

Queensland



PHARMACY ACT 1976

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Information about this reprint

This Act is reprinted as at 21 December 1998. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes.

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of earlier reprints is included in the endnotes.

Also see endnotes for information about—

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

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PHARMACY ACT 1976

[as amended by all amendments that commenced on or before 21 December 1998]

An Act relating to the qualifications and registration of pharmacists and the regulation of the practice of pharmacy and for related purposes

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Pharmacy Act 1976*.

Definitions

5. In this Act—

“**approved form**” see section 41.¹

“**association of persons**” includes an association of persons whether or not it is incorporated.

“**fee**” includes tax.

“**inspector**” means an inspector appointed or deemed to have been appointed for the effectual administration of this Act under the *Medical Act and Other Acts (Administration) Act 1966* or the repealed Acts.

“**pharmacist**” means a person registered as a pharmacist under this Act and whose name, at the material time, remains on the register.

“**pharmacy**”, in relation to premises, means—

- (a) premises in which the practice of pharmacy is carried on; and

¹ Section 41 (Approval of forms)

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(b) premises in which are exhibited items of trade for sale in conjunction with a practice of pharmacy;

but does not include a dispensary in any hospital or any premises in which medicines, mixtures, compounds or drugs are dispensed by a person (not being a pharmacist) authorised so to do under the *Health Act 1937*.

“practice of pharmacy” or “pharmacy practice” means—

(a) the professional dispensing of medicines, mixtures, compounds and drugs; and

(b) where appropriate—the sale of items of trade and the provision of services in conjunction with the professional dispensing of medicines, mixtures, compounds and drugs;

but does not include the lawful sale in the ordinary course of business by any retail shopkeeper or storekeeper (not being a pharmacist) of any patent medicine or proprietary medicine, or of any medicine or drug commonly sold in a bottle, tin, packet or other container.

“register” means the register of pharmacists kept under this Act.

“registrar” means the registrar of the board.

“the board” means the Pharmacy Board constituted under this Act.

“the repealed Acts” means the Acts specified in schedule 1.²

PART 2—ADMINISTRATION

Administration of Act

6. This Act shall be administered by the Minister and, subject to the Minister, by the board.

² Schedule 1 has been omitted in this reprint. The schedule specified the Acts repealed by this Act. The repealed Acts included the *Pharmacy Act 1917* and various amending Acts.

Constitution of board

7.(1) The Pharmacy Board constituted under the *Pharmacy Act 1917* and continued as a body corporate under the *Medical Act and Other Acts (Administration) Act 1966* is preserved, continued in existence and constituted under this Act under the name the Pharmacy Board of Queensland.

(2) The board shall have and may exercise and discharge the powers, authorities, duties and functions conferred and imposed upon it by or under this Act.

(3) The board shall continue to be a body corporate with perpetual succession and a common seal and subject to this Act, shall be capable in law of suing and being sued, of compounding or proving in any court of competent jurisdiction all debts or sums of money due to it, and of acquiring, holding, alienating and otherwise dealing with property and of doing and suffering all such acts and things as bodies corporate may in law do and suffer.

(4) All courts and persons acting judicially shall take judicial notice of the common seal of the board and, until the contrary is proved, shall presume that it was duly affixed to any document on which it appears.

Members of board

8.(1) The board shall consist of 9 members appointed by the Governor in Council.

(1A) The members of the board shall consist of—

- (a) 4 persons nominated by the Minister of whom at least 2 shall be pharmacists; and
- (b) 3 pharmacists nominated by an association or associations accepted by the Minister as representative of pharmacists; and
- (c) 1 person representing users of the services of pharmacists; and
- (d) a barrister or solicitor of the Supreme Court.

(2) Nomination pursuant to subsection (1A)(b) shall be made within the time and in the manner prescribed or, where not prescribed, as determined by the Minister, and in default of the association or associations entitled to

make such nomination doing so as prescribed or as determined by the Minister, as the case may be, the Governor in Council may appoint any pharmacist to the board as if the pharmacist had been duly nominated by the association or associations entitled to make the nomination.

(3) A person may hold office as a member of the board in addition to any position the person holds in the public service.

Increase in number of members

8A. If the number of members required to constitute the board is increased, a vacancy is taken to exist in the office of a member or members to the number of the increase and—

- (a) each vacancy may be filled under section 11; and
- (b) the Governor in Council may nominate the term of appointment of the person appointed to fill each vacancy.

Chairperson and deputy chairperson of board

9.(1) In every appointment of the whole number of members of the board the Governor in Council shall appoint a member who shall be chairperson of the board.

(1A) When a vacancy occurs in the office of chairperson of the board, the Governor in Council may appoint another member of the board to the vacant office.

(2) The members of the board shall elect one of their members to be deputy chairperson of the board at their first meeting held after the whole number of members assume office or, where a vacancy occurs in the office of deputy chairperson, after the appointment of a member in the place of the member who was deputy chairperson.

(3) The chairperson shall preside at every meeting of the board at which the chairperson attends and in the chairperson's absence the deputy chairperson shall so preside.

(4) Where both the chairperson and deputy chairperson are absent from a meeting, another member of the board chosen for the purpose by the majority of the members present and voting shall preside.

(5) The deputy chairperson or other member who presides at a meeting of the board in place of the chairperson has and may exercise all the powers and authorities of the chairperson while he or she so presides.

(6) Save where the by-laws disentitle him or her to vote on the matter in issue, the chairperson or other member presiding at a meeting of the board is entitled to a deliberative vote on any matter before the meeting and, in the event of an equal division of votes thereon, is entitled to a second or casting vote.

Tenure of office

10.(1) The appointment of a member of the board (other than a member appointed to fill a casual vacancy) is to be for a term of 3 years.

(2) Subject to this Act, a member of the board shall be eligible for reappointment if the member is eligible for appointment to the board.

