non-dental related conditions and some tension was the result.

11. Acted on proposals or legislation of interest either as a Board or individually. Some of them were:

- a. Alaska Code Revision-did not support as currently written.
- b. HB 10 Imitation Controlled Substances-supported with qualification.
- c. HB 225 Use of Drugs by Optometrists-did not support as written.
- d. Proposed change in regulations regarding "keys to a pharmacy."
- e. Repealed several CE regulations-a "housekeeping" measure.

12. Began preparing for Sunset Review in 1984. Carol Carroll, Legislative Audit, attended our February 1983 meeting and we discussed several activities and questions she had with regard to Pharmacy Board policy or procedure. We individually received and responded to "Interim Letter No. 1" from the Committee.

Our primary continuing concern is with the need to proceed with implementation of Title 17, Sections 30 and 35 with all due haste. Over seven months have passed and little concrete progress appears to have been made. We are particularly concerned with the staff budgeted to put Title 17, Sections 30 and 35 into effect. The Board was budgeted for two Regulations Specialists and two Investigators. We feel very strongly that two Regulations Specialists are not needed nor are two Investigators needed to do the work our portion of Title 17 requires. We have requested on several occasions that the one Regulations Specialist and one Investigator positions budgeted (but unfilled to this date) be somehow changed to encompass an "executive secretary/inspector" (various titles may be used) type person who would directly attend to the administrative duties we are now required to handle. Our licensing examiner cannot be expected to fulfill these functions along with her other duties. It is important that this position be filled by someone familiar with pharmacy nomenclature, pharmacy procedures, the administration of a Controlled Substances Act and Marijuana Program, and be able to handle and review the registration of 1000 to 2000 Alaska Controlled Substances licensees as a year long, on going process. This person could also serve as an inspector since that activity will increase with the implementation of Title 17. This

would also release the Pharmacy Board members from an inspection function which they do as personal time and funds allow. For a more complete discussion, see the attached letter and review of the Board's position written by Mr. Eldon Ulmer, Chairman.

The second major concern is for some sort of timely publication to be sent to all licensees. Since we are currently implementing a whole new section of regulations that very directly impact the practice of the pharmacy profession in this state, some means of communication is vital. The Board would prefer participation in the NAEP program since it encompasses both Federal and state activities. Since many other states participate in the program, the cost of publication is shared. Timely communication to licensees is the key to our concern and in FY '83 there was none. We are hopeful the \$1000 we included in Budget FY '84 for a newsletter will be used to achieve this goal.

Part 3

BOARD OF PHARMACY
FISCAL YEAR 1983
STATISTICAL REPORT

EXPENDITURES

Travel & Per Diem.....\$9,196.25
Contractual.....\$1,600.11

RECEIPTS

Application & License Fees.....\$8,128.00

LICENSES ISSUED

Pharmacists.....26
Retail Dealers.....4
Wholesale Dealers.....0
Hospital Pharmacies.....1
Hospital Drug Rooms.....0
Nursign Home Drug Rooms.....0
License Renewals.....1

EXAMINATIONS

June 28-29, 1983 NABPLEX EXAM, Anchorage, Alaska

Three Candidates - PASS: 3 FAIL: 0

BOARD MEETINGS

October 7-8, 1982 Fairbanks, AK

February 24-25, 1983 Juneau, AK

June 28-29, 1983 Anchorage, AK

Part 3.

Statistical Overview prepared and submitted by
Licensing Examiner Barbara Branson for FY '83.

Part 4: Review of Prior Year Objectives

The Board of Pharmacy enumerated eight objectives for FY '83. Several of these have been discussed previously in the "Narrative Statement" but will be repeated here to comply with the requested format. The eight objectives were:

1. Inspect all pharmacies licensed under the Board of Pharmacy Jurisdiction. The board's activity as to inspections was limited due to lack of funds and time. The board realized that the implementation of its responsibilities under AS 30 and AS 35 would make it impossible to inspect all pharmacies. The board decided to follow up in problem areas that were revealed in the massive inspections conducted in FY '81 and FY '82. Almost all pharmacies had been inspected in those two years. This would delay the next statewide inspection of pharmacies until FY '84, rather than to spend funds that might jeopardize the board's fiscal ability to conduct the three board meetings programmed for FY '83. The problem area follow up revealed that the installation of a sink in one pharmacy had been accomplished, that adequate security of those pharmacies (who closed their prescriptions departments when other areas of the store were open) had been accomplished, and that house keeping measures had been improved in those areas where adequate cleanliness had been found to be below approved standards.
2. Establish continuing education method of reporting and auditing for licensure requirements for 1984. The board adopted the reporting and auditing system developed by Sid Fry, R.Ph., professional member of the board from Sitka. A form was approved, to be mailed with the license renewal statement. Pharmacists will be required to submit the completed form, showing they have completed the required number of continuing education hours, with the understanding that a spot check system of those hours will be conducted.
3. Meet the requirements of the Controlled Substance Act AS 30 and The Marijuana Therapeutic Research Program Statute AS 35. These two statutes, although passed by the legislature in 1982, did not go into effect until January 1, 1983. There were no funds available for half of FY '83 for the implementation of the statutes. This crammed all effort by the board into the six month period from January 1, 1983 until June 30, 1983. The board was aware of this and spent many hours individually, and collectively, prior to the first meeting of the board in February of 1983, preparing proposed regulations so that a running start could be made at the February meeting. Pages of these proposals were prepared by the president of the board and brought to the February meeting. The board had requested that a representative from the Attorney General's office and a representative from the Special Prosecutor's Office be in attendance at the February meeting. This request was granted and these two professionals were very helpful in the area of regulations.

3. (continued)

The many pages of proposed regulations presented by the president of the board, were considered in depth by the board. It was agreed that this was a starting point, but that many more pages would be necessary before all subjects and requirements were met. Several facts were made available to the board at the February meeting, that here-to-fore were not known by the board. The board started as early as FY'81 (as substantiated by minutes of meetings in Fy 81 and FY '82) planning for action under the then proposed controlled substance act that was being considered by the legislature. The board realized (again substantiated by minutes of meetings of FY'81 and FY'82) that the board would need certain personnel, within the Division of Occupational Licensing (DOL) to effectively administer a controlled substance act, if the board was given the responsibility of administering the act. The board placed high priority on the hiring of an executive-secretary type person, on a full time basis, who would work within the jurisdiction of the DOL, but at the direction and guidance of the board. The board realized that it would need a full time regulation specialist and after the regulations had been adopted, and a licensing system had been established, possible the service of an investigative person. Some of these requests were provided for when the DOL submitted the board's budget to the budget process for FY'83. The most needed position request was completely ignored by the DOL when the line items were submitted to the legislature via the budget process. The position of executive-secretary had been left out and instead, the budgeted dollars for personnel that were allowed with enactment of the Controlled Substance Act and AS 35, were submitted requesting two investigators. The board was frustrated by this action of the DOL, since the board had not been made aware of the line item requests made by the DOL. An investigator will be needed in FY 85 or FY'86. Investigators are not needed until the licensing process is established so there are licenses to investigate, if problems occur. The hiring of investigators will accomplish nothing in the early stages of implementation of AS 30 and AS 35. Dollars will be wasted. Investigators specifically hired (not under the intent of the legislature when enacting AS 30 and AS 35) will sit on their hands, or be used by the director of DOL in other areas outside the budget of the board of pharmacy and in violation of the intent of the legislation. The board knows that the Controlled Substance Acts of Washington, Oregon, and Wyoming were all put in place effectively, with the aid of an executive secretary type person. These three states have established programs and have been effectively operating them for from five to seven years. They do so with the help of a full time executive secretary type person. The board has knowledge that there are a number of people who have been working in the programs of those three states, both as executive secretaries and investigators, who are interested in coming to Alaska in a like position. The board does not know of any person presently with the DOL or available in Alaska who could qualify for this highly technical and specialized position.

3. (continued)

When the director of DOL advised the board that the budget line items could not be changed and that his plan was to hire the two investigators, the board was in shock. An immediate evaluation of what would happen under such a plan revealed the fact that the program would be in jeopardy and indeed probably completely delayed until the action by the director of the DOL could be changed or altered. The director then advised the board that the only remedy was to submit a request to the department of personnel that a "special exemption" status be enacted and that an executive-secretary position be created under the special exemption process. The other alternative is to seek legislative action. Since time is already a prime factor, a delay until legislative action can be taken in January or February of 1984, would seriously delay placing the provisions of AS 30 and AS 35 on stream. The board requested that the director of DOL apply for a special exemption status and proceed full speed with the request. The director asked the president of the board to write him a letter, requesting that this action be taken. He also requested that the president of the board write a job description for the executive-secretary position and provide the qualifications for the job. The president of the board spent many hours drafting the qualifications and the job description and sent them with a cover letter to the director of DOL with copies to the Governor, the Legislative Audit Committee, and the Speaker of the House and President of the Senate as well as to the Attorney General and the Commissioner of Commerce & Economic Development. A copy of that letter and the qualification paper and job description are attached to this report as Addendum # 1. A copy of the letter from the Governor, in reply to the receipt of all the material that went to the director of DOL, is attached to this report as Addendum # 2. The request, through the personnel officer of the DOL to the personnel office of the state, was garbled. This is evident from the letter of reply written to the request. The letter rejecting the request states that an exchange of the "positions" of investigators to the "positions" of executive type personnel was denied. The board did not ask that the two investigator positions be exchanged for two secretary type positions. It asked that the two positions of investigators be changed to ONE POSITION OF EXECUTIVE-SECRETARY. This exchange would result in one less person being hired and would be cost effective due to the elimination of one position. Not only would the exchange benefit the board in implementation of AS 30 and AS 35, BUT DOLLARS WOULD BE SAVED. A copy of the memorandum of April 13, 1983 to the director of DOL from the personnel officer of DOL, Jim Lawson, is attached as Addendum # 3. The board meeting in June of 1983, again asked the director of DOL to appeal the decision of the personnel director, and to specifically state that only one person was being asked for instead of two. The director apparently did appeal and a copy of the letter of July 29, 1983 written by the director of DOL to the president of the board, advising of the failure of the appeal, is attached as Addendum # 4.

3. (continued)

The board has spent much valuable time in FY'83 trying to convince the director of DOL, the Commissioner of Commerce & Economic Development, and the Governor that the board believes the intent of the legislature in the enactment of AS 30 and AS 35 was to get the job done. The board believes that the pressure by-pass special exemption method of securing the necessary qualified personnel in the DOL to aid the board in implementing AS 30 and AS 35 should and could be used, if it were presented properly. The progress of the board in implementing the statutes has been greatly impeded by the lack of the qualified personnel. The director of DOL finally hired a regulation specialist, who came on board in mid April 1983. This regulation specialist has been of great help and with the help of a regular regulation specialist in the Juneau office of DOL, prepared regulations that were patterned after those written by the president of the board. These proposed regulations were presented to the board at the June 1983 meeting. Changes were made and the proposed regulations were asked to be put in final form and promulgated as soon as possible. An outline copy of these regulations is attached as Addendum #5. Irregardles to all the road blocks that have impeded implementation of AS 30 and AS 35, the following has been accomplished:

- A. The board president contacted, first by phone, and then where needed, by letter....the following:
- Federal Drug Administration (FDA)
 - The National Institute of Drug Abuse (NIDA)
 - The Drug Enforcement Administration (DEA)
(State level, Regional level, National level)
 - The National Eye Institute (NEI)
 - The National Cancer Institute (NCI)

The FDA sent copies of the Group Guidelines for the use of Delta-9-Tetrahydrocannabinol (THC) NSC 134454 along with registration forms, order forms, and information on obtaining marijuana for use when implementing AS 35. The DEA sent a complete print out of all DEA registrations in Alaska (some 1000), when the board president wrote them and explained that the list was imperative to the program in Alaska. The board president further asked and received a letter from DEA allowing limited distribution of this list to pharmacies (as the only people other than the board and its extensions) who have a need for this list. The NIDA, the federal agency authorized to issue THC, promised to co-operate with the board when regulations are implemented, so we have a source of THC (marijuana derivative) for the research program.

