

CHAPTER 193

AN ACT

Amending Title 60, ACLA, 1949, by adding a new Section 60-1-15, relating to right of person convicted of murder of decedent to succeed to estate; and declaring an emergency.

(C. S. for S. B. 116)

Be it Enacted by the Legislature of the Territory of Alaska:

Section 1. Title 60, ACLA, 1949, is hereby amended by adding a new Section 60-1-15 to read as follows:

Sec. 60-1-15. Person convicted of murder of decedent not to inherit from, or receive under will, or as spouse, of deceased.

(a) No person convicted of the murder of a decedent, or as an accessory before or after the fact, shall inherit from such decedent, or receive any interest in the estate of such decedent as surviving spouse, or take by devise

or legacy from such decedent any portion of his or her estate, but the portion of the estate of such decedent to which such convicted person would otherwise be entitled to succeed shall, subject to devises in favor of other legatees if there be a will, be distributed among the other heirs of such decedent according to the rules of descent and distribution provided in this Title.

Section 2. An emergency is hereby declared to exist and this Act shall be in full force and effect immediately upon its passage and approval, or upon its becoming law without such approval.

Approved March 29, 1955

CHAPTER 194

AN ACT

To create a Territorial Board of Pharmacy; providing for the appointment of its Members, their tenure and compensation; providing for

the powers, duties and responsibilities of such Territorial Board of Pharmacy; providing for the registration and licensing of pharmacists and businesses selling and handling drugs; setting a schedule of registration and license fees; prescribing the duties and responsibilities of pharmacists; providing for restrictions on the sales of certain drugs, medicines, devices and other preparations; providing for restrictions on the use of titles, terms and symbols associated with the profession of pharmacy; establishing grounds for the denial of registration and suspension and revocation of licenses; providing for hearings and appeals; providing penalties; repealing Article 4, Chapter 3, Title 35, ACLA, 1949; authorizing an appropriation; and declaring an emergency.

(S. B. 85)

Be it Enacted by the Legislature of the Territory of Alaska:

Section 1. **Designation.** This Act shall be known as the Alaska Pharmacy Act.

Section 2. **Definitions.** As used in this Act, the following words or terms shall have the meanings indicated, unless the context otherwise requires:

(a) "Board" means the Territorial Board of Pharmacy.

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

(c) "Pharmacy" or "drug store." or "pharmacy or drug department." means a place of business in which physicians' prescriptions are compounded or dispensed and in which drugs and medicines are compounded or dispensed.

(d) "Prophylactic" means any

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

(e) "Recognized college of pharmacy" means a college, school or department of pharmacy whose entrance requirements and courses of study are approved by the National Association of Boards of Pharmacy.

(f) "Retail" means a sale to the ultimate user.

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

(h) "Sell" means to possess in violation of the intent of this Act, exchange, barter, give away or otherwise dispose of.

(i) "Wholesale" means a sale by a manufacturer, wholesale dealer, distributor, or jobber to a person who sells, or intends to sell, directly to the user.

(j) "Wholesale dealer" means a manufacturer, wholesale dealer, distributor or jobber.

(k) "Drug" or "drugs" means drugs or medical supplies which contain poisonous, potent, habit-forming or deleterious ingredients, or medicines containing ingredients which may be considered dangerous or harmful if taken in overdose.

(l) "Medical supplies" means items for the cure or treatment of disease or injury which do not require prescription by a physician and which do not contain poisonous, potent, habit-forming or deleterious ingredients, or any ingredient, or ingredients, which may be considered dangerous or harmful if taken in overdose.

(m) "Responsible manager" means the licensed pharmacist who is in charge of a pharmacy or drug store, or of a pharmacy or drug department, the owner of which is not a licensed pharmacist (pharmacist.)