(3) The office of a member of the board shall become vacant if the member—

- (a) dies; or
- (b) becomes bankrupt or compounds with his or her creditors, or otherwise takes advantage of the laws in force for the time being relating to bankruptcy; or
- (c) is absent without prior leave granted by the board from 3 consecutive ordinary meetings of the board of which due notice has been given to the member; or
- (d) resigns by signed notice delivered to the Minister; or
- (e) is convicted of an indictable offence or an offence against this Act or the *Health Act 1937*; or
- (f) is removed from office by the Governor in Council by notification published in the gazette on the grounds of mental or physical incapacity to perform duties as a member or because of any conduct which, in the opinion of the Governor in Council, shows the member to be unfit to be a member of the board.

(4) Attendance of a member of the board at the time and place appointed for an ordinary meeting of the board shall be deemed to constitute presence

at a meeting notwithstanding that by reason that a quorum is not present no meeting is then and there actually held, and the registrar shall enter in the minute book the names of all members who so attend.

(5) A resignation as member of the board shall take effect when notice in writing thereof is received by the Minister or on the operative date specified in the notice, whichever is the later.

Casual vacancies

11. Where a vacancy occurs in the office of a member of the board during the term of office of the members then constituting the board, the Governor in Council may, in accordance with section 8 appoint another person as a member to hold office for the balance of his or her predecessor's term of office as a member.

Meetings of board

12.(1) The board shall meet as often as is necessary for the due administration of this Act, at such times and places as it thinks fit, and shall conduct its business in such manner as may be prescribed or, where or to the extent not prescribed, as it determines from time to time.

(2) A quorum at any meeting of the board shall be 5 members entitled to vote on the business before the meeting who, at a duly convened meeting, shall be competent to transact any business of the board and may exercise and perform all the powers, authorities, duties and functions of the board.

(3) The decision of a majority of the members at a meeting of the board at which a quorum is present shall be the decision of the board.

(4) If a member present at a meeting and entitled to vote abstains from voting the member shall be taken to have cast a vote for the negative.

(5) A proceeding or decision of the board shall not be invalidated or made ineffectual by reason only that—

- (a) the whole number of members had not been appointed at the time; or

- (b) any member was not entitled to take part in the proceeding or decision; or
- (c) there is a defect in the appointment of any member.

Committees

13.(1) The board may select persons to form an advisory committee or advisory committees to advise the board on any matter within the scope of the board's functions referred to the committee or to a particular committee by the board.

(2) A person may be a member of such a committee whether or not the person is a member of the board.

Entitlements of members of board or committees

14. Members of the board and members of a committee formed pursuant to section 13 shall be entitled to such fees and allowances as are approved by the Governor in Council.

Holders of office not affected by restrictive employment provisions

15. A provision to any enactment requiring the holder of an office to devote the whole of his or her time to the duties of the office or prohibiting the holder from engaging in employment outside the duties of the office shall not operate to hinder holding that office and also an appointment as member, chairperson or deputy chairperson of the board or of any advisory committee formed pursuant to section 13, or the acceptance and retention of any allowance or remuneration payable to a member of the board under this Act.

Registrar and other officers employed under Public Service Act

16. The registrar and other officers of the board are to be employed under the *Public Service Act 1996*.

Accounts

17.(1) All moneys received by or on behalf of the board shall be paid into and form part of the funds of the board.

(2) Expenses of and incidental to the administration of this Act shall be paid by the board from its funds.

(2A) Subsection (2) does not affect the liability, prescribed by any other Act, of the board to pay from its funds moneys for or towards the salaries of the registrar and officers and inspectors appointed for the effectual administration of this Act.

(3) The board shall enter or cause to be entered in such books, accounts and records required by the auditor-general to be kept for the purpose a true account of all sums of money received and paid under this Act.

Board is statutory body

17A.(1) Under the *Statutory Bodies Financial Arrangements Act 1982*, the board is a statutory body.

(2) The *Statutory Bodies Financial Arrangements Act 1982*, part 2B sets out the way in which the board's powers under this Act are affected by the *Statutory Bodies Financial Arrangements Act 1982*.

PART 3—REGISTRATION OF PHARMACISTS

The register

18.(1) The board shall cause the registrar to keep, in such form as it thinks fit, a register (the “**register of pharmacists**”) of the names and other prescribed particulars of persons who are entitled to be and who remain registered under this Act as pharmacists.

(2) The register of pharmaceutical chemists kept under the repealed Acts shall continue and shall be and remain the register of pharmacists for the purposes of this Act.

(3) The register shall at all reasonable times be open to inspection at the

office of the registrar by any person on payment of the prescribed fee.

(4) The registrar shall cause to be published—

- (a) by 30 June in each year the ‘list of pharmacists, Queensland’ certified by the registrar as correct to 1 May in that year; and
- (b) from time to time as the registrar thinks desirable a supplementary list indicating all alterations, additions, revisions and removals made in, to and from the register during the period indicated in such supplementary list and certified by the registrar to a date indicated in that list.

Qualification for registration

19.(1) Subject to this section, a person shall be entitled to be registered as a pharmacist if the person applies to the board in the approved form, pays the prescribed fee for registration and satisfies the board that the person is of good fame and character, is medically fit to practise pharmacy and that—

- (a) the person is the holder of 1 of the prescribed qualifications; or
- (b) the person has passed through a regular course of study in pharmacy in a school or other teaching institution in any country and has received after due examination from a university, college or other body in that country a degree, diploma or certificate which—
 - (i) is approved by the board as equal to or higher than the degree in pharmacy conferred after due examination by a university in Queensland; and
 - (ii) is recognised by the board as qualifying the applicant to practise pharmacy in that country; or
- (c) the person has—
 - (i) passed through a regular course of study in pharmacy in a school or other teaching institution in any country and has received after due examination from a university, college or other body in that country a degree, diploma or certificate which is recognised by the board as qualifying the applicant to practise pharmacy in that country; and

- (ii) undergone such additional training as in the board's opinion is necessary to qualify the person to practise pharmacy in Queensland.