- B. The president of the board contacted many ophthalmologists, radiologists, psychiatrists and members of the Medical Board, in an effort to stimulate as much interest as possible with those professionals so they would apply for appointment to the Patient Qualification Review Committee (As 17 35). Copies of the law were handed out at a meeting of the psychiatry Association meeting,

3. (continued)

resulting in the application from a psychiatrist, a radiologist, an ophthalmologist and a response from a member (professional member) of the medical board. The president of the board, with the help of the regulation specialist, designed an application form to be used by these professionals. The professionals filled the forms out and sent them to the president of the board, who presented them at the June meeting. All were approved for appointment and the president of the board (attested to by the secretary) mailed official letters of appointment to the four physicians. As soon as promulgations are finalized, this Patient Qualification Review Committee will meet and the program will be initiated.

C. The board is still pursuing with vigor the attempt to bring an executive secretary on board at DOL.

D. Controlled substance license forms are being designed with the help of the regulation specialist. The concept, if not the actual form, was approved at the June meeting. This form will speed up the licensure of those that are required to be licensed under AS 30, as soon as all regulations are promulgated, hopefully early FY '84.

E. The president of the board did write a qualification paper for an executive secretary and also a job description (see Addendum #1).

F. Regulations as evidenced by Addendum # 5 are being promulgated, after approval at June meeting of the board.

G. In summary, a great deal has been done and a great deal of it by individual action by dedicated board members. A great deal more could have been accomplished with the help of qualified personnel.

4. Promulgate regular regulations (other than those mandated by AS 30 & AS 35). The board at a regular meeting voted on the need for regulations that would specifically allow the secretary of the board to keep "copies" of applications for registration and back up material copies to aid all board members in the issuing of temporary permits. A board member assumes a great responsibility when he/she issues one of these permits. The board member needs to be able to verify that all material submitted is factual and all necessary requirements are met. The personnel at DOL have demonstrated a lack of knowledge to look at documents and verify facts. A board member, assuming the responsibility for the qualifications of an applicant, when a temporary permit is issued, would be remiss indeed if all material is not checked by a professional member of the board. This person should be the secretary, who should have copies of all documents, so the proper information can be transmitted to the issuing board member. The board member is responsible, not a member of DOL staff, who might interpret information wrong and result in a license being issued without proper qualification. The director of DOL told the regulation specialist to put that regulation "on the back burner" and not do anything about it. Result.....no regulation, even though voted on

5. News letter in cooperation with the National Association of Boards of Pharmacy (NABP). The NABP in cooperation with most of the 50 states, prints a news letter and mails it to pharmacists within the states. The NABP, uses 50 % of the space in the . . . letter for national news, and the boards of pharmacy of participating states send in state news, thus supplying the other 50 % of the news letter. The NABP puts this together and mails each state the news letter pertaining to their individual states. This usually is mailed from the NABP after approval of the participating state. The board in regular session unanimously approved participation in this program. The secretary was instructed to obtain all the details and if it could be done within the budget, to proceed with the letter. The director of DOL had a ten or fifteen minute telephone conversation with a member of the attorney general's office, and as a result nixed the letter. Result No news letter, although it is greatly needed to make regulons aware of ANP and PA licensure as well as regulation changes and board actions. Most states, if they have the financial means (board's budget prived funds) participate in this very worth while project. Alaska does not and the board wonders why, when it was passed in regular session and funds budgeted for it.
6. Department news letter. (DOL). The board was told that the DOL was planning a department news letter that could and would contain news items from all boards that are associated with DOL. The board (or boards) were to submit news items when this publication was to go to press. To the boards knowledge no such letter was published in FY '83 and if it was, no news was solicited from the pharmacy board.
7. Conduct three regular board meetings during FY '83. The board did conduct three meetings during FY'83. The dates and location of these meetings was: October 7 & 8, 1982 in Fairbanks; February 24 & 25, 1983 in Juneau; June 28 & 29, 1983 in Anchorage. Most material covered in those meetings is reported in the "Narrative Report", so will not be repeated here other than to note that the goal of holding three meetings was met.
8. Board response to sunset. The members of the board of pharmacy were made aware of the provisions of sunset legislation by the receipt of a letter written February 24, 1983, from the Legislative Audit Committee. The letter asked that the board respond to a questionnaire. The board did. The next communication from the Legislative Audit Committee was in the form of "Interim Letter No. 1" that was written April 12, 1983 and addressed to each board member. Most board members answered this letter. Documents, letters, and facts were submitted by some board members. The board stands ready, willing, and able to testify, within the budget, or board members individual means, when so asked by the Legislative Audit Committee. The board welcomes the opportunity to present it's argument as to why the board should stay in existance.

1. Inspections:

Inspections of pharmacies was at a minimum during FY '83 due to the pressing demand on the board's time and funds. It is believed that a full scale state wide inspection of pharmacies will be initiated in FY '84. The two professional board members from South Eastern Alaska will team up to cover all of South Eastern. These board members will take advantage of super saver fares when possible and will schedule their inspection so the entire area is covered on one trip . Ideally the board likes to have a professional member team with a non-professional, but there is no non-professional in South Eastern Alaska. This mandates that two professionals conduct that portion of the state wide inspections. Central and North Western Alaska can be covered by having the non-professional member from Anchor Point travel to Fairbanks and team with the professional member there. The two can then inspect all of the Fairbanks area, fly on to Nome and other areas in Central and cover all pharmacies in those areas. The two professional members in the Anchorage area can team with the non-professional member in Anchorage and cover all of the Anchorage area as well as the Matanuska Valley , and areas along the highway . The non-professional member from Anchor Point will be met on the Kenai by one of the professional members from Anchorage to cover all of the Kenai Peninsula . One of the professional members from Anchorage will join with the non-professional from Anchorage and inspect Cordova, Valdez and Kodiak. This plan should effectively cover the state in FY '84, and within the budgeted amount of \$ 5,000.00 (requested).

2. Continuing Education Requirements for Licensure in 1984 and the Future. All regulations will be coming up for re-licensure during 1984 . The board has adopted a program that will allow continuing education credits to be used to satisfy the requirements for competency under AS 08.80.040(8). The board has adopted regulation that will be in force during the registration and re-registration of regulons in 1984 and following years. The board will follow these regulations in 1984 and re-register all applicants who submit the required hours of continuing education and pay the fee. A system for spot checking requirements is established and will be in effect utilizing personnel from the DOL and board members .

3. Establish, by Regulation , the Procedure for Administration of the Controlled Substance Act AS 17 35 and the Marijuana Therapeutic Research Program, AS 17 35 and Proceed to Administer the Acts: The Federal Controlled Substance Act of 1970 as ammended was put in place in 1970. From that time until January 1 , 1983 , Alaska did not have a workable state controlled substance act. All other 49 states did pass controlled substance acts . Alaska was the last. When the legislature was considering a controlled substance act in the many years between 1970 and 1983 , they always ran into problems and for one reason or another always aborted the efforts . The legitimate industry must have an Alaskan State Controlled Substance Act to exist in harmony with

3. (continued)

Federal Statutes. During 1982 a serious effort by the legislature resulted in the passage of an Alaskan Controlled Substance Act AS 17.30 and a companion act The Marijuana Therapeutic Research Program, AS .35. The board of pharmacy attended hearings with the legislative committees and contributed information and expert testimony. In doing so they worked, with the help of those in state government who desired the passage of the act, to write the legitimate industry portion of the act. This portion is known as AS 17 30. The legislature was in doubt as to what board or commission or department should administer the act. During the hearings the board of pharmacy demonstrated knowledge, both in writing the legitimate industry portion, and in an understanding of how it would relate and function with the Federal Act. The question was asked "Does the Board of Pharmacy have the ability and knowledge to administer AS 17 30 and AS 17 35?". The answer given by board members who testified was a resounding "YES", but a qualified "YES". The board has knowledge as to how Washington, Oregon and Wyoming administer their controlled substance acts and the board knew that it could do the same....given the proper tools and funds. One of the qualifications was that qualified personnel, be hired within the DOL, to assist the board. This qualified personnel should be in the form of an executive-secretary, who should be a pharmacist, and if not registered in the state, be required to become registered in the state. With this qualified and experienced help, the board would be able to properly and promptly put in place all the requirements of AS 17 30 & AS 17 35. The board believed that this would take place, and investigated the availability of qualified people, and found at least three people who qualified. These people had many years (from 5 to 8 years) of experience with pharmacy boards from our neighboring states to the south. The board planned to bring one of these people on line at an early date. The board, as outlined in Section 4 of this report, ran into difficulties, not of their doing, but brought on by the erroneous submission of the request for two investigators instead of the one executive-secretary that the board, in documented minutes, requested. It is the board's goal for FY '84, to have the executive-secretary position placed in the personnel division of the state, so this position may be filled. It can be done by special exception, and done rather rapidly, or it can be done by legislative action early in 1984. It must be done to assure proper implementation of AS 17 30 & AS 17 35 and at the earliest date possible. The board has submitted FY '84 budget as part 6 of this report and has budgeted \$ 35,000.00 for what remains of FY '84, and \$ 52,000.00 in FY '85 and \$ 56,000.00 in FY '86. These budget requests are reasonable and are necessary to get the job done. One person does the job in Washington, in Oregon and in Wyoming. Two investigators are not needed. The board has submitted a budget of \$15,000.00 per year for each of the years FY'84, FY '85 and FY '86, as a travel expense item for the executive-secretary. The executive-secretary, in future years, could take over

3 (continued)

much of the inspection of pharmacies , in conjunction with board members in the various geographic areas of the state. The executive-secretary could also do most of the investigation work , with the help of investigators now employed by the DOL, without hiring additional investigators. This is how the program works in the three states referred to previously in this report. It is effective and it is cost effective. The board has requested \$ 35,000.00 for a regulation specialist for the FY '84 and reduced this to \$ 33,000.00 in FY '85 and to zero in FY'86. Most of the regulations needed should be in place by the end of FY '85. The board has requested that no money be spent or put in the board's budget for investigators for FY 84. The licenses must be issued and in place prior to being able to investigate license violations . The board has requested \$ 45,000.00 a year for investigator hire in FY 85 and again in FY' 86 , as by that time investigations will be in order and indeed needed. The board has requested \$15,000.00 for licensing regulons in each year of FY'84, FY '85 and FY '86., and this amount of money represents the board's share of the expense for a licensing examiner that is shared by other boards. The board has submitted the amount of \$ 1,000.00 per year for each of FY '84, FY '85 and FY '86 for the production of a news letter. It is one of the board goals that this be done in conjunction with the NABP news letter . The board has requested the sum of \$18,000.00 to conduct three board meetings in FY '84 and the sum of \$ 20,000.00 for FY '85 and the sum of \$22,000.00 for FY '86 . The board has requested the sum of \$ 5,000.00 to help defray the cost of board members being represented at hearings during sunset . In 1979 board members paid their own way to these hearings at a considerable out of pocket expense that should not be a responsibility of board members. Total budget requests for FY '84 is \$158,400.00, for FY '85 it is \$ 194,000.00 and for FY '86 it is \$163,000.00

4. Promulgate Regulations to Carry Out the Purpose of AS 80, That Have Not Been Previously Considered Due to Work Loads
The board is projecting an expense (budget request) of \$3,000.00 for each year, FY '84, FY '85, and FY '86. This amount should cover actual costs ,not including salary for the regulation specials ,that is submitted elsewhere in budget request.

5. News Letter:

Although the board has been temporarily stopped by action of the director of DOL , from a cooperative effort with the NABP in the production of a news letter, the board has as a goal in FY '84 the establishment of the news letter. The board has asked the attorney general representative , who gave an unofficial negative response to the request the first time, to take an indepth look at the legal problems that are imagined ,to determine that they really do not exist. Most other states have this program with no problems. Alaska should also benefit from the cooperation of NABP in supplying a good news letter to all regulons.

6. The Board Plans Three Regularly Scheduled Meetings for FY' 84 and is Projecting a Like Amount for Each year FY'85 & FY'86
The board will continue to hold at least one meeting a year in Juneau and for FY '84 , has scheduled the fall 1983 meeting in Juneau on October 27 & 28 , 1983. There will probably also be a meeting in Juneau in February 1984 and the June meeting will be held (at an undecided location) and at the time the NABPLEX (national) examination is scheduled nationwide . The board may also hold telephone teleconferences , in FY '84 , in an attempt to expedite implimentation of AS 30 & AS 35 and as a necessity due to limited funds and time. Projected costs are FY'83-'84 & '85 is \$18,20, and \$22,000.

