

**BOARD OF PHARMACY: Authority of the board of pharmacy by rule or regulation to extend life of permit to operate drug store in the case of death of permittee; proof required as to authority of personal representative to operate under permit issued to decedent.**

June 15, 1942.

Mr. Fred E. Thomas, Secretary,  
Indiana Board of Pharmacy,  
Greenfield, Indiana.

Dear Sir:

In your letter of June 3, 1942, you ask for an official opinion on the following questions:

“May the Board of Pharmacy, by a rule or regulation, authorize the operation of a drug store by the personal representative of a deceased drug store permit holder for the period between the time of the permittee’s death and the next meeting of that board?”

“If this can be done, what proof should be required of the personal representative?”

The Indiana statute requires that any person, firm, corporation or copartnership desiring to operate, maintain, open or establish a drug store must first secure a permit to so operate. (Burns’ Indiana Statutes Annotated 1933, Sec. 63-1202.) Permits so issued are valid until the first day of January next ensuing. A pharmacy permit is an essential prerequisite to the operation of a drug store and is a necessity of the business.

The authority of the Board of Pharmacy to make all necessary rules and regulations is given by two statutes which provide in part as follows:

“The board shall adopt such rules and regulations as it may deem necessary to carry out the provisions of this act and of such other acts as shall confer powers and duties on such board \* \* \*.”

(Burns’ Indiana Statutes Annotated 1933, Sec. 63-1102.)

"The board of pharmacy is hereby authorized to prescribe and promulgate such rules and regulations as may be deemed necessary for the proper enforcement of this act."

(Burns' Indiana Statutes Annotated 1933, Sec. 63-1205.)

This authority was questioned in *Carroll Perfumers, Inc. v. State*, 212 Ind. 455, 7 N. E. (2d) 970, but the Supreme Court of Indiana affirmed the authority so given. The Board itself is left the judge of what is necessary for the proper enforcement of the act and what is necessary to carry out its provisions. Since the Board of Pharmacy, unlike some of the other state boards, is not in continuous or daily session, it may deem it necessary to make provisions for the extension of the authority to operate a drug store in the event of the death of the permit holder.

No drug store may be operated without a licensed pharmacist in charge. (Burns' Indiana Statutes Annotated 1933, Sec. 63-1208.) It is this pharmacist rather than the permit holder (who may be a person unfamiliar with pharmacy work or which may be a copartnership or corporation) whom the Board makes responsible for the proper conduct of the pharmacy. If the personal representative is qualified and authorized by the court to continue the business of the pharmacy and has a registered pharmacist in charge of the store, there could be no harm in the extension of the original license of the decedent until the time for the next regular meeting of the Indiana Board of Pharmacy.

It is my opinion that the Board has the authority, by rule or regulation, to extend the authority of the permit issued to a decedent for such time as it may deem necessary or until the next regular meeting of the Board of Pharmacy. Your first question is answered in the affirmative.

Your second question raises a problem of what proof should be required of the personal representative. A certified copy of the letters of administration or letters testamentary, accompanied by a certified copy of the order of the court authorizing the personal representative to operate the drug store, should establish the fact of his authority. When this is accompanied by a properly executed application it would be suffi-

cient to warrant the extension of the license of the deceased permit holder under a rule or regulation of the Pharmacy Board until such time as the new application of the personal representative might be passed upon.

To summarize, the Indiana Board of Pharmacy has the authority to make a rule or regulation extending to the personal representative of a deceased permit holder the right to operate a drug store under the permit of a deceased permit holder until such time as the Board may meet and pass upon a new application. Proof of the authority of the personal representative and his willingness to abide by the rules and regulations of the State Board of Pharmacy should be sufficient to bring the personal representative within the provisions of any regulation the board may adopt.

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**INDIANA STATE LIBRARY: Library Certification Board—  
Whether holder of certificate is also required to take examination by personnel board.**

June 22, 1942.

Dr. Christopher B. Coleman,  
Director, Indiana State Library,  
State Library Building,  
Indianapolis, Indiana.

Dear Dr. Coleman:

I have your letter of May 19, 1942, setting out certain resolutions adopted by the Library and Historical Board and submitting the following specific questions for my official opinion:

“1. Does the Act creating the Library Certification Board (Laws of the State of Indiana 1941, Chapter 195, pages 591-596), in providing for the certification of librarians and making librarians holding certificates from the Library Certification Board eligible for appointment to positions in public libraries, supersede, so far as the State Library is concerned, the provision in the earlier State Personnel Act putting the State Library under the control of the state personnel merit system and the State Personnel Board (Laws of the