(1A) The board may, where it thinks fit, appoint a committee of assessors composed of medical practitioners (whether or not they are members of the board) and may require an applicant for registration to appear before the committee of assessors who shall determine the medical fitness to practise pharmacy of an applicant and the board shall be bound by a certificate issued by the committee of assessors as to the medical fitness to practise pharmacy of the applicant.

(2) A person who applies for registration under this Act as having the qualification prescribed by subsection (1)(b) or (c) shall not be registered until the person has produced to the board a certificate issued by the head of the department of pharmacy of a university in Queensland that—

- (a) the applicant has undergone such written, oral and practical examinations as are arranged and approved by the head and conducted in the English language; and
- (b) the head is satisfied following such examinations that the applicant possesses the knowledge, skill and ability to practise pharmacy efficiently in this State.

(2A) If the head is not satisfied as required by subsection (2)(b), the head may recommend to the board that the applicant undergo such further training and experience or training or experience as would, in the head's opinion enable the applicant to satisfy the head of the applicant's knowledge, skill and ability and the board may require the applicant to undertake such training and experience, or training or experience and may require the applicant again to undergo some or all of the examinations prescribed in subsection (2)(a).

(3) A person shall not be registered under this Act until the person proves to the board's satisfaction that the person has obtained the prescribed practical experience.

(4) For the purposes of subsection (1)(a)—

“prescribed qualifications” means those qualifications set out in regulations made for the purposes of that paragraph.

(5) The regulations may specify—

- (a) the university, college, institute or other body granting the qualification; and
- (b) the place where the university, college, institute or other body is situated; and
- (c) the qualification recognised.

Registration of additional qualifications

20. A pharmacist who applies to the board for the purpose of this section and who satisfies the board that the pharmacist is the holder of a degree, diploma, status or qualification recognised by the board other than the qualifications in respect of which the pharmacist is registered is entitled, upon payment of the prescribed fee, to have such degree, diploma, status or qualification recorded in the register.

Certificate of registration

21.(1) Every pharmacist is entitled to obtain from the registrar a certificate of the pharmacist's registration in the approved form.

(2) On application made to the board at any time and on payment of the prescribed fee, the board may direct the registrar to issue to any pharmacist a duplicate or certified copy of the pharmacist's certificate of registration.

Annual licence fee

22.(1) Every pharmacist shall pay to the board a prescribed annual licence fee.

(2) The annual licence fee shall be paid to the board within the period in each year commencing on 1 January and concluding on 30 April or, where another period is prescribed in respect thereof (the board being hereby thereunto authorised), within that other period in each year as so prescribed.

(3) If a pharmacist fails to pay the annual licence fee within the period as provided in subsection (2), the registrar shall thereupon remove the pharmacist's name from the register.

(4) If the name of any person has been removed from the register pursuant to subsection (3) or section 23(1)(a) the board shall, subject to this

Act, upon application by that person direct the registrar to restore the person's name to the register upon payment of the annual licence fee and such restoration fee as may be prescribed.

Removal of name from register

23.(1) The board may instruct the registrar to remove from the register the name of a pharmacist—

- (a) who applies in writing to have his or her name removed therefrom;
- (b) whose name has at any time been ordered to be erased absolutely or for a limited period from a register of pharmacists maintained by any other registration authority and whose name at the material time has not been restored to that register.

(2) If it comes to the notice of the board that any person whose name then appears on the register may be medically unfit to practise pharmacy, the board may appoint a committee of assessors composed of medical practitioners (whether or not members of the board), and may require that person to appear before the committee of assessors who shall determine the medical fitness of that person to practise pharmacy and shall certify to the board according to its finding.

(3) If a certificate issued to the board by a committee of assessors states that the person named therein is medically unfit to practise pharmacy or has failed to appear before it, the board may by notice in writing call upon such person to show cause at a place, date and time specified by the board in such notice why the person's name should not be erased from the register.

(4) If such cause be not shown to the board's satisfaction as requested by the board, the board may instruct the registrar to erase the name of that person from the register.

Correction of register

24.(1) The registrar shall from time to time strike from the register the names of all pharmacists who have died and make such alterations and amendments to the register as the board directs so that the register shall be an accurate record of the names, addresses and qualifications of

pharmacists.

(2) A pharmacist shall notify the board of any change of name, address or other prescribed particulars and furnish particulars of such change within 21 days after the occurrence of the change.

Disciplinary action

25.(1) Where the board considers it has reasonable grounds to suspect that a pharmacist—

- (a) has been convicted of an indictable offence; or
- (b) has been convicted of an offence against this Act or the repealed Acts; or
- (c) has been convicted of an offence against the *Health Act 1937*; or
- (d) has failed to carry out a lawful demand of the board made pursuant to this Act; or
- (e) has signed or given under his or her name and authority a certificate, notification, report or other document of a kindred character, signed or given by the pharmacist in his or her capacity as a pharmacist for subsequent use in a court of law or for administrative or governmental purposes or for the pecuniary interest of himself or herself or other person concerned, where such certificate, notification, report or other document is untrue, misleading or improper; or
- (f) has been guilty of conduct discreditable to a pharmacist;

it may hold a full and proper inquiry into the matter in question and for that purpose shall notify the pharmacist of the matter suspected against the pharmacist and of the time and place when and where the inquiry will be held.

(2) An inquiry shall not be open to the public unless the board otherwise determines or the pharmacist in question otherwise requires.

(3) A notification required by subsection (1) to be given shall be in writing and shall be given to the pharmacist personally or by post by registered letter or certified mail service.