7. The Board Will Respond to Legislative audit Under "Sunset" Legislation to Justufy the Existance of the Board.
The board strongly feels that the board system is the best method of administering pharmacy laws and regulations, and to this end will present testimony to the legislative audit committee and the various committees of the legislature, when this is necessary . The pharmacy board was given a vote of confidence , when the Controlled Substance Act was implemented . The legislature felt at that time that the pharmacy board could administer the Act in a knowledgable and cost effective way. The board in reacting to that confidence is attempting to do just that and to conduct the duties of the board in a responsive and effective manner. Costs are projected as \$ 5,000.00 for FY'84 and no costs for FY '85 & FY' 86 as the two later years are non-sunset years.

Part 6. Budget Recommendations FY '84 With Estimates Budget
Recommendations for FY '85 and FY'86:

| ITEM | BUDGET FY '84 | BUDGET FY'85 | BUDGET FY '86 |
|--|---------------------|---------------------|---------------------|
| 1. Inspections | \$5,000.00 | \$ 5,500.00 | \$ 6,000.00 |
| 2. Continuing Education | 5,000.00 | -0- | -0- |
| 3. Controlled Substance Act. AS 30 & AS .35 | | | |
| A. Executive Secretary | \$35,000.00 | \$52,000.00 | \$56,000.00 |
| B. Travel for Ex-Sect. | \$15,000.00 | \$15,000.00 | \$15,000.00 |
| C. Regulation Specialist | \$35,000.00 | \$33,000.00 | -0- |
| D. Investigator | -0- | \$45,000.00 | \$45,000.00 |
| E. Licensing Examiner (Shared expense) | \$15,000.00 | \$15,000.00 | \$15,000.00 |
| 4. Registration Of Regulons | \$ 3,000.00 | \$ 3,000.00 | \$ 3,000.00 |
| 5. News Letter | \$ 1,000.00 | \$ 1,000.00 | \$ 1,000.00 |
| 6. Board Meetings (3 a year) | \$18,000.00 | \$20,000.00 | \$22,000.00 |
| 7. Response to Sunset | \$ 5,000.00 | -0- | -0- |
| TOTALS | \$158,400.00 | \$194,000.00 | \$163,000.00 |

William Sheffield,
~~XXXXXXXXXXXX~~ Governor

DEPARTMENT OF COMMERCE &
 ECONOMIC DEVELOPMENT

DIVISION OF OCCUPATIONAL LICENSING

POUCH D

JUNEAU, ALASKA 99811

5 March 1983

Eldon R. Ulmer , R.Ph.
 President, Board of Pharmacy
 P.O. Box 101420
 Anchorage, Alaska 99510

Mr. Harry Treager
 Director
 Division of Occupational Licensing
 Pouch "D"
 Juneau , Alaska 99811

Dear Mr. Treager:

Please consider this letter and supportive information attached , as an official request for action by you , from the Board of Pharmacy

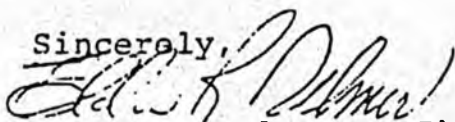
When you met with the Board in Juneau on February 25, 1983, you requested that I write to you asking your help in obtaining changes in the "designation of personnel" portion of the budgeted line items for implementation of AS 17.30 and AS 17.35 by the Board of Pharmacy.

You also asked for a job description for the Boards designation of "EXECUTIVE-SECRETARY-INSPECTOR" . In the five pages, attached, stating purpose , and including narrative , conclusion , and an addendum, I have attempted to do that . It is complex , to say the least, but I do believe it conveys the intent of the legislature and a means of implementing that intent.

Please expedite your request for the line item change so we may proceed at once. We are already two months into 1983 , and need to go at full speed in the next month or two .

Let me know as soon as you have hired the regulation specialist that you promised to hire and base in Anchorage. I have five pages of suggested regulations covering not only AS 17.30, but also AS 17.35 . I have a commitment from all four of the physicians to serve in the various categories on the Patient Qualification Review Committee and need the specialist to aid in getting my proposed applications for those positions into printed form, so letters of appointment may be sent. :

Sincerely,



Eldon R. Ulmer, R.Ph.
 President, Board of Pharmacy

William Sheffield,
Governor

DEPARTMENT OF COMMERCE &
ECONOMIC DEVELOPMENT

DIVISION OF OCCUPATIONAL LICENSING

POUCH D

JUNEAU, ALASKA 99811

5 March 1983

Eldon R. Ulmer, R.Ph.
President, Board of Pharmacy
P.O. Box 101420
Anchorage, Alaska 99510

Mr. Harry Treager
Director, Division of Occupational Licensing.....

Enclosure: Five pages of supportive material.

COPY TO: Honorable William Sheffield,
Governor, State of Alaska
Pouch "A" State Capitol Building
Juneau, Alaska 99811

Richard A. Lyon, Commissioner Commerce & Econ. Dev.
Pouch "D"
Juneau, Alaska 99811

Honorable Joe Hayes, Speaker of House of Representatives
Pouch "V"
Juneau, Alaska 99811

Honorable Jalmar Kerttula, President of the Senate
Pouch "V"
Juneau, Alaska 99811

Norman Gorsuch, Attorney General
Department of Law
Pouch "K"
Juneau, Alaska 99811

Dan Hickey, Chief Prosecutor,
Department of Law
Pouch "K"
Juneau, Alaska 99811

ALL MEMBERS OF ALASKA BOARD OF PHARMACY

Gerald Wilkerson, CPA
Legislative Auditor
Pouch "W"
Juneau, Alaska 99811

ALASKA STATE BOARD OF PHARMACY

IMPLEMENTATION

CONTROLLED SUBSTANCE STATUTE AS.17.30
AND

MARIJUANA THERAPEUTIC RESEARCH
PROGRAM STATUTE AS.17.35

The Legislature passed the CONTROLLED SUBSTANCE STATUTE AS 17.30 AND THE MARIJUANA THERAPEUTIC RESEARCH PROGRAM STATUTE AS 17.35 IN 1982 with an effective date of January 1, 1983.

Much of the responsibility for the implementation of these two statutes rests with the Board of Pharmacy. The legislation did not specifically address the funding for the implementation, nor the number or type of personnel that would be needed for implementation.

The Board of Pharmacy has been planning, since 1981, for the responsibilities that many believed would be vested with the Board, but could make no definite plans until enactment was accomplished and an effective date established.

The Board is now faced with problems of selecting and funding personnel to insure a timely implementation of its responsibility.

N A R R A T I V E:

Under Sec 17.30.010 Regulations must be promulgated.

Under Sec 17.30.020, (a), (b), (c), (d), (e) & (f) Registration requirements must be met.

Under Sec 17.30.030 (a), (b), & (c) Registration must be accomplished.

Under Sec 17.35 Marijuana Therapeutic Research, a program must be established, physicians interviewed and appointed to the Patient Qualification Review Committee and regulations must be adopted to assure this program is administered at a state level that is compatible with Federal Statutes.

All of above can not be accomplished in three meetings of two days each presently budgeted for the Board.

Competent, qualified and experienced personnel must be hired, and fast, to accomplish the mandate of the legislature.

With this in mind the Board as early as June 1981, started setting up a proposed budget and establishing goals and objectives, even though no law was on the books at that time.

At two of its three meetings in 1982, after the enactment of the legislation, but still prior to the effective date, the Board again established goals and an accompanying proposed budget. This fact may be verified by the minutes of all of the above cited meetings and the attached goals and objectives to those minutes.

Throughout the meetings, evidence of the Board's intent can be clearly identified. Never did the Board waver from its intent to hire a "Executive-Secretary" type person to come on board in a full time position. Various budget figures were submitted in the range of \$ 85,000.00 for the period January 1, 1983 through June 30, 1983 (a half year) to fit the fiscal budget time frame from effective date of January 1, 1983.

The Board does not enjoy budget-bypass privileges and must submit a budget through the Division of Occupational Licensing. It is the Board's understanding that this budget is then submitted through the Division of Commerce and Economic Development and on to the House and Senate Budget Committees.

The Board DID submit a budget, both for the fiscal year 1983 and again for the half-fiscal year 1983 (January 1, 1983 through June 30, 1983). The 1983-84 Fiscal year budget was submitted to the Division of Occupational Licensing also, and it is presently in the process.

With each budget request, a breakdown was also submitted. In every request there is an audit trail established in the minutes of meetings and in letters. The Board always included expenses for a position that was labeled various ways, but either was called "Executive-Secretary" or a combined position of "Executive-Secretary-Investigator-Examiner."

The Board realized that a regulation specialist would be needed to promulgate all of the regulations mandated by statute and budgeted for that position also. The Board also realized that, although it has always been assigned an inspector, by the DOL, that a full time inspector would also be needed, in addition to sharing the one used in the past. This would then amount to an investigator and a half (the half one being shared with other boards) and the full time one being used in the extensive investigatory work anticipated in the drug enforcement area.

Somewhere, in the translation from Board minutes and vocal requests, made by the Board to the Director of Occupational Licensing, MUCH WAS LOST. The Board recently was made aware that line item budget items were requested OR AT LEAST GRANTED in the budget, TIED to specific personnel. This personnel is defined, according to the DOL for two regulation specialists and two investigators. These people are in addition to the regular licensing examiner that is assigned to each board and usually shared by at least one other board. The regulation specialists and the two investigators were to be the people that would aid the Board in implementing its work.

This will just NOT WORK. The Board needs an Executive-Secretary type person, comparable to those in the employee of other states, such as Washington, Oregon, and Wyoming, where state pharmacy boards have full responsibility for their states controlled substance statutes. The Board has in mind at least three people, two of which would be excellent, and who have indicated a desire to come to Alaska. These people have been employed for at least five years as executive-secretaries, and also have investigate experience, and have been involved in the administration of both controlled substance legislation and marijuana research programs. Just the type of person with just the type of experience needed in the initial

N A R R A T I V E : (continued)

stage of the program in Alaska . Unfortunately ,no such position is specifically listed in the job classification program of the state, directly identified with the Pharmacy Board . Similiar positions do exist with the Board of Nursing and others, but not Pharmacy.

The Board of Pharmacy does not need, in the initial organization , two investigators . The Board does desperately need an experienced executive-secretary type, on a day-by-day basis to get the programs initiated and then properly administrated .

The Director of the Division of Occupational Licensing has agreed to submit the Boards desires as to changing the budget line item identification from two regulation specialists and two investigators to the personnel that could do the job , as long as the Board stays within the budgeted dollars. The Board has been informed that it has budgeted dollars covering the four people mentioned above, in the amount of \$ 75,000.00 for the period January 1, 1983 through June 30 , 1983 . The Board has asked the director of DOL to make the following request:

| | | |
|---|----------------|-----------------------|
| | Investigator / | |
| Executive-Secretary-Inspector | | range of \$45,000.00/ |
| Estimated 30 % of salary for office etc | | 13,500.00/ |
| One full time regulation specialist | | 33,000.00/ |
| Estimated 30% of salary for office | | 9,900.00/ |
| Licensing Examiner(or secretar type) | | 28,000.00/ |
| Estimated 30 % for office etc. | | 8,400.00/ |
| <u>TOTAL FOR ONE YEAR</u> | | <u>\$ 137.800.00/</u> |

This would break down to \$ 68,900.00 for the remainder of fiscal year 1983(half year Jan 1 through June 30 , 1983) and well under the \$75,000.00 budgeted . The figures above may be slightly off , but should be fairly close and definitely on the conservative side considering the licensing examiner budgeted above for full time Pharamcy Board work , when she would probably be used part time with another board.

The Director of The Division of Occupational Licensing has asked that the President of The Board Of Pharmacy write him a letter asking for his cooperation in requesting the change and in addition attempt to write a job experience qualification requirements and a job description For the position of Executive-Secretary-Investigator .

The letter has been written and will be sent to the Director along with this narrative and a conclusion statement. Copies of all material will also be sent to The Governor, The Commissioner of Commerce & Economic Development, The Speaker of the House of Representatives, The President of the Alaska State Senate. all Board of Pharmacy Members, and Legislative Sunset Review Committee, and The Attorney General , and Department of Law.

C O N C L U S I O N :

EXECUTIVE-SECRETARY-INVESTIGATOR FOR BOARD OF PHARMACY:

Qualifications:

1. Five years experience with another Board of Pharmacy, of which three years must be in the position of executive-secretary and the remainder in the position of investigator.
2. Experienced in administering controlled substance law of a state, under direction and supervision of a pharmacy board.
3. Experience in administering a marijuana therapeutic research program under the direction and supervision of a board of pharmacy.
4. Experience maintaining files and registration and licensing pharmacists and controlled substance registrants at the direction and under the supervision of a board of pharmacy.
5. Be a registered pharmacist in a state recognized by the National Association of Boards of Pharmacy and be required to become registered as a pharmacist in the State of Alaska within six months of being hired as Executive-Secretary-Investigator by the State of Alaska.