Section 3. Territorial Board of Pharmacy. There is hereby created the Territorial Board of Pharmacy, hereinafter called the Board, to be composed of five Members, each of whom shall be a licensed pharmacist under the Laws of Alaska, who has been actively engaged in the lawful practice of pharmacy in Alaska for a period of three years immediately preceding his appointment; Provided, however, that whenever possible, the Board shall include at least one Member from each Judicial Division. The Members shall be appointed by the Governor, with the confirmation of the Legislature in joint session assem-

bled, for overlapping terms of five years, or until their successors are appointed and qualified, and appointments shall be made to fill unexpired terms. The first Members shall be appointed for terms of one, two, three, four and five years respectively, said terms, and all succeeding terms, to commence on April 1 of each year.

Section 4. Powers of the Board. The Board shall have the power to select a President and Secretary from its membership and to adopt rules for the conduct of its business; to examine applicants for registration as pharmacists; to investigate, individually or collectively, all alleged violations of the provisions of this Act, or of any other Territorial or Federal statute relating to the practice of pharmacy; and to do whatever else not inconsistent with law it deems necessary and advisable to carry out the purposes of this Act.

Section 5. Duties of the Board. It shall be the duty of the Board to examine all qualified applicants for registration as pharmacists: Provided, that such examinations shall in each case be graded by a Member who is resident in a Judicial Division other than the Division in which the applicant is resident; to grant certificates of registration to such persons as may be entitled to same under the provisions of this Act; to initiate prosecution of all persons in violation of this Act; to report biennially to the Territorial Legislature upon the condition of pharmacy in the Territory, which

report shall include a resume of the proceedings of the Board during the biennium and the names of all persons registered under this Act; to maintain a record of the names and places of business of persons registered under this Act, together with adequate evidence to justify such registration; and to issue from time to time, as the Board deems necessary, a list of potentially dangerous medicinal ingredients or preparations that may be sold only under the direct supervision of a licensed pharmacist; Provided, however, that the failure to include any ingredient or preparation in such list shall not be construed as affecting any provision of this Act, or of any other appropriate law or regulation, which may prohibit or otherwise restrict the sale of such ingredient or preparation.

Section 6. Meetings of the Board. The Board shall meet at least once each year at the call of the President for the transaction of such business as may properly come before it; Provided, however, that the President shall call the Board into session when requested in writing by at least two Members. The Secretary of the Board shall give at least thirty days written notice to all Members prior to any meeting. Three Members shall constitute a quorum for the conduct of all business which may properly come before the Board; Provided, that when the Board meets for the purpose of examining applications for registration, two Members shall constitute a quorum.

Section 7. Expenses of Members. Members of the Board shall be reimbursed for actual travel expenses incidental to the discharge of their duties under this Act and shall, while in the performance of such duties, be entitled to the per diem allowed by law.

Section 8. Eligibility for Registration. An applicant for registration as a pharmacist shall be at least twenty-one years of age, a citizen of the United States and fluent in the reading, writing and speaking of the English language; shall furnish the Board with affidavits from not less than two reputable citizens of the United States attesting to his good moral character and freedom from addiction to the use of drugs or alcoholic liquors; shall be a graduate of a recognized college of pharmacy; and shall attain on examination a general average of not less than seventy-five per cent and a grade of not less than sixty per cent in an examination in each of the following subjects:

- (a) Pharmacy.
- (b) Materia medica.
- (c) Chemistry.
- (d) Toxicology and posology.
- (e) Compounding of prescriptions.
- (f) Laws relating to the practice of pharmacy.
- (g) In the discretion of the examiner, practical pharmacy.

An applicant who is unsuccessful in his initial examination shall be

entitled to a second examination within one year.

An applicant otherwise qualified may be registered as a pharmacist without examination by reciprocity through the National Association of Boards of Pharmacy.

Section 9. Temporary Registration. An applicant otherwise eligible for registration as a pharmacist shall be given a temporary license upon written or oral examination before any Member of the Board and certification by said Member to the Secretary of the Board that such applicant is competent to receive a temporary license; Provided, however, that said temporary license shall be valid for a period not longer than three months, or until the next regular meeting of the Board, whichever is the longer period; Provided further, that an applicant shall not receive more than one temporary license and shall not be issued a temporary license if at any time he has been denied registration by the Board.