(4) In the conduct of an inquiry the board—

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- (a) may appoint a person, either with or without legal qualifications, to assist it, and such person shall render to the board such assistance as is in the person's power;
- (b) shall afford the pharmacist in question the opportunity of making defence to all allegations made against the pharmacist, in person or by counsel or solicitor.

(5) Subject to subsections (1), (2) and (4) the board in the holding of an inquiry shall have and may exercise all the powers, authorities, rights, privileges, protection and jurisdiction of a commission of inquiry under the *Commissions of Inquiry Act 1950* save such as are by that Act reserved to a chairperson of a commission when that chairperson is a judge of the Supreme Court.

(6) If upon its inquiry the board is satisfied of the truth of the matter referred to in subsection (1) and alleged against the pharmacist in question it may, as it considers just in the circumstances, do any 1 or more of the following things—

- (a) cancel the pharmacist's registration and order the removal of his or her name from the register;
- (b) order that his or her registration be suspended for such period as it thinks fit;
- (c) order that the pharmacist pay to the board a penalty of not more than 20 penalty units;
- (d) reprimand the pharmacist.

(7) Where the board has dealt with a pharmacist under the provisions of subsection (6), the board may order that the pharmacist pay to the board by way of costs such sum as it thinks fit.

(8) Any pecuniary penalty or costs ordered by the board to be paid to it pursuant to subsection (6) or (7) shall become due and payable forthwith, or, if the board allows time for payment thereof, immediately upon expiration of the time so allowed.

(8A) The registrar shall secure compliance with an order of the board made with respect to subsection (6)(a), (b) or (c) or subsection (7).

(9) Subject to section 35, the suspension of registration of any person shall whilst the suspension continues in force have the same effect as a

cancellation of registration and removal of the name of the suspended person from the register pursuant to this section.

(10) The board may order the publication in such manner as it thinks fit of its findings upon an inquiry under this section.

Discreditable conduct by associations of persons

26.(1) All things done or omitted to be done by an employee of an association of persons carrying on a pharmacy practice in the course of the employee's employment or acting under the instruction of the employee's employers shall for the purposes of this Act be deemed to be done or omitted to be done by that association of persons.

(1A) Where such thing would, if done or omitted to be done by a pharmacist, be conduct discreditable to a pharmacist then the association of persons shall be deemed to be guilty of conduct discreditable to a pharmacist.

(2) Where a person who is a member of an unincorporated association of persons carrying on a pharmacy practice is guilty of conduct discreditable to a pharmacist committed in relation to that practice, then that association shall be deemed to be guilty of conduct discreditable to a pharmacist.

(3) Where, pursuant to subsection (1) and (1A) an association of persons which is incorporated is deemed to be guilty of conduct discreditable to a pharmacist every member of its governing body, by whatever name called, shall (unless the member proves that the member did not know and had no means of knowing of the act or omission constituting such conduct discreditable to a pharmacist) also be deemed to be guilty of conduct discreditable to a pharmacist and the board may deal with the member under the provisions of section 25.

(4) Where, pursuant to subsection (1), (1A) or (2), an association of persons which is not incorporated is deemed to be guilty of conduct discreditable to a pharmacist every person who is a member thereof shall (unless the member proves that the member did not know and had no means of knowing of the act or omission constituting such conduct discreditable to a pharmacist) also be deemed to be guilty of conduct discreditable to a pharmacist and the board may deal with the member under the provisions of section 25.

(5) Where the board after due inquiry holds that an association of persons carrying on a pharmacy practice is guilty of conduct discreditable to a pharmacist, that association, and in the case of an unincorporated association each member thereof, shall forthwith cease for all time or for such period as the board specifies to practise pharmacy in the pharmacy wherein such conduct occurred or in any premises in substitution therefor.

(6) With respect to inquiries by the board for the purposes of this section, section 25(2), (4), (5), (7) and (10) apply and, for the purposes of such application, those subsections shall be read and construed as if references to a pharmacist therein were references to an association of persons referred to in this section.

Code of professional conduct of pharmacists

27.(1) The board may compile a code of professional conduct of pharmacists.

(2) The code must be approved by regulation.

(3) Nothing in this section prevents any matter not dealt with in the code compiled under this section from being treated for the purposes of this Act as conduct discreditable to a pharmacist.

Notification of board's determination

28. When the board refuses an application of any person to be registered as a pharmacist or makes an order or determination under section 25(6) or (7) or under section 26 or refuses an application by any person for the recording in the register under section 20 of a degree, diploma, status or qualification, the registrar shall notify the person whose application is refused or the person or the association of persons against or in respect of whom the order or determination, as the case may be, is made of the refusal, order or, as the case may be, determination in writing addressed to the address of that person or association of persons last known to the registrar.

Appeals

29.(1) A person or association of persons aggrieved by—

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- (a) a refusal by the board of the person's application to be registered as a pharmacist; or
- (b) an order or determination made against or in respect of the person or it under section 25 or section 26; or
- (c) a refusal by the board of the person's application for the recording in the register under section 20 of a degree, diploma, status or qualification;

may appeal therefrom to a judge of the District Court at Brisbane who shall have jurisdiction to hear and determine the same and whose decision thereon shall be final and be given effect to by the board.

(2) An appeal shall be by way of rehearing, and shall be instituted within 30 days after notification of the refusal or order or determination to the person or association of persons aggrieved, and no later, by filing a notice of appeal in the registry of the District Court at Brisbane setting out the grounds of appeal and, subject to this section, by complying with any rules of court made with respect thereto.

(3) The appellant shall serve a copy of the notice of appeal on the registrar of the board not later than 7 days after the notice is filed in the registry of the District Court.

(5) The proceeding on appeal under this section shall be deemed to be a proceeding before a District Court.