JOB DESCRIPTION:

UNDER THE SUPERVISION AND AT THE DIRECTION OF THE BOARD OF PHARMACY AND UNDER THE MANDATES OF AS.08.01., CENTRALIZE licensing statute and AS 08.80 PHARMACY ACT.:

1. Assist Board in process of registration of all Drug enforcement registrants under the Federal Law under the AS 17.30 Alaska State Statute, including design of application form and license.
2. Maintain record of registration and licensure under AS 17.30 with such records properly maintained at the Division of Occupational Licensing.
3. INVESTIGATE violations of any state or federal law under the jurisdiction of the Board of Pharmacy and at the direction of the Board of Pharmacy and the Division of Occupational Licensing.
4. Aid Board in the administration of the Marijuana Therapeutic Research Program AS.17.35, including maintaining records at the Division of Occupational Licensing, and aiding the Patient Qualification Review Committee in processing applicants under that program.
5. Cooperate with all state and federal law enforcement agencies at direction of Board of Pharmacy.

C O N C L U S I O N : (continued)

6. Follow direction of DOL in maintaining records, issuing licenses, receiving fees and any other job requirements assigned to licensing examiners, including:
 - (a) Collecting fees & issuing receipts;
 - (b) Maintaining records and files;
 - (c) Issuing & receiving application forms;
 - (d) Notifying applicants of acceptance or rejection of applicants as determined by Board;
 - (e) At direction of DOL & Board, notifying applicants for any licensure under AS 08.80 or AS 17.30 of examination dates or license renewal dates.
 - (f) Arrange soace for holding examinations
 - (g) Notify applicants of results of examinations;
 - (h) Issue licenses & certificates or temporary licenses or certificates as authorized by Board
 - (i) Answer routine inquires;
 - (j) Maintain a current registry of all licenses issued under AS 08.80 & AS 17.30
 - (k) Perform other services as requested by board consistant with requirements of AS 08.80 & AS -7.30 & As 17.35.

7. Perform the following job description duties as mandated by and established by investigative procedures of DOL & Board.
 - (a) (b) (c) etc.....to be inserted by DOL & consistant with job description duties of INVESTIGATORS.

NOTE: It is the intent of the Board of Pharmacy that the above person be employed, under state employment laws, by the Division of Occupational Licensing. The Director would, in effect, be the person's boss, and would direct the duties and performance of the person, at the request and with direct input, from the Board of Pharmacy. The person would reside in the Anchorage area, working out of the Division of Occupational License office in Anchorage.

ADDENDUM:

The above job decription, narrative, and conclusion solves the problem temporarily., however the problem may ultimately have to be addressed by the legislature. The Board of Pharmacy in offering the solution, listed here, is attempting to carry out the wishes of the Legislature, so the important programs may be started at once and carried out to the best of the ability of all involved.



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

March 28, 1983

Mr. Eldon R. Ulmer, R.Ph.
President, Board of Pharmacy
P.O. Box 101420
Anchorage, AK 99510

Dear Mr. Ulmer:

Thank you for a copy of your recent correspondence to Mr. Harry Treager regarding your request in obtaining changes in the "designation of personnel" portion of the budgeted line items for implementation of AS 17.30 and AS 17.35 by the Board of Pharmacy. You may be assured that I will give serious consideration to your comments on this important issue.

I appreciate your personally informing me of your views, and I have copied the Department of Commerce & Economic Development for Commissioner Richard Lyon's review.

Sincerely,

A handwritten signature in cursive script that reads "Bill Sheffield".

Bill Sheffield
Governor

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

ADDENDUM # 3

DEPARTMENT OF COMMERCE &
ECONOMIC DEVELOPMENT

POUCH D
JUNEAU, ALASKA 99811
PHONE: (907) 465-2534

(two part)

DIVISION OF OCCUPATIONAL LICENSING

DATE: June 15, 1983

TO: Board of Pharmacy

FROM: *Harry D. Treager*
Harry D. Treager, Director
Division of Occupational Licensing

SUBJECT: Personnel Position

The attached memorandum was received from the personnel officer.

HDT/jarH4
61583a

Attachment

MEMORANDUM

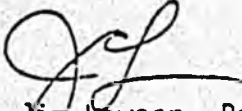
State of Alaska

to: Harry D. Treager, Director
Division of Occupational Licensing

DATE: April 13, 1983

FILE NO:

TELEPHONE NO:


FROM: Jim Lawson, Personnel Officer
Division of Administrative Services

SUBJECT: Requested Change of
Authorized Position
and Function

In response to your memo of April 7, 1983 requesting a change in title for two Investigator III positions to "Executive Officers."

These positions were budgeted for and authorized in the classified service subject to the rules of the classified personnel system. There is no classification for Executive Officer and I am, therefore, unable to effect the requested change.

JL/cw#23Q13

STATE OF ALASKA

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

ADDENDUM # 4

DIVISION OF OCCUPATIONAL LICENSING

WILL STEFFIELD, GOVERNOR
POUCH D
JUNEAU, ALASKA 99811
PHONE: (907) 465-2534

July 29, 1983

Eldon Ulmer, R.Ph.
Chairman
Board of Pharmac,
P.O. Box 101420
Anchorage, Alaska 99510

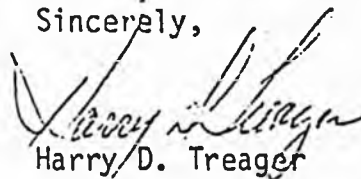
Dear Mr. Ulmer:

Re: Executive Officer Position

This correspondence is to advise you that efforts of Mr. Jim Lawson, personnel officer, Department of Commerce and Economic Development, were to no avail in changing the position of the investigator to an executive officer.

We should proceed immediately to fill the position as mandated by legislation.

Sincerely,



Harry D. Treager
Director

HDT/cw#2707
72983A
cc: Dick Long

NOTICE OF PROPOSED CHANGES IN THE REGULATIONS OF THE
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT
BOARD OF PHARMACY

Notice is hereby given that the Department of Commerce and Economic Development, Board of Pharmacy, under authority vested by AS 08.80.030, AS 17.30.010, and AS 17.35.020, proposes to adopt regulations in Title 12 of the Alaska Administrative Code, Chapter 52, dealing with regulation of manufacture, distribution, prescription and dispensing controlled substances, marijuana therapeutic research program and definitions to implement AS 17.30.020, AS 17.30.030, AS 17.30.040 and AS 17.35.030 as follows:

Article 5, General Provisions is renumbered to Article 7, General Provisions, with Article 5 being assigned to the "Regulation of Manufacture, Distribution, Prescription and Dispensing of Controlled Substances," and Article 6 being assigned to the "Marijuana Therapeutic Research Program."

12 AAC 52 is amended by adding a new article to read:

ARTICLE 5
REGULATION OF MANUFACTURE, DISTRIBUTION, PRESCRIPTION
AND DISPENSING OF CONTROLLED SUBSTANCES

Section

- 400. Registration requirements
- 405. Registration
- 410. Application forms for registration
- 415. Fee for registration and renewal
- 420. Exemption from registration and fees
- 425. Separate registration for independent activities and locations
- 430. Certificate of registration
- 435. Termination of registration
- 440. Denial, revocation and suspension of registration

12 AAC 52.400 provides that every person who manufactures, distributes, or dispenses any controlled substance, or who proposes to do so, must obtain a certificate of registration for such activity with the Board of Pharmacy.

12 AAC 52.405 provides for the effective date and expiration dates of all certificates of registration.

12 AAC 52.410 provides for the application forms for registration and procedures for an applicant applying for registration.

12 AAC 52.415 provides for an annual fee of \$10.00 for each certificate of registration issued.

12 AAC 52.420 provides for the exemption from registration and fees for any person exempted from registration under the Federal Controlled Substance Act of 1970, as amended.

12 AAC 52.425 provides that a separate registration shall be required for any person engaging in more than one group of independent activities and sets forth the categories of independent activities.

12 AAC 52.430 provides for the issuance of the Certificate of Registration by the board, the information contained on the certificate, and other requirements the board may impose on an applicant to determine if a certificate should be issued or denied.

12 AAC 52.435 provides for the termination of any registration in the event of the death of the registrant, or ceases legal existence or discontinues business or professional practice.

12 AAC 52.440 provides for the procedures for the denial, revocation or suspension of any registration and sets forth the procedures for the board, and the applicant or registrant, to follow in the event of any such action to ensure all parties' rights are protected.

12 AAC 52 is amended by adding a new article to read:

ARTICLE 6
MARIJUANA THERAPEUTIC RESEARCH PROGRAM

Section

- 600. Patient Qualification Review Committee
- 610. Application for appointment
- 620. Term of appointment
- 630. Duties of committee

12 AAC 52.600 establishes a Patient Qualification Review Committee of four members to oversee the marijuana therapeutic research program.

12 AAC 52.610 sets forth the application for appointment to the Patient Qualification Review Committee by the Board of Pharmacy.

12 AAC 52.620 provides for the term of appointment for each of the four members appointed and designating which appointee will be the chairman of the committee.

12 AAC 52.630 sets forth the duties of the committee in the management of the marijuana therapeutic research program.

12 AAC 52.900 DEFINITIONS (ARTICLE 7) is amended by adding new paragraphs to provide definitions for "compounder" and "committee."

Notice is also given that any person interested may present written statements or arguments, relevant to the action proposed by mailing or delivering them so they are received by 4:30 p.m., September 30, 1983 to:

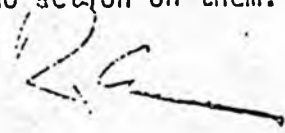
Department of Commerce and Economic Development
Division of Occupational Licensing
Board of Pharmacy - Regulations
Century Plaza
142 East 3rd Avenue
Anchorage, Alaska 99501

Copies of the proposed regulations may be obtained by writing to the above address, or by telephoning (907) 276-7969.

This action is expected to require an increased appropriation to implement and maintain the registration requirements, as specified in 12 AAC 52.400-.440. It is anticipated that the additional funding required for one-half of Fiscal Year 1984 will amount to \$17,500.00 to cover personal services, contractual, commodities and equipment (the equipment is a one-time cost). Fiscal Year 1985 is estimated to require \$26,700.00 and Fiscal Year 1986 is estimated to require \$27,900.00.

The action in regard to 12 AAC 52.600-.630 and 12 AAC 52.900(16) and (17) is not expected to require an increased appropriation.

The Department of Commerce and Economic Development, Board of Pharmacy, upon its own motion or at the instance of any interested persons, may thereafter adopt the proposals substantially as described above without further notice, or may decide to take no action on them.



Richard A. Lyon, Commissioner

DATE: JULY 13, 1983

Chapter 35. Marijuana Therapeutic Research Program.

| Section | Section |
|--|---|
| 10. Legislative purpose | 40. Sources, distribution and possession of marijuana |
| 20. Marijuana therapeutic research program | 50. Report to the governor and legislature |
| 30. Patient qualification review committee | 500. Definitions |

—

Cross references. — For declaration for legislative purpose, see § 1, ch. 45, SLA 1982 in the 1982 Temporary and Special Acts and Resolves.

—

Sec. 17.35.010. Legislative purpose. The legislature finds that recent research has shown that the use of marijuana may alleviate the nausea and ill effects of cancer chemotherapy and radiology, and, additionally, may alleviate the ill effects of glaucoma. The legislature further finds that there is a need for further research and experimentation regarding the use of marijuana under strictly controlled circumstances. (§ 5 ch 45 SLA 1982)

Sec. 17.35.020. Marijuana therapeutic research program. (a) A therapeutic research program is established in the Board of Pharmacy. The program shall be administered by the board. The board shall adopt regulations necessary for the proper administration of this chapter. Before adopting regulations, the board shall consider pertinent regulations adopted by the Drug Enforcement Administration of the United States Department of Justice, the federal Food and Drug Administration, and the National Institute on Drug Abuse.

(b) Except as provided in AS 17.35.030(e), the therapeutic research program is limited to cancer chemotherapy and radiology patients and glaucoma patients, who are certified to the Patient Qualification Review Committee by a practitioner. A patient may not be admitted to the therapeutic research program without full disclosure by the practitioner of the experimental nature of this program and of the possible risks and side effects of the proposed treatment.

