

A Bill for an Act Relating to the Board of Pharmacy.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 461-3, Hawaii Revised Statutes, is amended to read as follows:

"§461-3 Officers. The board of pharmacy shall select a chairman, a secretary, and a treasurer.

The chairman of the board shall preside at all meetings and in his absence the members present shall select a chairman pro tem.

The secretary shall, subject to the direction of the board, make and keep all records and record books required to be kept by the board and he shall furnish the department of health with copies of such of those records as it requires. The records and record books of the board as made and kept by the secretary shall be prima facie evidence of the matter therein recorded in any court of law.

All fees collected shall be deposited by the director of [regulatory agencies] commerce and consumer affairs with the director of finance to the credit of the general fund."

SECTION 2. Section 461-4, Hawaii Revised Statutes, is amended to read as follows:

"§461-4 Meetings; powers and duties of board. (a) Meetings. The board of pharmacy shall hold meetings in April and September of each year, and at such other times as it deems necessary. A majority of the board shall constitute a quorum, and the concurrence of a majority of the members present shall be necessary to make any action of the board valid.

[(b) Reports. The board shall make a written report annually to the governor through the director of regulatory agencies of its proceedings and of its receipts and disbursements, and shall include therein a list of the names of all registrants duly licensed to practice under this chapter.

(c)] (b) Power to suspend or revoke license. The board may suspend or revoke any license of any pharmacist to practice pharmacy, issued under this chapter, for:

- (1) Professional misconduct,
- (2) Gross carelessness,
- (3) Manifest incapacity of a licensee, or
- (4) Any violation by the licensee of this chapter or of any rule [and regulation] prescribed pursuant thereto.

No such license shall be suspended or revoked except upon due notice to the licensee of the charge against him and only after an opportunity for a full and fair hearing.

[(d)] (c) Power to suspend or revoke permits. The board may suspend or revoke any permit to operate a pharmacy or to sell or distribute drugs, issued under this chapter, in any case, where the permittee has violated any of the provisions of this chapter or of any rule [and regulation] prescribed pursuant thereto. No permit

shall be suspended or revoked except upon due notice to the permittee of the charge against him and only after an opportunity for a full and fair hearing.

[(e)] (d) Power to regulate. The board may make such rules [and regulations], not inconsistent with law, as may be necessary to carry out the purpose of this chapter, which purpose is hereby declared to be the protection of the public health and safety. The rules [and regulations] shall be prescribed in the manner provided in chapter 91 and with the approval of the governor and the director of [regulatory agencies] commerce and consumer affairs. They shall have the force and effect of law.

[(f)] (e) Power to inspect. The board or any duly authorized representative thereof may inspect drugs packed, packaged, compounded, sold, offered for sale, exposed for sale, or kept for sale in the State and for this purpose it may, during reasonable hours, enter and inspect any pharmacy or premises in the State where drugs are packed, packaged, compounded, sold, offered for sale, exposed for sale, or kept for sale.

[(g)] (f) Power to investigate. The board or any member thereof, or any person designated by the board for the purpose, may investigate any violation or suspected violation of this chapter or of any rules [and regulations] duly prescribed by the board.

[(h)] (g) Oaths. Each member of the board may administer oaths in connection with the duties of the board.

[(i)] (h) Department of health, powers. Nothing in this chapter shall modify or limit any powers of the department of health of the State."

SECTION 3. Section 461-9, Hawaii Revised Statutes, is amended to read as follows:

"§461-9 Pharmacist in charge. A registered pharmacist shall be in personal and immediate charge of every pharmacy. Temporary absences of the registered pharmacist shall be unlawful except for such periods of time and under such circumstances as authorized under the rules [and regulations] of the board of pharmacy. During any absence of the registered pharmacist, prescriptions may not be filled, compounded, or received by telephone and no drugs shall be sold; provided, that this shall not preclude the sale at such times of such things as might be sold were the pharmacy a store not subject to this chapter. No person other than a registered pharmacist or an assistant under his immediate supervision shall fill or compound prescriptions."

SECTION 4. Section 461-11, Hawaii Revised Statutes, is amended to read as follows:

"§461-11 Duties of registered pharmacist. Every registered pharmacist in charge of a pharmacy shall comply with all laws[,] and rules [and regulations]. He shall be responsible for the management of the pharmacy; and every activity thereof which is subject to this chapter shall be under his complete control. All registered pharmacists shall notify the board of pharmacy of changes of business address within ten days."

SECTION 5. Section 461-14, Hawaii Revised Statutes, is amended to read as follows:

“§461-14 Permits for operation of pharmacy. It shall be unlawful for any person to operate, maintain, open, change location, or establish any pharmacy within the State without first having obtained a permit so to do from the board of pharmacy. Application for permits shall be made on a form to be prescribed by the board. Separate application shall be made and separate permits issued for each separate place at which is carried on any of the operations for which a permit is required.

On evidence satisfactory to the board:

- (1) That the pharmacy for which the permit is sought is or will be, in full compliance with all state drug, narcotic, and poison laws and this chapter and [regulations] rules of the board;
- (2) That the location and appointments of the pharmacy are such that it can be operated and maintained without endangering the public health or safety; and
- (3) That the pharmacy will be under the personal and immediate supervision of a registered pharmacist,

a permit shall be issued. No application for a permit shall be refused except pursuant to this section and only after notice to the applicant and a full and fair hearing.”

SECTION 6. Section 461-17, Hawaii Revised Statutes, is amended to read as follows:

“§461-17 Penalties. Any person violating this chapter or the rules [and regulations] duly prescribed by the board of pharmacy shall be fined not more than \$500, or imprisoned not more than six months, or both.”

SECTION 7. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 8. This Act shall take effect upon its approval.

(Approved May 2, 1983.)