

Queensland



ANNO VICESIMO QUINTO

ELIZABETHAE SECUNDAE REGINAE

No. 73 of 1976

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

[ASSENTED TO 14TH DECEMBER, 1976]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

PART I—PRELIMINARY

1. **Short title.** This Act may be cited as the *Pharmacy Act 1976*.
2. **Commencement.** This Act shall commence on a day to be fixed by Proclamation.
3. **Arrangement of Act.** This Act is arranged as follows:—
 - PART I—PRELIMINARY;
 - PART II—ADMINISTRATION;
 - PART III—REGISTRATION OF PHARMACISTS;
 - PART IV—OWNERSHIP OF PHARMACY PRACTICES;
 - PART V—MISCELLANEOUS;
 - FIRST SCHEDULE;
 - SECOND SCHEDULE.

4. Repeals and savings. (i) The Acts specified in the First Schedule are repealed to the extent indicated therein.

(2) Without limiting the operation of the *Acts Interpretation Act 1954-1971*—

- (a) notwithstanding the provisions of sections 8 and 10 of this Act, the Board shall continue to be constituted by the members by whom it is constituted as The Pharmacy Board immediately prior to the commencement of this Act, and they shall continue in office as members of the Board in terms of their appointment thereto;
- (b) the member of the Board who holds the office of President of The Pharmacy Board immediately prior to the commencement of this Act shall whilst he is a member of the Board be the chairman of the Board under this Act;
- (c) the registrar and any other officer in office immediately prior to the commencement of this Act shall, without further or other appointment, be deemed to have been appointed as registrar or, as the case may be, an officer, as provided by this Act;
- (d) a person who, immediately prior to the commencement of this Act, is a pharmaceutical chemist under the repealed Acts shall be a pharmacist under this Act whilst his name remains upon the register;
- (e) a person who was a pharmaceutical chemist under the repealed Acts and whose name was removed from the register of pharmaceutical chemists kept under those Acts—
 - (i) at his own request; or
 - (ii) because of failure to pay the prescribed fee in respect of registration as a pharmaceutical chemist under those Acts shall, subject to this Act, be entitled to have his name restored to the register kept under this Act upon application in writing in that behalf and payment of the annual licence fee and such restoration fee as may be prescribed, and upon compliance otherwise with the provisions of this Act.

5. Meaning of terms. In this Act, unless the contrary intention appears—

- “association of persons” includes an association of persons whether or not it is incorporated;
- “the Board” means The Pharmacy Board of Queensland constituted under this Act;
- “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 1966-1976* or the repealed Acts;
- “Minister” means the Minister for Health or other Minister of the Crown charged at the material time, with the administration of this Act: the term includes any Minister of the Crown who is temporarily performing the duties of the Minister;
- “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
 - (b) premises in which are exhibited items of trade for sale in conjunction with a practice of pharmacy:
the term 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) authorized so to do under the *Health Act 1937-1976*;
- “ 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:
the term 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 appointed pursuant to this Act: the term includes any person for the time being performing the duties of the registrar;
- “ the repealed Acts ” means the Acts specified in the First Schedule.

PART II—ADMINISTRATION

6. Administration of Act. This Act shall be administered by the Minister and, subject to him, by the Board.

7. Constitution of Board. (1) The Pharmacy Board constituted under the *Pharmacy Act 1917-1972* and continued as a body corporate under the *Medical Act and Other Acts (Administration) Act 1966-1976* 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.

8. Members of Board. (1) The Board shall consist of seven members appointed by the Governor in Council by notification published in the Gazette.

A person who has attained the age of 70 years is not eligible for appointment as a member of the Board.

The members of the Board shall consist of—

- (a) four persons nominated by the Minister of whom at least two shall be pharmacists; and
- (b) three pharmacists nominated by an association or associations accepted by the Minister as representative of pharmacists.

(2) Nomination pursuant to paragraph (b) of subsection (1) 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 he 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 he holds in the Public Service of Queensland.

9. Chairman and deputy chairman of Board. (1) In every appointment of the whole number of members of the Board the Governor in Council shall appoint a member who shall be chairman of the Board.

When a vacancy occurs in the office of chairman of the Board, the Governor in Council may, by notification published in the Gazette, 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 chairman 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 chairman, after the appointment of a member in the place of the member who was deputy chairman.

(3) The chairman shall preside at every meeting of the Board at which he attends and in his absence the deputy chairman shall so preside.

(4) Where both the chairman and deputy chairman 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 chairman or other member who presides at a meeting of the Board in place of the chairman has and may exercise all the powers and authorities of the chairman while he so presides.