(c) The board shall provide by regulation for a program of registration of therapeutic research projects. (§ 5 ch 45 SLA 1982)

Sec. 17.35.030. Patient qualification review committee. (a) The board shall appoint a Patient Qualification Review Committee to serve at its pleasure. The committee shall consist of four members with the following qualifications:

(1) two physicians licensed to practice medicine in the state, one of whom specializes in the practice of ophthalmology;

(2) a physician licensed to practice medicine in the state who specializes in the practice of psychiatry; and

(3) a physician licensed to practice medicine in the state who specializes in the practice of radiology.

(b) Members of the Patient Qualification Review Committee receive no salary but are entitled to per diem for travel and expenses authorized by law for boards and commissions.

(c) The Patient Qualification Review Committee shall review all applicants for the therapeutic research program and their licensed practitioners and certify their participation in the program.

(d) The Patient Qualification Review Committee and the board shall protect the privacy of individuals who participate in the therapeutic research program by withholding the names and other identifying characteristics of those individuals from all persons who are not connected with the research. Persons authorized to engage in research under the therapeutic research program may not be compelled in any civil, criminal, administrative, legislative, or other proceeding to identify the individuals who are the subjects of research for which the authorization was granted unless necessary to permit the board to determine whether the research is being conducted in accordance with the authorization.

(e) The Patient Qualification Review Committee may include other disease groups for participation in the therapeutic research program. However, a practitioner must present pertinent medical data to both the committee and the board before a disease group may be added. The participation of a disease group must be approved by the board consistent with applicable regulations adopted by the Drug Enforcement Administration of the United States Department of Justice, the federal Food and Drug Administration, and the National Institute on Drug Abuse. (§ 5 ch 45 SLA 1982)

Sec. 17.35.040. Sources, distribution and possession of marijuana. (a) A patient who is certified to participate in the therapeutic research program by the Patient Qualification Review Committee may obtain and possess marijuana, its derivatives, or its active ingredients, whether synthetic or natural, for the patient's own use.

(b) The board shall establish procedures by which a person authorized under this section to possess marijuana, its derivatives or active ingredients, whether synthetic or natural, may do so, subject to applicable regulations adopted by the Drug Enforcement Administration of the United States Department of Justice, the United States Food and Drug Administration, and the National Institute on Drug Abuse. (§ 5 ch 45 SLA 1982)

Sec. 17.35.050. Report to the governor and legislature. The board, in conjunction with the Patient Qualification Review Committee, shall report its findings and recommendations to the governor and the legislature regarding the effectiveness of the therapeutic research program by March 1, 1984. (§ 5 ch 45 SLA 1982)

**Article 1. Regulation of Manufacture, Distribution,
Prescription, and Dispensing
of Controlled Substances.**

Section

- 10. Regulations
- 20. Registration requirements
- 30. Registration
- 40. Denial, revocation, and suspension of registration
- 50. Order to show cause

Section

- 60. Records of registrants
- 70. Order forms; prescriptions
- 80. Unlawful administration, prescription and dispensation of controlled substances

Collateral references. — 25 Am. Jur. 2d, Drugs, Narcotics, and Poisons, §§ 7 et seq., 28 et seq.

Sec. 17.30.010. Regulations. (a) The Board of Pharmacy shall adopt regulations under the Administrative Procedure Act (AS 44.62) which are necessary for the administration of this chapter, and may charge reasonable fees relating to the registration and control of the manufacture, distribution, and dispensing of controlled substances as authorized by federal law in the state.

(b) Regulations adopted under this chapter by the board shall be patterned after federal law so that the legitimate manufacture, distribution, and dispensing of controlled substances is subject to regulations regarding registration, record keeping, order forms and prescription requirements that are identical to those required by federal law or regulations. (§ 4 ch 45 SLA 1982)

Cross references. — For penalty for furnishing false or fraudulent information in or omitting material information from any application, report, record, or other document required to be kept or filed under this chapter, see AS 11.71.040(a)(8). For penalty for failure to make, keep, or furnish any record, notification, order form, statement, invoice, or information

required under this chapter, see AS 11.71.050(a)(4).

Editor's notes. — Section 24, ch. 45, SLA 1982 provides: "Orders issued and regulations adopted under a law amended or repealed by this Act and in effect on January 1, 1983, and not in conflict with this Act continue until amended or repealed."

Sec. 17.30.020. Registration requirements. (a) A person who manufactures, distributes, dispenses, or conducts research with a controlled substance in the state or who proposes to manufacture, distribute, or dispense a controlled substance in the state, shall register annually with the board in accordance with regulations adopted under AS 17.30.010.

(b) A person registered under this chapter to manufacture, distribute, dispense, or conduct research with controlled substances may possess, manufacture, distribute, dispense, or conduct research with those substances to the extent authorized by the person's registration and in conformity with the other provisions of this chapter.

(c) The following persons may lawfully possess controlled substances under this chapter without registration:

(1) an agent or employee of a registered manufacturer, distributor, dispenser, or researcher of a controlled substance so long as the possession is incidental to the usual course of the agent's or employee's business or employment;

(2) a common or contract carrier or warehouseman, or the carrier's or warehouseman's employee, whose possession of a controlled substance is in the usual course of the carrier's, warehouseman's, or employee's business or employment;

(3) an ultimate user or a person in possession of a controlled substance under a lawful order of a registered practitioner or in lawful possession of a schedule VA controlled substance.

(d) The board may, by regulation, waive the requirement for registration of certain manufacturers, distributors, or dispensers if it finds it consistent with public health and safety.

(e) A separate registration is required for each principal place of business or professional practice where the applicant manufactures, distributes, or dispenses controlled substances.

(f) The board may inspect the establishment of a registrant or application for registration in accordance with regulations adopted by the board. (§ 4 ch 45 SLA 1982)

Cross references. — For penalty for refusal of entry into a premises for an inspection authorized under this chapter, see AS 11.71.060(a)(5); for schedule VA substance, see AS 11.71.180.

Sec. 17.30.030. Registration. (a) The board shall register an applicant to manufacture, distribute, or dispense controlled substances listed in the schedules established under federal law unless it finds that the registration would be inconsistent with the public interest. In determining the public interest, the board shall consider the following factors:

(1) maintenance of effective controls against diversion of controlled substances into other than legitimate medical, scientific, or industrial channels;

(2) compliance with applicable state and local law;

(3) a conviction of the applicant under federal or state laws relating to controlled substances;

(4) past experience in the manufacture, distribution, or dispensing of controlled substances and the existence in the applicant's establishment of effective controls against diversion of controlled substances

into other than legitimate medical, scientific, or industrial channels;

(5) furnishing by the applicant of false information in an application filed under this chapter;

(6) suspension or revocation of the applicant's federal registration to manufacture, distribute, or dispense controlled substances as authorized by federal law; and

(7) any other factors relevant to and consistent with the public health and safety.

(b) A practitioner registered under federal law to conduct research with controlled substances shall be issued a registration to conduct research with these substances in the state if the practitioner furnishes the board with evidence of the federal registration.

(c) A manufacturer, distributor, or dispenser who complies with federal law pertaining to registration requirements other than fees is entitled to be registered under this chapter. (§ 4 ch 45 SLA 1982)

Sec. 17.30.040. Denial, revocation, and suspension of registration. (a) A registration applied for or issued under AS 17.30.030 to manufacture, distribute, dispense, or conduct research with a controlled substance may be denied, suspended, or revoked by the board upon a finding that

(1) the registrant has furnished false or fraudulent material information in an application filed under this chapter;

(2) the registrant has been convicted of a felony offense under state or federal law; or

(3) the registrant's federal registration to manufacture, distribute, dispense, or conduct research with controlled substances has been denied, suspended, or revoked.

(b) The board may limit the denial, revocation, or suspension of a registration to a particular controlled substance with respect to which grounds for denial, revocation, or suspension exist.

(c) If the board denies, suspends, or revokes a registration, all controlled substances owned or possessed by the registrant at the time of the denial or suspension or the effective date of the revocation order may be placed under seal by the board or the Department of Public Safety and remain in the custody of the department, subject only to the orders and decrees of a court having jurisdiction over the property. A disposition may not be made of substances under seal until the time for taking an appeal has elapsed or until all appeals have been concluded unless a court, upon application, orders the sale of perishable substances and the deposit of the proceeds of the sale with the court. After a revocation order is final, all controlled substances held by the registrant are forfeited to the state.

(d) The board shall promptly notify the Drug Enforcement Administration of the United States Department of Justice of all orders denying, suspending, or revoking registrations and of all forfeitures of controlled substances. (§ 4 ch 45 SLA 1982)

Cross references. — For penalty for furnishing false or fraudulent information in or omitting material information from application, see AS 11.71.040(a)(8).

Sec. 17.30.050. Order to show cause. (a) Before denying, suspending, or revoking a registration, or refusing a renewal of a registration, the board shall serve upon the applicant or registrant an order to show cause why a registration should not be denied, revoked, or suspended, or why a renewal should not be refused. The order to show cause shall contain a statement of the basis for issuance of the order and shall require the applicant or registrant to appear before the board at a time and place not less than 30 days after the date of service of the order. For a refusal of renewal of registration the show cause order must be served not later than 30 days before the expiration of the registration. These proceedings must be conducted in accordance with procedures for administrative adjudication under AS 44.62.330 — 44.62.630 without regard to criminal prosecution or other proceeding. Proceedings to refuse renewal of registration do not make the existing registration void. The existing registration remains in effect pending the outcome of the administrative hearing.

(b) The board may, without an order to show cause, suspend a registration simultaneously with the institution of proceedings under AS 17.30.040 if it finds that there is an imminent danger to the public health or safety which warrants this action. The suspension continues in effect until the conclusion of the proceedings, including judicial review of the proceedings, unless withdrawn by the board or dissolved by a court of competent jurisdiction. (§ 4 ch 45 SLA 1982)

Sec. 17.30.060. Records of registrants. A person registered to manufacture, distribute, dispense, or conduct research with controlled substances under this chapter shall keep records and maintain inventories in conformance with the record keeping and inventory requirements of federal law and in conformance with additional regulations adopted by the board. (§ 4 ch 45 SLA 1982)

Cross references. — For penalty for furnishing false or fraudulent information in or omitting material information from records required to be kept under this chapter, see AS 11.71.040(a)(8); for penalty for failure to make, keep, or furnish records required by this chapter, see AS 11.71.050(a)(4).

Sec. 17.30.070. Order forms; prescriptions. (a) A controlled substance may be distributed by one registrant to another registrant only if the distribution is in accordance with federal requirements for order forms.

(b) A controlled substance may not be dispensed by a practitioner other than in accordance with federal requirements regarding prescriptions for controlled substances.

(c) If the classification of a controlled substance in a schedule set out in AS 11.71.140 — 11.71.190, or by a regulation adopted in accordance

with AS 11.71.120(a), is different from its corresponding classification under federal law, the requirements of (a) and (b) of this section are determined by the classification of the substance under federal law. (§ 4 ch 45 SLA 1982)

Cross references. — For penalty for failure to make, keep, or furnish order forms required under this chapter, see AS 11.71.050(a)(4).

Editor's notes. — AS 11.71.120(a), referred to in subsection (c), does not

authorize adoption of regulations classifying controlled substances. AS 11.71.120(a) does, however, authorize recommendations for legislation to classify controlled substances.

Sec. 17.30.080. Unlawful administration, prescription and dispensation of controlled substances. A controlled substance classified under federal law or in a schedule set out in AS 11.71.140 — 11.71.190 or by regulations adopted in accordance with AS 11.71.120(a) may not be administered, prescribed, dispensed, or distributed other than for a medical purpose. (§ 4 ch 45 SLA 1982)

Editor's notes. — See editor's note to AS 17.30.070.

Article 2. Enforcement Forfeiture and Review Provisions.

Section

- 100. Cooperative arrangements
- 110. Items subject to forfeiture
- 112. Proceedings resulting in forfeiture
- 114. Seizure and custody of property
- 116. Procedure for forfeiture action
- 118. Petition for release of seized items

Section

- 120. Petition for sale of seized item
- 122. State disposal of forfeited property
- 124. Remittance to claimant
- 126. Forfeiture of controlled substances
- 130. Judicial review

Collateral references. — 25 Am. Jur. 2d, Drugs, Narcotics, and Poisons, §§ 27, 40 et seq.