Section 10. Licenses and Fees. The following schedule of fees shall be collected at the time, and for the purpose, indicated:

(a) An applicant for registration as a licensed pharmacist without examination by reciprocity through the National Association of Boards of Pharmacy shall pay a fee of \$15.00 prior to the issuance of such license.

(b) An applicant for registration

by examination shall pay a fee of \$15.00 before such examination and, if he is unsuccessful in such examination, before any subsequent examination.

(c) An applicant for temporary registration shall pay a fee of \$5.00 to the examining Member and this money shall be forwarded to the Secretary of the Board with the Member's certification.

(d) A license to practice pharmacy shall be subject to renewal annually, on or before the first day of June, upon the payment of a fee of \$5.00; Provided, that if the license fee remains unpaid for a period of ninety days from the date due, said license shall be renewed only after the payment of an additional fee of \$10.00.

(e) A wholesale dealer shall obtain a license on or before the thirty-first day of May each year and the fee for such license shall be \$5.00.

(f) A retail dealer shall obtain a license on or before the thirty-first day of May each year and the fee for such license shall be \$2.00.

A license to operate a pharmacy or drug store, or pharmacy or drug department, shall be issued only to establishments which operate a bona fide prescription department.

Failure to have proper sanitary appliances and to maintain orderly and sanitary premises shall be grounds for refusing a license to a pharmacy or drug store, or pharm-

acy or drug department.

The registration certificate and license required by this section shall be in such form, and shall be issued in such manner, as the Board may prescribe, and shall be conspicuously displayed in the premises for which issued or in which the holder is professionally employed.

Any previously licensed pharmacist who has not been registered for a period of three years shall submit to an oral examination before the Board and shall satisfy said Board of his competence prior to the renewal of his registration.

Section 11. Duties and Responsibilities of Licensed Pharmacists, Owners and Persons Selling Drugs.

(a) Every owner or responsible manager of a pharmacy shall report to the Board at such times as the Board may direct, but not more often than once each year, the names of all clerks employed in his pharmacy.

(b) Every owner, or, if such owner is not a licensed pharmacist, every responsible manager, shall be responsible for the quality of all drugs, chemicals or other medicines sold or dispensed by him, except those sold in the original packages of the manufacturer, and except those articles and preparations known as patent or proprietary medicines.

(c) At the time of dispensing, there shall be affixed to every box,

bottle, jar, tube, or other container of a prescription, a label bearing the name and address of the pharmacy at which the prescription was compounded, the serial number of the prescription, the name and directions of the prescriber, the name of the patient, the date of dispensing, and the initials of the registered pharmacist who compounded the prescription.

(d) Each pharmacy or drug store, or pharmacy or drug department, shall maintain a record for not less than five years of every prescription compounded or dispensed therein and such record shall be open at all times to inspection by the Board, by any of its Members, agents or employees, and, with respect to any particular prescription, by the medical doctor who issued said prescription.

(e) The owner, or, if the owner is not a licensed pharmacist, the responsible manager, of every drug store, and the proprietor of every general store, or roadhouse, shall keep in his place of business a record in which sales of the following items shall be entered: the compounds and salts of arsenic and mercury (calomel excepted); caustic hydrates of sodium and potassium; the concentrated mineral acids; hydrocyanic acids and their salts; yellow phosphorus; the essential oils of pennyroyal, tansy and savine; croton oil; aconite; carbolic acid; and any of the poisonous alkaloids or alkaloidal salts. This record shall state the quantity and date

of purchase, for what purpose to be used, and the name and address of the buyer. Said record shall be available during hours of business and subject to inspection by the U. S. Attorney, U. S. Marshal or Deputy Marshal, any Territorial or municipal police officer, acting within his area of jurisdiction, and any duly authorized agent of the Board. A record of each sale shall be retained for a period of five years from the date of each such transaction.

(f) A pharmacy or drug store must have a pharmacist licensed pursuant to this Act on duty during the hours that such pharmacy or drug store is open for business.