(6) Save where the by-laws disentitle him to vote on the matter in issue, the chairman 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.

10. Tenure of office. (1) The appointment of a member of the Board shall commence on the date specified therefor in the notification of appointment published in the Gazette and, save in the case of an appointment made to fill a casual vacancy, shall be for a term of three years.

Unless his office is sooner vacated as prescribed, a person's appointment as a member of the Board shall be deemed to continue until his successor, duly appointed, assumes his office as a member.

(2) Subject to this Act, a member of the Board shall be eligible for re-appointment if he is eligible for appointment to the Board.

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

- (a) attains the age of 70 years or dies;
- (b) becomes bankrupt or compounds with his creditors, or otherwise takes advantage of the laws in force for the time being relating to bankruptcy;
- (c) is absent without prior leave granted by the Board from three consecutive ordinary meetings of the Board of which due notice has been given to him;
- (d) resigns his office by writing under his hand delivered to the Minister;
- (e) is convicted in Queensland of an indictable offence or is convicted elsewhere than in Queensland in respect of an act or omission which if done or made by him in Queensland would have constituted an indictable offence, or is convicted of an offence against this Act or the *Health Act 1937-1976*; 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 his 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.

11. Casual vacancies. 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 predecessor's term of office as a member.

12. Meetings of Board. (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 four 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 he shall be taken to have cast his 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.

13. Committees. (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 he is a member of the Board.

14. Allowances and expenses. (1) Such allowances as are prescribed shall be paid to every member of the Board and every member of an advisory committee, save to a member who is an officer of the Public Service of Queensland in respect of his attendance at a meeting of the Board or an advisory committee during his ordinary hours of duty as such an officer.

(2) Every member of the Board and every member of an advisory committee shall be paid out of pocket expenses necessarily incurred by him in attending any meeting of the Board or that committee or in connection with the discharge by him of any function as such a member and approved by the Board.

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

16. Registrar and officers of Board. (1) The Governor in Council may appoint under and for the purposes of this Act a registrar of the Board and such other officers as he considers necessary for the effectual administration of this Act.

Appointees as aforesaid shall be appointed and hold their offices under, subject to and in accordance with the *Public Service Act 1922-1973*.

(2) An officer of the Public Service of Queensland may, in addition to the position he holds therein, be appointed the registrar or another officer under this Act.

The registrar and any other officer under this Act may hold his appointment under this Act in conjunction with any other position in the Public Service.

17. Accounts. (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.

This subsection 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, and a statement of receipts and disbursements in respect thereof, in a form approved by the Auditor-General, shall be laid before the Minister annually.

PART III—REGISTRATION OF PHARMACISTS

18. The register. (1) The Board shall cause the registrar to keep, in such form as it thinks fit, a register (to be called 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 the thirtieth day of June in each year the “ list of Pharmacists, Queensland ” certified by him as correct to the first day of May in that year; and
- (b) from time to time as he 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 him to a date indicated in that list.

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

- (a) he is the holder of one of the qualifications set out in the Second Schedule to this Act or in that schedule as amended from time to time by the Governor in Council; or

- (b) he 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 recognized by the Board as qualifying the applicant to practise pharmacy in that country; or
- (c) he 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 recognized 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 him to practise pharmacy in Queensland.

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 paragraph (b) or paragraph (c) of subsection (1) shall not be registered until he 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.

If the Head is not satisfied as required by paragraph (b), he may recommend to the Board that the applicant undergo such further training and experience or training or experience as would, in his opinion enable the applicant to satisfy him of his knowledge, skill and ability and the Board may require the applicant to undertake such training and experience, or training or experience and may require him again to undergo some or all of the examinations prescribed in paragraph (a).

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

(4) The Governor in Council may by Order in Council amend the Second Schedule to this Act by adding words, omitting words, or omitting words and substituting other words as he thinks fit.

Upon amendment the schedule as so amended shall be taken to be the Second Schedule to this Act.

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

21. Certificate of registration. (1) Every pharmacist is entitled to obtain from the registrar a certificate of his registration in the prescribed 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 his certificate of registration.

22. Annual licence fee. (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 the first day of January and concluding on the thirtieth day of April or, where another period is prescribed in respect thereof (the Board being hereby thereunto authorized), 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 his name from the register.

(4) If the name of any person has been removed from the register pursuant to subsection (3) or pursuant to section 23 (1) (a) the Board shall, subject to this Act, upon application by that person direct the registrar to restore his name to the register upon payment of the annual licence fee and such restoration fee as may be prescribed.