(6) If the judge hearing an appeal under this section is of the opinion that the appeal involves a question of special knowledge and skill, the judge may appoint 1 or more assessors who in the judge's opinion possess the special qualifications necessary for the particular case to assist the judge in the judge's determination.

(6A) An assessor shall be paid such fees and expenses as the Governor in Council shall from time to time determine.

(6B) An assessor may advise the judge on any matter but all questions of law and fact shall be determined by the judge who shall place such weight (if any) as the judge thinks fit, on that advice.

(7) Where upon appeal a District Court orders a penalty to be paid by an appellant, it shall order the penalty to be paid to the board and, for the purposes of its enforcement, the order shall be deemed to be an order made by the board.

PART 4—OWNERSHIP OF PHARMACY PRACTICES

Limitations upon ownership of and pecuniary interests in pharmacy practices

30.(1) Subject to subsections (3) to (3B), a person, who is not a pharmacist shall not carry on as owner, or otherwise have a pecuniary interest, direct or indirect, in a practice of pharmacy.

(2) Subject to subsections (3) to (3B), a person shall not concurrently carry on as owner or otherwise have a pecuniary interest, direct or indirect, in a practice or practices of pharmacy in more than 4 pharmacies.

(3) The provisions of subsection (1) and (2) do not apply to a duly registered friendly society—

- (a) in respect of each pharmacy in which it carries on a practice of pharmacy at the date of commencement of this Act and continues to carry on that practice therein or in other premises approved by the Minister upon the recommendation of the board in lieu of and within the locality of that pharmacy; or
- (b) in respect of each pharmacy in which it carries on a pharmacy practice and the establishment of which the Minister has approved in accordance with subsection (7).

(3A) The provisions of subsection (1) do not apply to a person or association of persons in respect of a pharmacy in which, at the date of commencement of this Act, that person or association carries on as owner or has a pecuniary interest, direct or indirect, in the practice of pharmacy only so long as—

- (a) no alteration is made in the ownership of the practice existing at the date of commencement of this Act; and
- (b) any change in the name under which the practice of pharmacy is carried on has the prior approval of the board; and
- (c) such practice is continued to be carried on in that pharmacy or another pharmacy approved by the Minister upon the recommendation of the board in lieu of and within the locality of that pharmacy.

(3B) A person or association of persons who, at the date of

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commencement of this Act carries on as owner or has a pecuniary interest, direct or indirect, in a practice of pharmacy in any pharmacy may continue to carry on as owner thereof or to have that pecuniary interest therein (or in another pharmacy approved by the Minister upon the recommendation of the board in lieu of and within the locality of that pharmacy) but whilst that person or association of persons so continues to carry on as owner or have a pecuniary interest, direct or indirect, in the practice of pharmacy in 4 or more pharmacies that person shall not carry on as owner or have a pecuniary interest, direct or indirect, in any other pharmacy.

(4) All persons and associations of persons who own or have a pecuniary interest in a pharmacy or a pharmacy practice shall when so required by the board produce to it all documents of whatever nature concerning the ownership of or any pecuniary interest in that pharmacy or, as the case may be, pharmacy practice.

(5) Subsection (1) shall not operate to prohibit a person or association of persons from having a pecuniary interest, direct or indirect, in a pharmacy practice—

- (a) in the case of a person—by reason only of the person being an employee employed in the carrying on of the practice; or
- (b) by reason of the person or its being the grantee under a bill of sale given in respect of such practice; or
- (c) in such other circumstances as the Governor in Council may by order in council prescribe.

(6) A provision in a bill of sale, mortgage, lease, arrangement, franchise, agency, or in any other service or commercial arrangement, in respect of a pharmacy practice shall be void if it—

- (a) requires goods or services in connection with the practice to be obtained from a specific person or body; or
- (b) gives to any person other than the person lawfully carrying on the practice—
 - (i) the right to control in whole or in part the manner in which the practice is carried on; or
 - (ii) the right of access to books of accounts kept in respect of that practice, otherwise than for the purpose of determining whether or not the conditions of the relevant document are

being complied with; or

- (iii) the right to receive any consideration that varies according to the profits or takings in respect of the practice.

(7) Upon application in that regard by a duly registered friendly society, the board shall advise the Minister as to whether—

- (a) there is an established need for the establishment of a pharmacy; and
- (b) the composition and membership of that society is as prescribed.

(7A) The Minister may, in the Minister's discretion, approve the establishment of that pharmacy by that society.

(8) Where a person who, at the date of commencement of this Act, has a pecuniary interest direct or indirect in a practice of pharmacy in any pharmacy relinquishes the person's interest therein or disposes of the person's interest therein which interest so disposed is acquired by—

- (a) a person who holds a pecuniary interest direct or indirect in such practice; or
- (b) a person who does not as a result of such acquisition carry on as owner or otherwise have a pecuniary interest, direct or indirect in a practice or practices of pharmacy in more than 4 pharmacies;

then, for the purposes of subsection (3A)(a) such disposal and acquisition shall be deemed not to result in an alteration in the ownership of the practice.

PART 5—MISCELLANEOUS

Certain actions implying registration or qualification therefor prohibited

31. A person who is not a pharmacist shall not—

- (a) take or use the name or title of pharmacist, pharmaceutical chemist or chemist or any other name, title, designation, addition or description of whatever nature (which may also include initials

or letters placed after the person's name or otherwise), which having regard to the circumstances in which it is taken or used indicates or could be understood to indicate that the person is a pharmacist or is practising pharmacy; or

- (b) in an advertisement howsoever made, represent expressly or by inference that the person or any other person portrayed therein (who is not a pharmacist) is a pharmacist or is qualified to practise pharmacy or that the person or such person is a pharmacist or is qualified to practise pharmacy and is promoting or recommending goods being advertised therein.