Sec. 17.30.100. Cooperative arrangements. (a) The commissioner of public safety shall cooperate with other state and federal agencies in the discharge of their responsibilities pertaining to illicit traffic in controlled substances and in suppressing the abuse of controlled substances. Under this section, the powers of the commissioner of public safety include but are not limited to the following:

- (1) arranging for the exchange of information among government officials concerning illicit traffic in and abuse of controlled substances;
- (2) coordinating training programs pertaining to controlled substances at both local and state levels; and

(3) cooperating with the Drug Enforcement Administration of the United States Department of Justice by establishing a centralized unit to accept, catalog, file, and collect statistics, including records of persons who have violated the provisions of this chapter or AS 11.71 in the state and making the information available for federal, state, and local law enforcement purposes.

(b) The commissioner of public safety may not furnish the name or identity of a patient or research subject whose identity could not be obtained under AS 17.30.155. (§ 4 ch 45 SLA 1982)

Sec. 17.30.110. Items subject to forfeiture. The following may be forfeited to the state:

(1) a controlled substance which has been manufactured, distributed, dispensed, acquired, or possessed in violation of this chapter or AS 11.71;

(2) raw materials, products, and equipment which are used or intended for use in manufacturing, distributing, compounding, processing, delivering, importing, or exporting a controlled substance which is a felony under this chapter or AS 11.71;

(3) property which is used or intended for use as a container for property described in (1) or (2) of this section;

(4) a conveyance, including but not limited to aircraft, vehicles or vessels, which has been used or is intended for use in transporting or in any manner in facilitating the transportation, sale, receipt, possession, or concealment of property described in (1) or (2) of this section in violation of a felony offense under this chapter or AS 11.71; however,

(A) a conveyance may not be forfeited under this paragraph if the owner of the conveyance establishes, by a preponderance of the evidence, at a hearing before the court as the trier of fact, that use of the conveyance in violation of this chapter or AS 11.71 was committed by another person and that the owner was neither a consenting party nor privy to the violation;

(B) a forfeiture of a conveyance encumbered by a valid security interest at the time of seizure is subject to the interest of the secured party if the secured party establishes, by a preponderance of the evidence, at a hearing before the court as the trier of fact, that use of the conveyance in violation of this chapter or AS 11.71 was committed by another person and that the secured party was neither a consenting party nor privy to the violation;

(5) books, records, and research products and materials, including formulas, microfilm, tapes, and data, which are used in violation of this chapter or AS 11.71;

(6) money, securities, negotiable instruments, or other things of value used in financial transactions derived from activity prohibited by this chapter or AS 11.71; and

(7) a firearm which is visible, carried during, or used in furtherance of a violation of this chapter or AS 11.71. (§ 4 ch 45 SLA 1982)

Article 1. Regulation of Manufacture, Distribution, Prescription, and Dispensing of Controlled Substances.

| | |
|--|---|
| Section | Section |
| 10. Regulations | 60. Records of registrants |
| 20. Registration requirements | 70. Order forms; prescriptions |
| 30. Registration | 80. Unlawful administration, prescription and dispensation of controlled substances |
| 40. Denial, revocation, and suspension of registration | |
| 50. Order to show cause | |

Collateral references. — 25 Am. Jur. 2d, Drugs, Narcotics, and Poisons, §§ 7 et seq., 28 et seq.

Sec. 17.30.010. Regulations. (a) The Board of Pharmacy shall adopt regulations under the Administrative Procedure Act (AS 44.62) which are necessary for the administration of this chapter, and may charge reasonable fees relating to the registration and control of the manufacture, distribution, and dispensing of controlled substances as authorized by federal law in the state.

(b) Regulations adopted under this chapter by the board shall be patterned after federal law so that the legitimate manufacture, distribution, and dispensing of controlled substances is subject to regulations regarding registration, record keeping, order forms and prescription requirements that are identical to those required by federal law or regulations. (§ 4 ch 45 SLA 1982)

Cross references. — For penalty for furnishing false or fraudulent information in or omitting material information from any application, report, record, or other document required to be kept or filed under this chapter, see AS 11.71.040(a)(8). For penalty for failure to make, keep, or furnish any record, notification, order form, statement, invoice, or information

required under this chapter, see AS 11.71.050(a)(4).

Editor's notes. — Section 24, ch. 45, SLA 1982 provides: "Orders issued and regulations adopted under a law amended or repealed by this Act and in effect on January 1, 1983, and not in conflict with this Act continue until amended or repealed."

Sec. 17.30.020. Registration requirements. (a) A person who manufactures, distributes, dispenses, or conducts research with a controlled substance in the state or who proposes to manufacture, distribute, or dispense a controlled substance in the state, shall register annually with the board in accordance with regulations adopted under AS 17.30.010.

(b) A person registered under this chapter to manufacture, distribute, dispense, or conduct research with controlled substances may possess, manufacture, distribute, dispense, or conduct research with those substances to the extent authorized by the person's registration and in conformity with the other provisions of this chapter.

(c) The following persons may lawfully possess controlled substances under this chapter without registration:

(1) an agent or employee of a registered manufacturer, distributor, dispenser, or researcher of a controlled substance so long as the possession is incidental to the usual course of the agent's or employee's business or employment;

(2) a common or contract carrier or warehouseman, or the carrier's or warehouseman's employee, whose possession of a controlled substance is in the usual course of the carrier's, warehouseman's, or employee's business or employment;

(3) an ultimate user or a person in possession of a controlled substance under a lawful order of a registered practitioner or in lawful possession of a schedule VA controlled substance.

(d) The board may, by regulation, waive the requirement for registration of certain manufacturers, distributors, or dispensers if it finds it consistent with public health and safety.

(e) A separate registration is required for each principal place of business or professional practice where the applicant manufactures, distributes, or dispenses controlled substances.

(f) The board may inspect the establishment of a registrant or application for registration in accordance with regulations adopted by the board. (§ 4 ch 45 SLA 1982)

Cross references. — For penalty for refusal of entry into a premises for an inspection authorized under this chapter, see AS 11.71.060(a)(5); for schedule VA substance, see AS 11.71.180.

Sec. 17.30.030. Registration. (a) The board shall register an applicant to manufacture, distribute, or dispense controlled substances listed in the schedules established under federal law unless it finds that the registration would be inconsistent with the public interest. In determining the public interest, the board shall consider the following factors:

(1) maintenance of effective controls against diversion of controlled substances into other than legitimate medical, scientific, or industrial channels;

(2) compliance with applicable state and local law;

(3) a conviction of the applicant under federal or state laws relating to controlled substances;

(4) past experience in the manufacture, distribution, or dispensing of controlled substances and the existence in the applicant's establishment of effective controls against diversion of controlled substances

into other than legitimate medical, scientific, or industrial channels;

(5) furnishing by the applicant of false information in an application filed under this chapter;

(6) suspension or revocation of the applicant's federal registration to manufacture, distribute, or dispense controlled substances as authorized by federal law; and

(7) any other factors relevant to and consistent with the public health and safety.

(b) A practitioner registered under federal law to conduct research with controlled substances shall be issued a registration to conduct research with these substances in the state if the practitioner furnishes the board with evidence of the federal registration.

(c) A manufacturer, distributor, or dispenser who complies with federal law pertaining to registration requirements other than fees is entitled to be registered under this chapter. (§ 4 ch 45 SLA 1982)

Sec. 17.30.040. Denial, revocation, and suspension of registration. (a) A registration applied for or issued under AS 17.30.030 to manufacture, distribute, dispense, or conduct research with a controlled substance may be denied, suspended, or revoked by the board upon a finding that

(1) the registrant has furnished false or fraudulent material information in an application filed under this chapter;

(2) the registrant has been convicted of a felony offense under state or federal law; or

(3) the registrant's federal registration to manufacture, distribute, dispense, or conduct research with controlled substances has been denied, suspended, or revoked.

(b) The board may limit the denial, revocation, or suspension of a registration to a particular controlled substance with respect to which grounds for denial, revocation, or suspension exist.

(c) If the board denies, suspends, or revokes a registration, all controlled substances owned or possessed by the registrant at the time of the denial or suspension or the effective date of the revocation order may be placed under seal by the board or the Department of Public Safety and remain in the custody of the department, subject only to the orders and decrees of a court having jurisdiction over the property. A disposition may not be made of substances under seal until the time for taking an appeal has elapsed or until all appeals have been concluded unless a court, upon application, orders the sale of perishable substances and the deposit of the proceeds of the sale with the court. After a revocation order is final, all controlled substances held by the registrant are forfeited to the state.

(d) The board shall promptly notify the Drug Enforcement Administration of the United States Department of Justice of all orders denying, suspending, or revoking registrations and of all forfeitures of controlled substances. (§ 4 ch 45 SLA 1982)

Cross references. — For penalty for furnishing false or fraudulent information in or omitting material information from application, see AS 11.71.040(a)(8).

Sec. 17.30.050. Order to show cause. (a) Before denying, suspending, or revoking a registration, or refusing a renewal of a registration, the board shall serve upon the applicant or registrant an order to show cause why a registration should not be denied, revoked, or suspended, or why a renewal should not be refused. The order to show cause shall contain a statement of the basis for issuance of the order and shall require the applicant or registrant to appear before the board at a time and place not less than 30 days after the date of service of the order. For a refusal of renewal of registration the show cause order must be served not later than 30 days before the expiration of the registration. These proceedings must be conducted in accordance with procedures for administrative adjudication under AS 44.62.330 — 44.62.630 without regard to criminal prosecution or other proceeding. Proceedings to refuse renewal of registration do not make the existing registration void. The existing registration remains in effect pending the outcome of the administrative hearing.

(b) The board may, without an order to show cause, suspend a registration simultaneously with the institution of proceedings under AS 17.30.040 if it finds that there is an imminent danger to the public health or safety which warrants this action. The suspension continues in effect until the conclusion of the proceedings, including judicial review of the proceedings, unless withdrawn by the board or dissolved by a court of competent jurisdiction. (§ 4 ch 45 SLA 1982)

Sec. 17.30.060. Records of registrants. A person registered to manufacture, distribute, dispense, or conduct research with controlled substances under this chapter shall keep records and maintain inventories in conformance with the record keeping and inventory requirements of federal law and in conformance with additional regulations adopted by the board. (§ 4 ch 45 SLA 1982)

Cross references. — For penalty for furnishing false or fraudulent information in or omitting material information from records required to be kept under this chapter, see AS 11.71.040(a)(8); for penalty for failure to make, keep, or furnish records required by this chapter, see AS 11.71.050(a)(4).

Sec. 17.30.070. Order forms; prescriptions. (a) A controlled substance may be distributed by one registrant to another registrant only if the distribution is in accordance with federal requirements for order forms.

(b) A controlled substance may not be dispensed by a practitioner other than in accordance with federal requirements regarding prescriptions for controlled substances.

(c) If the classification of a controlled substance in a schedule set out in AS 11.71.140 — 11.71.190, or by a regulation adopted in accordance

with AS 11.71.120(a), is different from its corresponding classification under federal law, the requirements of (a) and (b) of this section are determined by the classification of the substance under federal law. (§ 4 ch 45 SLA 1982)

Cross references. — For penalty for failure to make, keep, or furnish order forms required under this chapter, see AS 11.71.050(a)(4).

Editor's notes. — AS 11.71.120(a), referred to in subsection (c), does not

authorize adoption of regulations classifying controlled substances. AS 11.71.120(a) does, however, authorize recommendations for legislation to classify controlled substances.

Sec. 17.30.080. Unlawful administration, prescription and dispensation of controlled substances. A controlled substance classified under federal law or in a schedule set out in AS 11.71.140 — 11.71.190 or by regulations adopted in accordance with AS 11.71.120(a) may not be administered, prescribed, dispensed, or distributed other than for a medical purpose. (§ 4 ch 45 SLA 1982)

Editor's notes. — See editor's note to AS 17.30.070.

Article 2. Enforcement Forfeiture and Review Provisions.

Section

- 100. Cooperative arrangements
- 110. Items subject to forfeiture
- 112. Proceedings resulting in forfeiture
- 114. Seizure and custody of property
- 116. Procedure for forfeiture action
- 118. Petition for release of seized items

Section

- 120. Petition for sale of seized item
- 122. State disposal of forfeited property
- 124. Remittance to claimant
- 126. Forfeiture of controlled substances
- 130. Judicial review

Collateral references. — 25 Am. Jur. 2d, Drugs, Narcotics, and Poisons, §§ 27, 40 et seq.