(g) If the owner of a pharmacy or drug store, or the owner of a business which includes a pharmacy or drug department, is not a licensed pharmacist pursuant to this Act, he shall place a licensed pharmacist, to be designated the responsible manager, in charge of such pharmacy or drug store, or pharmacy or drug department, and such responsible manager shall be in complete and full control of every part of such pharmacy, drug store, or pharmacy or drug department subject to this Act, and shall be responsible for insuring compliance with all laws, rules and regulations relating to the operation of a pharmacy, drug store, or pharmacy or drug department. Upon being appointed a responsible manager, the licensed pharmacist shall immediately advise the Board of such appoint-

ment.

(h) Only a pharmacist licensed pursuant to this Act shall compound and dispense the prescription of a physician; Provided, that nothing in this section shall limit the authority of a licensed medical doctor to compound and dispense medicinal preparations.

(i) In communities which have only one licensed pharmacy or drug store, it shall be the responsibility of the owner of such pharmacy or drug store to have a licensed pharmacist on duty, or on call, at all times.

(j) Each pharmacy or drug store licensed pursuant to this Act shall have immediately available on the premises a copy of the most recent revision of the "National Formulary," a copy of the most recent revision of the "United States Pharmacopoeia," and sufficient technical equipment to compound properly physicians' prescriptions and pharmaceutical preparations. Compliance with the provisions of this section shall be a condition precedent to licensing under the provisions of Section 10 of this Act.

(k) Drugs or medical supplies which contain poisonous, potent, habit-forming or deleterious ingredients shall be dispensed only by a licensed pharmacist and the nature of such drug or medical preparation shall be made known to the purchaser by the licensed pharmacist at the time of sale.

Section 12. Restrictions on Sale of Drugs. No mechanical device or bending (vending) machine, whether located on premises subject to regulation by this Act or elsewhere, shall be used to dispense drugs, medicines or preparations containing poisons.

Stores and roadhouses, at a distance of at least three miles from the location of a licensed pharmacy, shall be authorized to handle and sell non-poisonous patent medicines, remedies for horses, dogs and other domestic birds and animals, and household remedies and surgical dressings; Provided, that such medicines, remedies and surgical dressings are still in their original packages and are properly and clearly labeled.

Hospitals and clinics, when dispensing for out-patient treatment, shall have a licensed pharmacist in charge of such dispensary, except that compounding and dispensing of prescriptions in such dispensary may be done by, or under the supervision of, the prescribing physician or surgeon.

Nothing in this Act shall be construed as affecting in any way the practice of medicine by a properly licensed medical doctor, nor to limit in any way his supplying his patients with such medicinal preparations and articles as he deems proper.

Section 13. Illegal Use of Titles, Terms and Symbols.

(a) It shall be unlawful for any

person to assume or use the title "pharmacist," or any variation thereof, or to hold himself out to be a pharmacist, without being registered pursuant to this Act.

(b) It shall be unlawful for any person to use or exhibit the titles "pharmacist," "assistant pharmacist," or "druggist," or the descriptive terms "pharmacy," "drug store," "drug sundries," or any other title or term of similar import containing the word "drug," in, or upon, any business premises, or in any advertisement for such business through the media of press, periodical, directory or other publication, or by radio or television, except that such business have a licensed pharmacist in regular and continuous employment.

(c) It shall further be unlawful for any person to display in any place of business the characteristic pharmacy symbol of bottles, or globes, either colored or containing colored liquids, except that such business have a licensed pharmacist in regular and continuous employment.

Section 14. Grounds for Refusing or Revoking a License. The following grounds shall be deemed sufficient to warrant the refusal, suspension or revocation of a license to practice pharmacy:

(a) Conviction of any felony or of a misdemeanor involving moral turpitude.

(b) Selling, bartering, or otherwise making available, morphine, cocaine or other narcotic to a per-

son addicted to the use of drugs except upon prescription when issued by a licensed physician.

(c) Drug addiction.

(d) Intemperance in the use of alcohol.

(e) Violation of the provisions of this Act.