Practice of pharmacy

32.(1) A person who is not a pharmacist shall not practise or attempt to practise pharmacy.

(2) Nothing contained in this section shall prevent a person—

- (a) undergoing the training or obtaining the practical experience required under section 19; or
- (b) dispensing or selling poisons or dangerous or restricted drugs where the chief executive has duly authorised the person so to do pursuant to the *Health Act 1937*; or
- (c) who, being a medical practitioner, is approved by the board to practise pharmacy (the board being hereby authorised so to do), practising pharmacy within the limits specified in that approval.

(3) A person who owns or has a pecuniary interest in a pharmacy practice which is not carried on under the actual personal supervision and management of a pharmacist commits an offence against this Act.

Maximum penalty—20 penalty units and an additional penalty of not more than 2 penalty units for each day the offence continues.

(4) For the purposes of subsection (3) a pharmacy practice is not carried on under the actual personal supervision and management of a pharmacist unless a pharmacist is personally present in the pharmacy—

- (a) when medicines, mixtures, compounds or drugs are dispensed therein; and

- (b) at all times when the pharmacy is open for business except for a period of not more than 1 hour between noon and 2 p.m. or such other period as is prescribed in substitution therefor.

(5) The board may make by-laws, to apply generally throughout the State or in respect of such part or parts of the State as is therein specified, prescribing the period referred to in subsection (4)(b) and may so prescribe different periods in respect of different parts of the State.

Penalty for fraudulent practices

33.(1) A person shall not—

- (a) procure or attempt to procure himself, herself or any other person to be registered by making or producing, or causing to be made or produced, any false or fraudulent statement, declaration or representation, either verbal or in writing;
- (b) make or cause to be made any falsification in the register or in any writing relating to the register or any false statement relating to the register;
- (c) forge, alter or counterfeit any certificate of registration under this Act;
- (d) utter any forged or altered or counterfeit certificate of registration knowing the same to have been forged or altered or to be counterfeit;
- (e) make any false statement upon any examination or in any declaration before the board, or utter or attempt to utter or put off as true before the board any false, forged, altered or counterfeit certificate, diploma, letter, testimonial or other title, document or writing;
- (f) falsely advertise or hold himself or herself out as having obtained a certificate of registration under or as being registered under this Act, or permit any such advertisement or holding out;
- (g) falsely personate or represent himself or herself as being the person referred to in any certificate or writing presented to the board or in any certificate granted under this Act.

Maximum penalty—20 penalty units or 6 months imprisonment.

(2) The name of any person who procures himself or herself to be registered by any means which contravene this section shall, upon the person being convicted in respect of that contravention, be removed from the register.

(3) The provisions of this section are in addition to and not in substitution for or in derogation of the provisions of the Criminal Code or any other Act.

Continuation of practice of deceased pharmacist

34.(1) Notwithstanding any other provision of this Act, the executor, administrator or trustee of a deceased pharmacist may carry on in the name of the deceased pharmacist the practice formerly carried on by the deceased pharmacist for a period not exceeding 12 months from the date of such death or for such further time as may be permitted by the board (it being hereby thereunto authorised), provided that the practice shall be carried on under the actual personal supervision and management of a pharmacist whose name shall be notified to the board by such executor, administrator or trustee.

(2) The executor, administrator or trustee of the deceased pharmacist is not guilty of an offence under section 30 in respect of the deceased pharmacist's pharmacy practice or business whilst he or she carries on the practice pursuant to subsection (1).

Continuation of practices of certain pharmacists whose names have been removed from the register

35.(1) Subject to subsection (2), a pharmacist whose name has been removed from the register by reason that—

- (a) the pharmacist is medically unfit to practise pharmacy; or
- (b) the pharmacist's registration has been suspended pursuant to section 25;

may, if the board in its discretion so approves and for the period or periods (each of which period shall not exceed 3 months) as the board from time to time determines (it being hereby thereunto authorised), continue to carry on the pharmacy practice carried on by the pharmacist immediately prior to the

removal of the pharmacist's name from the register.

(2) A person referred to in subsection (1) whilst the person continues to carry on the pharmacy practice thereunder shall—

- (a) carry on that practice only under the actual personal supervision and management of a pharmacist;
- (b) notify the board of the name of the pharmacist referred to in paragraph (a);
- (c) not personally practise pharmacy;
- (d) comply with any conditions imposed by the board in its approval.

(3) A person who carries on the person's pharmacy practice pursuant to this section is not guilty of an offence under section 30(1).

General penalty

36.(1) A person who contravenes or fails to comply with any provision of this Act commits an offence against this Act and, save where a specific penalty is otherwise provided, is liable to a penalty of 20 penalty units.

(2) All penalties recovered in respect of offences against this Act shall be paid to the board.

Proceedings generally

37.(1) An offence against this Act may be prosecuted in a summary way under the *Justices Act 1886* upon the complaint of the registrar, or a person authorised by the board in that behalf.

(2) A prosecution for an offence against this Act may be commenced within one year from the time when the matter of complaint arose or within 6 months after the matter of complaint comes to the knowledge of the complainant, whichever is the period later to expire.

(3) Without prejudice to any other right or remedy available to the board with respect thereto, all fees payable to the board under this Act and all penalties ordered by the board to be paid to it under this Act may be recovered in a summary way under the *Justices Act 1886* or as a debt due and owing to the board by action in any court of competent jurisdiction.