Sec. 17.30.100. Cooperative arrangements. (a) The commissioner of public safety shall cooperate with other state and federal agencies in the discharge of their responsibilities pertaining to illicit traffic in controlled substances and in suppressing the abuse of controlled substances. Under this section, the powers of the commissioner of public safety include but are not limited to the following:

- (1) arranging for the exchange of information among government officials concerning illicit traffic in and abuse of controlled substances;
- (2) coordinating training programs pertaining to controlled substances at both local and state levels; and

(3) cooperating with the Drug Enforcement Administration of the United States Department of Justice by establishing a centralized unit to accept, catalog, file, and collect statistics, including records of persons who have violated the provisions of this chapter or AS 11.71 in the state and making the information available for federal, state, and local law enforcement purposes.

(b) The commissioner of public safety may not furnish the name or identity of a patient or research subject whose identity could not be obtained under AS 17.30.155. (§ 4 ch 45 SLA 1982)

Sec. 17.30.110. Items subject to forfeiture. The following may be forfeited to the state:

(1) a controlled substance which has been manufactured, distributed, dispensed, acquired, or possessed in violation of this chapter or AS 11.71;

(2) raw materials, products, and equipment which are used or intended for use in manufacturing, distributing, compounding, processing, delivering, importing, or exporting a controlled substance which is a felony under this chapter or AS 11.71;

(3) property which is used or intended for use as a container for property described in (1) or (2) of this section;

(4) a conveyance, including but not limited to aircraft, vehicles or vessels, which has been used or is intended for use in transporting or in any manner in facilitating the transportation, sale, receipt, possession, or concealment of property described in (1) or (2) of this section in violation of a felony offense under this chapter or AS 11.71; however,

(A) a conveyance may not be forfeited under this paragraph if the owner of the conveyance establishes, by a preponderance of the evidence, at a hearing before the court as the trier of fact, that use of the conveyance in violation of this chapter or AS 11.71 was committed by another person and that the owner was neither a consenting party nor privy to the violation;

(B) a forfeiture of a conveyance encumbered by a valid security interest at the time of seizure is subject to the interest of the secured party if the secured party establishes, by a preponderance of the evidence, at a hearing before the court as the trier of fact, that use of the conveyance in violation of this chapter or AS 11.71 was committed by another person and that the secured party was neither a consenting party nor privy to the violation;

(5) books, records, and research products and materials, including formulas, microfilm, tapes, and data, which are used in violation of this chapter or AS 11.71;

(6) money, securities, negotiable instruments, or other things of value used in financial transactions derived from activity prohibited by this chapter or AS 11.71; and

(7) a firearm which is visible, carried during, or used in furtherance of a violation of this chapter or AS 11.71. (§ 4 ch 45 SLA 1982)

§ 17.30.112

FOOD AND DRUGS

§ 17.30.114

Revisor's notes. — AS 17.30.110(b) —
(q) were renumbered as AS 17.30.112 —
17.30.126 in 1983.

NOTES TO DECISIONS

Former forfeiture statute construed. 1265 (1977), decided under former AS
— See *One Cocktail Glass v. State*, Sup. 17.12.130.
Ct. Op. No. 1437 (File No. 2729), 565 P.2d

Collateral references. — Forfeiture of personal property used in illegal manufacture, processing, or sale of controlled substances under § 511 of Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 USCS § 881), 59 ALR Fed. 765.

Sec. 17.30.112. Proceedings resulting in forfeiture. (a) Property listed in AS 17.30.110 may be forfeited to the state either upon conviction of the defendant of a violation of this chapter or AS 11.71, or upon judgment of a court in a separate civil proceeding in rem. The court may order a forfeiture in the in rem proceeding if it finds that an item specified in AS 17.30.110 was used during or in aid of a violation of this chapter or AS 11.71.

(b) It is not a defense in an in rem proceeding brought under this section that a criminal proceeding has resulted in a conviction or conviction of a lesser offense for a violation of this chapter or AS 11.71. (§ 4 ch 45 SLA 1982)

Revisor's notes. — Formerly AS
17.30.110(b) and (c). Renumbered in 1983.

Sec. 17.30.114. Seizure and custody of property. (a) Property listed in AS 17.30.110 may be seized by a peace officer upon an order issued by a court having jurisdiction over the property upon a showing of probable cause that the property may be forfeited under AS 17.30.110. Seizure without a court order may be made if

(1) the seizure is incident to a valid arrest or a search under a valid search warrant;

(2) the property subject to seizure has been the subject of an earlier judgment in favor of the state in a criminal proceeding or civil proceeding in rem under this chapter or AS 11.71; or

(3) there is probable cause that the property was used, is being used, or is intended for use, in violation of this chapter or AS 11.71 and the property is easily movable; property seized under this paragraph may not be held for more than 48 hours without a court order obtained to continue its detention.

(b) Property taken or detained under (a) of this section shall be held in the custody of either the commissioner of public safety or a munic-

ipal law enforcement agency authorized by the commissioner of public safety to retain custody of property listed in AS 17.30.110 subject only to the orders and decrees of the court having jurisdiction over any forfeiture proceedings. If property is seized under this chapter, the commissioner of public safety or an authorized municipal law enforcement agency may

- (1) place the property under seal;
- (2) remove the property to a place designated by the court; or
- (3) take custody of the property and remove it to an appropriate location for disposition in accordance with law.

(c) Within 10 days after a seizure under AS 17.30.110 — 17.30.126, the commissioner of public safety shall make an inventory of any property seized, including controlled substances, and shall appraise the value of any items seized other than controlled substances. (§ 4 ch 45 SLA 1982)

Revisor's notes. — Formerly AS 17.30.110(d) — (f). Renumbered in 1983.

Sec. 17.30.116. Procedure for forfeiture action. (a) Within 20 days after a seizure under AS 17.30.110 — 17.30.126, the commissioner of public safety shall, by certified mail, notify any person known to have an interest in an item with an appraised value of \$500 or more, or who is ascertainable from official registration numbers, licenses, or other state, federal or municipal numbers on the item, of the pending forfeiture action. Additionally, the commissioner of public safety shall publish notice of forfeiture action of an item valued at \$500 or more in a newspaper of general circulation in the judicial district in which the seizure was made, or if no newspaper is published in that judicial district, in a newspaper published in the state and distributed in that judicial district. The notice shall be published once each week during four consecutive calendar weeks. The requirements of this subsection do not apply to the forfeiture of controlled substances which have been manufactured, distributed, dispensed, or possessed in violation of this chapter or AS 11.71, regardless of their value.

(b) Upon service or publication of notice of commencement of a forfeiture action under this section, a person claiming interest in the property shall file within 30 days after the service or publication, a notice of claim setting out the nature of the interest, the date it was acquired, the consideration paid, and an answer to the state's allegations. If a claim and answer is not filed within the time specified, the property described in the state's allegation must be ordered forfeited to the state without further proceedings or showings.

(c) Questions of fact or law raised by a notice of forfeiture action and answer of a claimant in an action commenced under this section must be determined by the court sitting without a jury. This proceeding may be held in abeyance until conclusion of any pending criminal charges

§ 17.30.118

FOOD AND DRUGS

§ 17.30.122

against the claimant under this chapter or AS 11.71. (§ 4 ch 45 SLA 1982)

Revisor's notes. — Formerly AS 17.30.110(g) — (i). Renumbered in 1983. **failure to furnish notification required under this chapter, see AS 11.71.050(a)(4).**
Cross references. — For penalty for

Sec. 17.30.118. Petition for release of seized items. (a) A claimant under AS 17.30.116(b) may at any time petition for release of a seized item as follows:

- (1) to a court in which a warrant for seizure has been issued;
- (2) to a court in which a criminal or civil action alleging forfeiture of the item has been filed; or
- (3) before an action is filed, or if no seizure warrant was issued, to a court in the judicial district in which the violation took place.

(b) An item may not be released by the court under (a) of this section unless the claimant gives adequate assurance that the item will remain subject to the court's jurisdiction and

- (1) the court finds that the release is in the best interests of the state, or
- (2) the claimant provides a bond or other valid and equivalent security equal to twice the assessed value of the item. (§ 4 ch 45 SLA 1982)

Revisor's notes. — Formerly AS 17.30.110(j) and (k). Renumbered in 1983.

Sec. 17.30.120. Petition for sale of seized item. A claimant may petition the court for sale of an item before final disposition of court proceedings. The court shall grant a petition for sale upon a finding that the sale is in the best interests of the state and the preservation and maintenance of the item seized. Proceeds from the sale plus interest to the date of final disposition of the court proceedings become the subject of the forfeiture action. (§ 4 ch 45 SLA 1982)

Revisor's notes. — Formerly AS 17.30.110(l). Renumbered in 1983.

Sec. 17.30.122. State disposal of forfeited property. Property forfeited under AS 17.30.110 — 17.30.126 other than controlled substances shall be disposed of by the commissioner of administration in accordance with applicable law. The commissioner of administration may

- (1) destroy property harmful to the public;
- (2) sell the property and use the proceeds for payment of all proper expenses of the proceedings for forfeiture and sale, including expenses of seizure, custody, and court costs;

(3) take custody of the property and authorize its use in the enforcement of this chapter or AS 11.71, or transfer it to another agency of the state or a political subdivision of the state for a use in furtherance of the administration of justice;

(4) take custody of the property and remove it for disposition in accordance with law;

(5) forward it to the Drug Enforcement Administration of the United States Department of Justice for disposition; or

(6) transfer ownership of an aircraft to the Alaska Wing, Civil Air Patrol. (§ 4 ch 45 SLA 1982; am § 2 ch 18 SLA 1983)

Revisor's notes. — Formerly AS 17.30.110(m). Renumbered in 1983.

Effect of amendments. — The 1983 amendment added paragraph (6).

Sec. 17.30.124. Remittance to claimant. (a) Upon a showing that a claimant is entitled to remittance under AS 17.30.110 — 17.30.126, the court shall order that

(1) if the claimant is entitled to the item, it shall be delivered to the claimant immediately;

(2) if the claimant is entitled to remittance of some value less than the total value of the item, the claimant is entitled, at the claimant's choice, to receive either the value of the claimant's interest or, upon receipt of payment of the difference in value by the claimant, the entire item.

(b) An offender who used an item subject to remission in violation of this chapter or AS 11.71 shall be assessed a fine which may not be less than the cost of any lien payment or remittance made by the state plus the reasonable costs of the seizure. (§ 4 ch 45 SLA 1982)

Revisor's notes. — Formerly AS 17.30.110(n) and (o). Renumbered in 1983.

Sec. 17.30.126. Forfeiture of controlled substances. (a) A controlled substance manufactured, possessed, transferred, sold, or offered for sale in violation of this chapter or AS 11.71 is contraband and must be seized and summarily forfeited to the state. The commissioner of public safety or the commissioner's designee, including a municipal law enforcement agency authorized under AS 17.30.114(b) of this section to retain custody of controlled substances, is responsible for the disposal of controlled substances which have been forfeited. The controlled substances shall be disposed of in accordance with procedures and requirements prescribed by the commissioner.

(b) Plants from which controlled substances may be derived and which have been planted or cultivated in violation of this chapter or AS 11.71, or which are grown in the wild, may be seized and summarily forfeited to the state. (§ 4 ch 45 SLA 1982)

Revisor's notes. — Formerly AS 17.30.110(p) and (q). Renumbered in 1983.

Sec. 17.30.130. Judicial review. A final determination, finding, or conclusion of the board under this chapter or a regulation adopted under it is a final decision of the matter involved. A person aggrieved by a decision may obtain review of the decision in the superior court in accordance with AS 44.62.560 — 44.62.570. However, a person is not entitled to a hearing de novo in the superior court. (§ 4 ch 45 SLA 1982)

Article 3. Education and Research.

Section

140. Education and research

Sec. 17.30.140. Education and research. (a) The commissioner of health and social services shall provide for educational programs designed to prevent and deter the abuse of controlled substances. In connection with these programs, the commissioner may

(1) assist the regulated industry and interested groups and organizations in contributing to the reduction of abuse of controlled substances;

(2) promote better recognition of the problems surrounding abuse of controlled substances within the regulated industry and among interested groups and organizations;

(3) consult with interested groups and organizations to aid them in solving administrative and organizational problems;

(4) evaluate procedures, projects and techniques conducted or proposed as part of educational programs on abuse of controlled substances;

(5) disseminate the results of research on abuse of controlled substances to promote a better public understanding of the problems which exist and their solutions; and

(6) with the cooperation of the Department of Law, assist in the education and training of state and local law enforcement officials in their efforts to prevent illicit traffic in and abuse of controlled substances.