(f) Conduct or habits inconsistent with professional standards.

Section 15. Complaints and Hearings. The Board may deny an applicant otherwise qualified the opportunity to be examined; or deny a license to an applicant who has successfully completed the prescribed examination; or deny a license to an applicant for registration by reciprocity; or institute proceedings to suspend, revoke or otherwise terminate a registration, but only upon the basis of a specific complaint and after a hearing. Complaints shall be in the form of an affidavit and shall be filed in duplicate with the Secretary of the Board.

If, after consideration of the complaint, the Board determines that the complainant has alleged sufficient cause for disciplinary action, the Board shall set a time and place for a hearing thereon and shall cause a copy of the complaint to be served upon the accused, which service shall be accomplished at least thirty days prior to the date set for the hearing. Service upon the accused shall be by delivery in person of a copy of the Board's order with respect to such

hearing and a copy of the complaint, or, if personal service is not practicable, then service shall be by delivery to his last known residence and business address, or by registered mail to his last known place of receiving mail; and any of the means of service herein described shall be sufficient notice to the accused to justify a hearing and order based upon the complaint.

Section 16. Conduct of Hearings. The Board shall adopt rules for the conduct of hearings, which rules shall include a guarantee against self-incrimination and shall recognize the inviolability of privileged communications. The accused shall have the right to be accompanied by counsel of his own choosing, who may advise the accused and make brief objections to the relevancy of questions and to procedure.

The Board may administer oaths and subpoena and compel the attendance of witnesses. The accused shall have the right to be heard with respect to the complaint and to have witnesses subpoenaed in his behalf upon a showing that such witnesses have knowledge essential to a proper decision: Provided, that when it is not practicable to require the attendance of any witness, the Board may accept an affidavit from such witness in lieu of appearance.

Section 17. Disciplinary Action. The Board may, by a majority vote of a quorum, issue an order dismissing the complaint, denying a li-

cense, reprimanding a licensee, or suspending or revoking a license, or take such other punitive action in less degree as the nature of the complaint and the facts may warrant. All orders issued by the Board as a result of a hearing shall be in writing, signed by a majority of a quorum and filed with the Secretary of the Board. The accused shall receive an authenticated copy of each such order.

Section 18. **Appeal.** Any person who is denied a license by the Board, or who is denied a renewal of license, or whose license is suspended or revoked, shall have the right to an appeal to the United States District Court for the District of Alaska, which appeal shall be in the form and manner prescribed by the rules of procedure of said Court; Provided, that said appeal must be filed within sixty days from the date of the order from which the appeal is taken.

Section 19. **Violation.** Any person who violates any provision of this Act for which no other punishment is provided herein shall be guilty of a misdemeanor punishable by a fine not to exceed \$200.00, or imprisonment for a period not to exceed three months, or by both such fine and imprisonment.

Section 20. **Construction.** Nothing in this Act shall be construed as amending, modifying, repealing or otherwise changing any provision of the Alaska Uniform Narcotic

Drug Act or the Alaska Food, Drug and Cosmetic Act.

Section 21. **Appropriation; Audit; Certifying Officer.** Funds for carrying out the provisions of this Act shall be set forth in the general appropriation bill.

The expenditures of the Board shall be subject to audit on the same basis as the expenditures of the several executive departments.

All fees collected by the Secretary of the Board pursuant to this Act shall be covered into the General Fund of the Territory of Alaska.

The Secretary of the Board shall be the certifying officer and his signature shall be sufficient evidence to the Auditor of the validity of all claims for travel, per diem, salaries and other authorized expenses. The Secretary of the Board shall obtain such surety bond as the Board may from time to time direct.

Section 22. **Repealer.** Article 4 of Chapter 3 of Title 35, Alaska Compiled Laws Annotated, 1949, (being Sections 35-3-61 through 35-3-79, Alaska Compiled Laws Annotated, 1949) is hereby repealed.

Section 23. **Effective Date.** An emergency is hereby declared to exist and this Act shall be in full force and effect from and after the date of its passage and approval.

Approved March 29, 1955