23. Removal of name from register. (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 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.

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 his name should not be erased from the register.

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.

24. Correction of register. (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 twenty-one days after the occurrence of the change.

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

- (a) has been convicted in Queensland of an indictable offence or has been convicted elsewhere than in Queensland in respect of an act or omission which if done or made by him in Queensland would have constituted an indictable offence;
- (b) has been convicted of an offence against this Act or the repealed Acts;
- (c) has been convicted of an offence against the *Health Act 1937-1976*;
- (d) has failed to carry out a lawful demand of the Board made pursuant to this Act;
- (e) has signed or given under his name and authority a certificate, notification, report or other document of a kindred character, signed or given by him in his 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 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 him 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—

- (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 his power;
- (b) shall afford the pharmacist in question the opportunity of making defence to all allegations made against him, 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 Acts 1950 to 1954* save such as are by those Acts reserved to a chairman of a Commission when that chairman 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 one or more of the following things:—

- (a) cancel his registration and order the removal of his name from the register;
- (b) order that his registration be suspended for such period as it thinks fit;
- (c) order that he pay to the Board by way of penalty a sum fixed by the Board but not exceeding \$1 000;
- (d) reprimand him.

(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) (a) 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.

(b) 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.

26. Discreditable conduct by associations of persons. (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 his employment or acting under the instruction of his employers shall for the purposes of this Act be deemed to be done or omitted to be done by that association of persons: 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) 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 he proves that he 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 him under the provisions of section 25.

(4) Where, pursuant to subsection (1) 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 he proves that he 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 him 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, subsections (2), (4), (5), (7) and (10) of section 25 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.

27. Code of professional conduct of pharmacists. (1) The Board may compile a Code of Professional Conduct of Pharmacists as a guide to the standard of professional conduct expected of pharmacists and from time to time may revoke the code and compile a fresh code or vary the code by way of addition, omission or substitution of provisions.

(2) The Board may publish the code and any variation or revocation thereof in the Gazette by notification.

A copy of the Gazette containing a notification of the code or any variation or revocation thereof shall, upon its production in any proceeding, be evidence of the compilation of the code or, as the case may be, of the making of the variation or revocation and of the matter contained therein.

(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.

28. Notification of Board's determination. When the Board refuses an application of any person to be registered as a pharmacist or makes an order or determination under subsection (6) or (7) of section 25 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.

29. Appeals. (1) A person or association of persons aggrieved by—
- (a) a refusal by the Board of his application to be registered as a pharmacist; or
 - (b) an order or determination made against or in respect of him or it under section 25 or section 26; or
 - (c) a refusal by the Board of his 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 re-hearing, and shall be instituted within thirty 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 seven days after the notice is filed in the registry of the District Court.

(4) Rules of court may be made under the *District Courts Act 1967-1976* with respect to the institution, conduct and disposal of an appeal.

Until such rules of court are made, or in so far as such rules of court do not extend, the Judge hearing any appeal under this section may, in the particular case, give such directions as he may think fit, and the directions shall, according to their tenor, have the force and effect of rules of court made for the purposes thereof.

(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, he may appoint one or more assessors who in his opinion possess the special qualifications necessary for the particular case to assist him in his determination.

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

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 he 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 IV—OWNERSHIP OF PHARMACY PRACTICES

30. Limitations upon ownership of and pecuniary interests in pharmacy practices. (1) Subject to subsection (3), 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 subsection (3), 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 four pharmacies.

(3) The provisions of subsection (1) and (2) do not apply to—

(a) a duly registered friendly society—

- (i) 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
- (ii) 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); or

(b) a person or association of persons who at the date of commencement of this Act carries on as owner or has a pecuniary interest, direct or indirect, in a practice of pharmacy in any pharmacy only so long as—

- (i) no alteration is made in the ownership of the practice existing at the date of commencement of this Act;
- (ii) any change in the name under which the practice of pharmacy is carried on has the prior approval of the Board; and
- (iii) 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.

(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 his being an employee employed in the carrying on of the practice; or
- (b) by reason of his 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—
- (i) there is an established need for the establishment of a pharmacy; and
 - (ii) the composition and membership of that society is as prescribed.

The Minister may, in his discretion, approve the establishment of that pharmacy by that society.