(b) The commissioner of health and social services shall encourage research on controlled substances and may

(1) establish methods to assess the effects of controlled substances and identify and characterize those with potential for abuse;

(2) make studies and undertake research to

(A) develop new or improved approaches, techniques, systems, equipment, and devices to strengthen the enforcement of this chapter;

(B) determine patterns of abuse of controlled substances and their social effects; and

(C) improve methods for preventing, predicting, and understanding the abuse of controlled substances;

(3) enter into contracts with public agencies, institutions of higher education, and private organizations or individuals for conducting research, demonstrations, or special projects which bear directly on abuse of controlled substances and for related research and educational activities. (§ 4 ch 45 SLA 1982)

Article 4. General Provisions.

Section

- 150. Reliance on drug enforcement administration
- 155. Confidentiality of certain information
- 900. Definitions

Sec. 17.30.150. Reliance on drug enforcement administration. Results, information, and evidence received from the Drug Enforcement Administration of the United States Department of Justice relating to the regulatory functions of this chapter, including results of inspections conducted by it, may be relied on and acted on by the board in the exercise of its regulatory functions under this chapter. (§ 4 ch 45 SLA 1982)

Revisor's notes. — As enacted, this section contained a subsection (b), but the provisions of that subsection were renumbered as AS 17.30.155.

Sec. 17.30.155. Confidentiality of certain information. A practitioner engaged in medical practice or research may not furnish the name or identity of a patient or research subject to the board. The practitioner may not otherwise disclose the name or identity of an individual that the practitioner is required to keep confidential unless ordered by a court to disclose it within the context of a criminal investigation or proceeding. (§ 4 ch 45 SLA 1982)

Revisor's notes. — Enacted as AS 17.30.150(b). Renumbered in 1982.

Sec. 17.30.900. Definitions. (a) Unless the context clearly requires otherwise, the definitions set out in AS 11.71.900 apply to this chapter.

(b) In this chapter, "board" means the Board of Pharmacy provided for in AS 08.80.010. (§ 4 ch 45 SLA 1982)

Revisor's notes. — Enacted as AS 17.30.160. Renumbered in 1982.
Collateral references. — Marijuana, psilocybin, peyote or similar drugs of vegetable origin as narcotics for purposes of drug prosecution, 50 ALR3d 1164.

Chapter 35. Marijuana Therapeutic Research Program.

| | |
|--|---|
| Section | Section |
| 10. Legislative purpose | 40. Sources, distribution and possession of marijuana |
| 20. Marijuana therapeutic research program | 50. Report to the governor and legislature |
| 30. Patient qualification review committee | 500. Definitions |

Cross references. — For declaration 1982 in the 1982 Temporary and Special for legislative purpose, see § 1, ch. 45, SLA Acts and Resolves.

Sec. 17.35.010. Legislative purpose. The legislature finds that recent research has shown that the use of marijuana may alleviate the nausea and ill effects of cancer chemotherapy and radiology, and, additionally, may alleviate the ill effects of glaucoma. The legislature further finds that there is a need for further research and experimentation regarding the use of marijuana under strictly controlled circumstances. (§ 5 ch 45 SLA 1982)

Sec. 17.35.020. Marijuana therapeutic research program. (a) A therapeutic research program is established in the Board of Pharmacy. The program shall be administered by the board. The board shall adopt regulations necessary for the proper administration of this chapter. Before adopting regulations, the board shall consider pertinent regulations adopted by the Drug Enforcement Administration of the United States Department of Justice, the federal Food and Drug Administration, and the National Institute on Drug Abuse.

(b) Except as provided in AS 17.35.030(e), the therapeutic research program is limited to cancer chemotherapy and radiology patients and glaucoma patients, who are certified to the Patient Qualification Review Committee by a practitioner. A patient may not be admitted to the therapeutic research program without full disclosure by the practitioner of the experimental nature of this program and of the possible risks and side effects of the proposed treatment.

(c) The board shall provide by regulation for a program of registration of therapeutic research projects. (§ 5 ch 45 SLA 1982)

Sec. 17.35.030. Patient qualification review committee. (a) The board shall appoint a Patient Qualification Review Committee to serve at its pleasure. The committee shall consist of four members with the following qualifications:

- (1) two physicians licensed to practice medicine in the state, one of whom specializes in the practice of ophthalmology;

(2) a physician licensed to practice medicine in the state who specializes in the practice of psychiatry; and

(3) a physician licensed to practice medicine in the state who specializes in the practice of radiology.

(b) Members of the Patient Qualification Review Committee receive no salary but are entitled to per diem for travel and expenses authorized by law for boards and commissions.

(c) The Patient Qualification Review Committee shall review all applicants for the therapeutic research program and their licensed practitioners and certify their participation in the program.

(d) The Patient Qualification Review Committee and the board shall protect the privacy of individuals who participate in the therapeutic research program by withholding the names and other identifying characteristics of those individuals from all persons who are not connected with the research. Persons authorized to engage in research under the therapeutic research program may not be compelled in any civil, criminal, administrative, legislative, or other proceeding to identify the individuals who are the subjects of research for which the authorization was granted unless necessary to permit the board to determine whether the research is being conducted in accordance with the authorization.

(e) The Patient Qualification Review Committee may include other disease groups for participation in the therapeutic research program. However, a practitioner must present pertinent medical data to both the committee and the board before a disease group may be added. The participation of a disease group must be approved by the board consistent with applicable regulations adopted by the Drug Enforcement Administration of the United States Department of Justice, the federal Food and Drug Administration, and the National Institute on Drug Abuse. (§ 5 ch 45 SLA 1982)

Sec. 17.35.040. Sources, distribution and possession of marijuana. (a) A patient who is certified to participate in the therapeutic research program by the Patient Qualification Review Committee may obtain and possess marijuana, its derivatives, or its active ingredients, whether synthetic or natural, for the patient's own use.

(b) The board shall establish procedures by which a person authorized under this section to possess marijuana, its derivatives or active ingredients, whether synthetic or natural, may do so, subject to applicable regulations adopted by the Drug Enforcement Administration of the United States Department of Justice, the United States Food and Drug Administration, and the National Institute on Drug Abuse. (§ 5 ch 45 SLA 1982)

Sec. 17.35.050. Report to the governor and legislature. The board, in conjunction with the Patient Qualification Review Committee, shall report its findings and recommendations to the governor and the legislature regarding the effectiveness of the therapeutic research program by March 1, 1984. (§ 5 ch 45 SLA 1982)

Offered: 4/25/84
Referred: Finance

Original sponsor: Labor and Commerce Committee

BY THE LABOR AND
COMMERCE COMMITTEE

1 IN THE HOUSE

2

CS FOR HOUSE BILL NO. 716 (L&C)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act relating to the Board of Pharmacy; and providing for an effective date."

7

8

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

9

* Section 1. AS 08.03.010(c)(4) is amended to read:

10

(4) Board of Pharmacy (AS 08.80.010) -- June 30, 1988

11

[1984].

12

* Sec. 2. AS 08.80.030 is amended to read:

13

Sec. 08.80.030. POWERS OF THE BOARD. The board may

14

(1) elect a president and secretary from its membership and

15

adopt rules for the conduct of its business;

16

(2) examine applicants for registration as pharmacists;

17

(3) investigate individually, collectively, or through its

18

agent, for violations of this chapter, or of any other state or

19

federal statute relating to the practice of pharmacy;

20

(4) adopt regulations [AND DO WHATEVER ELSE IS NECESSARY

21

AND ADVISABLE] to carry out the purposes of this chapter;

22

(5) [PROMULGATE REGULATIONS TO CARRY OUT THE PURPOSES OF

23

THIS CHAPTER;

24

(6) Repealed

25

(7)] register intern pharmacists and adopt regulations

26

[PROMULGATE RULES] relating to their minimum experience requirements;

27

(6) adopt [(8) PROMULGATE] regulations to ensure adequate

28

security for all dangerous drugs;

29

(7) [(9)] adopt requirements for licensing in addition to

1 the requirements set out in this chapter.

2 * Sec. 3. AS 08.80 is amended by adding new sections to read:

3 Sec. 08.80.095. EXECUTIVE SECRETARY. The board may hire an
4 executive secretary to assist in implementing this chapter. The
5 executive secretary shall be a member of the partially exempt service
6 under AS 39.25.120.

7 Sec. 08.80.097. INVESTIGATIONS. (a) The executive secretary
8 may inspect pharmacies and investigate complaints to determine whether
9 any person has violated this chapter or AS 17.30 or a regulation
10 adopted under either chapter or to secure information useful in the
11 administration of either chapter.

12 (b) If the executive secretary believes that a person may have
13 engaged in or be about to engage in an act or practice in violation of
14 this chapter or AS 17.30 or a regulation adopted under either chapter,
15 the executive secretary shall investigate the matter in accordance
16 with this chapter or AS 17.30 and immediately send written notice of
17 the investigation to each board member and to the department.

18 * Sec. 4. AS 39.25.120(c) is amended to read:

19 (c) The following positions in the state service constitute the
20 partially exempt service:

21 (1) deputy and assistant commissioners of the principal
22 departments of the executive branch, including the assistant adjutant
23 general of the Department of Military Affairs;

24 (2) the directors of the major divisions of the principal
25 departments of the executive branch and the regional directors of the
26 Department of Transportation and Public Facilities;

27 (3) attorney members of the staff of the Department of Law
28 and of the public defender agency;

29 (4) one private secretary for each head of a principal

1 department in the executive branch;

2 (5) employees of councils, boards, or commissions
3 established by statute in the Office of the Governor or the office of
4 the lieutenant governor, unless a different classification is provided
5 by statute;

6 (6) the executive director, deputy director, hearing
7 officers, and administrative law judges of the Alaska Public Utilities
8 Commission;

9 (7) the director, deputy director, staff legal counsel, and
10 hearing officers of the Alaska Transportation Commission;

11 (8) not more than two special assistants to the
12 commissioner of each of the principal departments of the executive
13 branch, but the number may be increased if the partially exempt
14 service is extended under AS 39.25.130 to include the additional
15 special assistants;

16 (9) the principal executive officer of the following
17 boards, councils, or commissions:

- 18 (A) Alaska Public Broadcasting Commission;
- 19 (B) Professional Teaching Practices Commission;
- 20 (C) Parole Board;
- 21 (D) Board of Nursing;
- 22 (E) Real Estate Commission;
- 23 (F) Alaska Royalty Oil and Gas Development Advisory
24 Board;
- 25 (G) Alaska Historical Commission;
- 26 (H) Alaska State Council on the Arts;
- 27 (I) Alaska Police Standards Council;
- 28 (J) Council on Science and Technology;
- 29 (K) Older Alaskans Commission;

- 1 (L) Board of Pharmacy;
- 2 (10) Alaska Pioneers' Home managers;
- 3 (11) hearing examiners in the Department of Revenue;
- 4 (12) the comptroller in the division of treasury, Department
- 5 of Revenue;
- 6 (13) investment officers in the Department of Revenue;
- 7 (14) airport managers in the Department of Transportation
- 8 and Public Facilities employed at the Anchorage and Fairbanks
- 9 International Airports;
- 10 (15) the deputy director of the division of tourism and the
- 11 deputy director of the division of insurance in the Department of
- 12 Commerce and Economic Development;
- 13 (16) the executive director and staff of the Alaska Public
- 14 Offices Commission;
- 15 (17) the director, deputy director, personnel analysts II,
- 16 labor relations analysts I, labor relations analysts II, senior
- 17 negotiators, and research directors of the division of labor relations
- 18 in the Department of Administration;
- 19 (18) the rehabilitation administrator of the Workers'
- 20 Compensation Board.

21 * Sec. 5. This Act takes effect immediately in accordance with AC 01.-

22 10.070(c).

Introduced: 4/9/84
Referred: Labor & Commerce
and Finance

HD
TTC
T/S
TTC

1 IN THE HOUSE

BY THE LABOR AND
COMMERCE COMMITTEE

2

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9 may inspect pharmacies and investigate complaints to determine whether
10 any person has violated this chapter or a regulation adopted under
11 this chapter or to secure information useful in the administration of
12 this chapter.

13 (b) If the executive secretary believes that a person may have
14 engaged in or be about to engage in an act or practice in violation of
15 this chapter or a regulation adopted under it, the executive secretary
16 shall refer the matter to the department and immediately send written
17 notice to each board member of the referral.

18 (c) The department shall begin to investigate each matter re-
19 ferred by the executive secretary within five working days after the
20 referral and shall report the results of its investigation to the
21 board.

22 * Sec. 4. This Act takes effect immediately in accordance with AS 01.-
23 10.070(c).