Evidentiary provisions

38. In any proceeding for the purposes of this Act—

- (a) a certificate purporting to be signed by the registrar certifying the state of any part of the register at a date or during a period specified in the certificate or certifying that a person named therein was not at a date or during a period specified therein, a pharmacist shall, upon its production, be admissible as evidence and, in the absence of evidence to the contrary, conclusive evidence of the matters contained in the certificate;
- (b) every part of the register, and an extract of any part of the register purporting to be certified as correct by the registrar shall, upon its production, be admissible as evidence and, in the absence of evidence to the contrary, conclusive evidence of the matters contained therein;
- (c) a certificate purporting to be signed by the registrar, certifying that at a date or during a period specified therein, a person named therein was or was not approved by the board to carry on a practise of pharmacy pursuant to section 35 shall, upon its production, be admissible as evidence and, in the absence of evidence to the contrary, conclusive evidence of the matters contained in the certificate;
- (d) a statement, in a complaint commencing that proceeding of the date on which the matter of complaint came to the knowledge of the complainant shall be evidence and, in the absence of evidence to the contrary, conclusive evidence of its content;
- (e) proof shall not be required of the authority of any person to prosecute an offence against this Act or to take any proceeding on behalf of the board unless evidence is given to the contrary;
- (f) proof shall not be required of the appointment of the registrar or of any other officer appointed for the effectual administration of this Act or of the signature of the registrar.

Statutory declarations

39. For the purposes of this Act, the board may—

- (a) demand and accept a declaration under the *Oaths Act 1867* from any person;
- (b) require an applicant to verify by way of declaration under the *Oaths Act 1867* (the taking of which being hereby authorised) information furnished to the board in respect of the application for registration.

By-laws

40.(1) The board may make by-laws under this Act.

(1A) By-laws may be made for or about the following matters—

- (a) the powers, duties and functions of the registrar, officers and inspectors appointed for the effectual administration of this Act;
- (b) the register and the manner of its keeping;
- (c) the making of applications to the board and the effect of furnishing false particulars therein;
- (d) the conduct of meetings of the board, the entitlement of members of the board to vote upon business before a meeting, and the conduct of proceedings before the board and of the affairs of the board;
- (e) the common seal of the board, the authentication of documents of the board, and the attesting of documents by or on behalf of the board;
- (f) regulating advertising by pharmacists including prescribing and limiting the manner in which and the means by which they may advertise and prescribing ways in which they may not advertise;
- (g) regulating, controlling and prohibiting canvassing or soliciting work or business by, for or on behalf of pharmacists;
- (h) the matters in respect of which fees are payable for the purposes of this Act, the amounts of fees, the persons who are liable to pay fees, when fees are payable, the waiver of fees and the recovery of unpaid amounts of fees;
- (ha) the allowances payable under this Act and the purposes for which they are payable;

- (i) regulating and controlling the use by pharmacists of titles, letters or words indicating or describing their qualifications, prescribing titles, letters or words that shall or may be used to indicate or describe that any person is a pharmacist or to indicate or describe any particular pharmaceutical qualification, prohibiting the use by pharmacists, in relation to their qualifications as pharmacists or the practice by them of pharmacy, of any titles, letters or words other than those prescribed for such use or prohibiting any prescribed titles, letters or words from being so used and, in relation to pharmaceutical qualifications, either generally or except to indicate or describe a particular qualification;
- (k) penalties of not more than 20 penalty units;
- (l) costs to be imposed by the board in addition to penalties following disciplinary inquiries;
- (m) all matters relating to the employment of pharmacy graduates and pharmacy undergraduates as a prerequisite to their registration, including the period and training received during the period and the ratio of such pharmacy graduates and pharmacy undergraduates to supervising pharmacists;
- (n) prescribing the composition and membership of duly registered friendly societies by which the establishment of a pharmacy practice may be approved by the board;
- (o) all matters required or permitted by this Act to be prescribed where the method of prescription is not otherwise provided.

(3) A by-law has no effect unless and until approved by the Governor in Council.

Approval of forms

41. The board may approve forms for use under this Act.

Regulation making power

41A. The Governor in Council may make regulations under this Act.

Health Act 1937 to apply

42. The provisions of this Act are in addition to and not in derogation of the *Health Act 1937* the provisions of which Act apply to all pharmacists and persons or association of persons carrying on a pharmacy practice.

Exemption for wholesale dealer in drugs

43. This Act does not apply to a person lawfully carrying on the business of a wholesale dealer in drugs in the ordinary course of selling or supplying drugs for resale.

References to pharmaceutical chemists in other Acts

44. In any Act a reference to a pharmaceutical chemist by whatever means expressed shall be taken to be a reference to a pharmacist.

ENDNOTES**1 Index to endnotes**

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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 21 December 1998. Future amendments of the Pharmacy Act 1976 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

AIA	=	Acts Interpretation Act 1954	prev	=	previous
amd	=	amended	(prev)	=	previously
amdt	=	amendment	proc	=	proclamation
ch	=	chapter	prov	=	provision
def	=	definition	pt	=	part
div	=	division	pubd	=	published
exp	=	expires/expired	R[X]	=	Reprint No.[X]
gaz	=	gazette	RA	=	Reprints Act 1992
hdg	=	heading	reloc	=	relocated
ins	=	inserted	renum	=	renumbered
lap	=	lapsed	rep	=	repealed
notfd	=	notified	s	=	section
o in c	=	order in council	sch	=	schedule
om	=	omitted	sdiv	=	subdivision
p	=	page	SIA	=	Statutory Instruments Act 1992
para	=	paragraph	SL	=	subordinate legislation
prec	=	preceding	sub	=	substituted
pres	=	present	unnum	=	unnumbered

4 Table of earlier reprints

TABLE OF EARLIER REPRINTS

[If a reprint number includes a roman letter, the reprint was released in unauthorised, electronic form only.]

Reprint No.	Amendments included	Reprint date
1	to Act No. 58 of 1995	14 December 1995
1A	to Act No. 54 of 1996	28 April 1997
1B	to Act No. 54 of 1996	25 November 1997

5 Tables in earlier reprints

TABLES IN EARLIER REPRINTS

Name of table	Reprint No.
Changed citations and remade laws	1
Changed names and titles	1
Obsolete and redundant provisions	1
Renumbered provisions	1

6 List of legislation

Pharmacy Act 1976 No. 73

date of assent 14 December 1976

commenced 23 December 1976 (proc pubd gaz 25 December 1976 p 1853)

as amended by—

Pharmacy Act Amendment Act 1978 No. 38

date of assent 8 June 1978

commenced on date of assent

Medical Act and Other Acts Amendment Act 1981 No. 76 pt 4

date of assent 22 October 1981

ss 1–2 commenced on date of assent (see s 2(1))

remaining provisions commenced 17 April 1982 (proc pubd gaz 17 April 1982 p 1729)

Nursing Studies Act and Other Acts Amendment Act 1984 No. 74 pt 11

date of assent 18 October 1984

commenced on date of assent

Medical and Paramedical (Amendment of Inspectorial and Audit Provisions) Act 1987 No. 10 pt 10

date of assent 15 April 1987

commenced on date of assent

Health Legislation Amendment Act 1992 No. 66 pts 1, 12

date of assent 7 December 1992

ss 1–2 commenced on date of assent

ss 67–68, 72–73 commenced 18 December 1992 (1992 SL No. 450)

remaining provisions commenced 1 February 1993 (1992 SL No. 450)

Health Legislation Amendment Act 1993 No. 79 pts 1, 12

date of assent 17 December 1993

ss 1–2 commenced on date of assent

remaining provisions commenced 14 March 1994 (1994 SL No. 84)

Statute Law Revision Act 1995 No. 57 ss 1–2, 4 sch 1 (as amd by 1995 No. 58 ss 1–2, 4 sch 1) (as from 28 November 1995 (see s 2(1) sch 1))

date of assent 28 November 1995

commenced on date of assent

Statute Law Revision (No. 2) Act 1995 No. 58 ss 1–2, 4 sch 1

date of assent 28 November 1995

commenced on date of assent

Public Service Act 1996 No. 37 ss 1–2, 147 sch 2

date of assent 22 October 1996

ss 1–2 commenced on date of assent

remaining provisions commenced 1 December 1996 (1996 SL No. 361)

Statutory Bodies Financial Arrangements Amendment Act 1996 No. 54 ss 1–2, 9 sch

date of assent 20 November 1996

ss 1–2 commenced on date of assent

remaining provisions commenced 1 June 1997 (1997 SL No. 128)

Health and Other Legislation Amendment Act 1998 No. 41 ss 1, 2(2), 14(1) sch 1

date of assent 27 November 1998

ss 1–2 commenced on date of assent

remaining provisions commenced 21 December 1998 (1998 SL No. 346)

7 List of annotations**Commencement**

s 2 om R1 (see RA s 37)

Arrangement of Act

s 3 amd 1981 No. 76 s 16

om R1 (see RA s 36)

Repeals and savings

s 4 om 1995 No. 57 s 4 sch 1

Definitions

prov hdg sub 1992 No. 66 s 68(1)

s 5 def “**approved form**” ins 1995 No. 57 s 4 sch 1

amd 1995 No. 58 s 4 sch 1

def “**fee**” ins 1992 No. 66 s 68(2)def “**Minister**” om 1992 No. 66 s 68(3)def “**registrar**” sub 1995 No. 57 s 4 sch 1**Members of board**

s 8 amd 1992 No. 66 s 69; 1993 No. 79 s 88; 1995 No. 57 s 4 sch 1

Increase in number of members

s 8A ins 1992 No. 66 s 70

Chairperson and deputy chairperson of board

s 9 amd 1995 No. 57 s 4 sch 1

Tenure of office

s 10 amd 1993 No. 79 s 89; 1995 No. 57 s 4 sch 1

Meetings of board

s 12 amd 1992 No. 66 s 71

Entitlements of members of board or committees

s 14 sub 1984 No. 74 s 24

amd 1995 No. 57 s 4 sch 1

Registrar and other officers employed under Public Service Act

s 16 sub 1996 No. 37 s 147 sch 2

Accounts

s 17 amd 1987 No. 10 s 27

Board is statutory body

s 17A ins 1996 No. 54 s 9 sch

Qualification for registration

s 19 amd 1981 No. 76 s 17; 1995 No. 57 s 4 sch 1

Certificate of registration

s 21 amd 1995 No. 57 s 4 sch 1

Disciplinary action

s 25 amd 1995 No. 57 s 4 sch 1; 1995 No. 58 s 4 sch 1

Code of professional conduct of pharmacists

s 27 amd 1995 No. 57 s 4 sch 1

Appeals

s 29 amd 1995 No. 57 s 4 sch 1

Limitations upon ownership of and pecuniary interests in pharmacy practices

s 30 amd 1978 No. 38 s 2

Practice of pharmacy

s 32 amd 1995 No. 58 s 4 sch 1; 1998 No. 41 s 14(1) sch 1

Penalty for fraudulent practices

s 33 amd 1995 No. 57 s 4 sch 1

General penalty

s 36 amd 1995 No. 57 s 4 sch 1

Statutory declarations

s 39 amd 1995 No. 57 s 4 sch 1

By-laws

s 40 amd 1992 No. 66 s 72; 1995 No. 57 s 4 sch 1

Approval of forms

s 41 sub 1995 No. 57 s 4 sch 1

Regulation making power

s 41A ins 1981 No. 76 s 18
sub 1995 No. 57 s 4 sch 1

Approved forms

s 41B ins 1995 No. 57 s 4 sch 1 (as amd by 1995 No. 58 s 4 sch 1)
exp 28 May 1996 (see s 41B(3))

Power of board to make by-laws about fees

s 45 ins 1992 No. 66 s 73
om 1995 No. 57 s 4 sch 1

SCHEDULE 1

om R1 (see RA s 40)

SCHEDULE 2

om 1981 No. 76 s 19

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