PART V—MISCELLANEOUS

31. Certain actions implying registration or qualification therefor prohibited. 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 his name or otherwise), which having regard to the circumstances in which it is taken or used indicates or could be understood to indicate that he is a pharmacist or is practising pharmacy; or
- (b) in an advertisement howsoever made, represent expressly or by inference that he or any other person portrayed therein (who is not a pharmacist) is a pharmacist or is qualified to practise pharmacy or that he or such person is a pharmacist or is qualified to practise pharmacy and is promoting or recommending goods being advertised therein.

32. Practice of pharmacy. (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 Director General of Health and Medical Services has duly authorized him so to do pursuant to the *Health Act 1937-1976*; or
- (c) who, being a medical practitioner, is approved by the Board to practise pharmacy (the Board being hereby authorized 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.

Penalty: \$1 000 and, if the offence is continued after the person is convicted therefor, a further penalty of \$100 for each day during which the offence continues thereafter.

(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 one hour between noon and two o'clock in the afternoon or such other period as is prescribed in substitution therefor.

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 paragraph (b) and may so prescribe different periods in respect of different parts of the State.

33. Penalty for fraudulent practices. (1) A person shall not—

- (a) procure or attempt to procure himself 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 himself or hold himself 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 as being the person referred to in any certificate or writing presented to the Board or in any certificate granted under this Act.

Penalty: \$1 000 or imprisonment for six months or both such fine and imprisonment.

(2) The name of any person who procures himself to be registered by any means which contravene this section shall, upon his 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:

Provided that a person is not liable to be convicted both under this Act and under *The Criminal Code* or any other Act in respect of the same act.

34. Continuation of practice of deceased pharmacist. (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 him for a period not exceeding twelve months from the date of such death or for such further time as may be permitted by the Board (it being hereby thereunto authorized), 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 carries on the practice pursuant to subsection (1).

35. Continuation of practices of certain pharmacists whose names have been removed from the register. (1) Subject to subsection (2), a pharmacist whose name has been removed from the register by reason that—

(a) he is medically unfit to practise pharmacy; or

(b) his 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 authorized), continue to carry on the pharmacy practice carried on by him immediately prior to the removal of his name from the register.

(2) A person referred to in subsection (1) whilst he 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) hereof;

(c) not personally practise pharmacy;

(d) comply with any conditions imposed by the Board in its approval.

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

36. General penalty. (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 \$1 000.

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

37. Proceedings generally. (1) An offence against this Act may be prosecuted in a summary way under the *Justices Act* 1886-1975 upon the complaint of the registrar, or a person authorized 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 six 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 1886-1975* or as a debt due and owing to the Board by action in any court of competent jurisdiction.

38. Evidentiary provisions. 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.

39. Statutory declarations. (1) For the purposes of this Act, the Board may—

- (a) demand and accept a declaration under *The Oaths Acts 1867 to 1960* from any person;
- (b) require an applicant to verify by way of declaration under *The Oaths Acts 1867 to 1960* (the taking of which being hereby authorized) information furnished to the Board in respect of his application for registration.

(2) A prescribed form may be, in whole or in part, in the form of a statutory declaration.

40. By-laws. (1) The Board, with the approval of the Governor in Council, may from time to time make by-laws not inconsistent with this Act for or with respect to—

- (a) the powers, duties and functions of the registrar, officers and inspectors appointed for the effectual administration of this Act;

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- (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) fees payable under this Act, the waiver by the Board of such fees, 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;
 - (j) the forms to be used for the purposes of this Act;
 - (k) penalties to be imposed for breaches of the by-laws but so that no such penalty shall exceed \$200;
 - (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;
 - (p) all matters that may be convenient for the administration of this Act or that may be necessary or expedient for carrying out or giving effect to this Act.
- (2) By-laws may be made upon the passing of this Act.
- (3) A by-law has no effect unless and until approved by the Governor in Council.

41. Procedural provisions re by-laws. (1) Every by-law made under this Act shall—

- (a) be published in the Gazette;
- (b) upon its publication in the Gazette, be judicially noticed;
- (c) take effect on and from the date of its publication in the Gazette unless a later date is specified in relation to its commencement when, in such case, it shall take effect on and from that later date;
- (d) be laid before the Legislative Assembly within fourteen sitting days after such publication if the Legislative Assembly is in session, but, if not, then within fourteen sitting days after the commencement of its next session.

(2) If the Legislative Assembly passes a resolution of which notice has been given at any time within fourteen sitting days after a by-law has been laid before it disallowing the by-law or part thereof, the by-law or part shall thereupon cease to have effect, but without prejudice to the validity of anything done in the meantime or to the making of a further by-law.

42. Health Act 1937–1976 to apply. The provisions of this Act are in addition to and not in derogation of the *Health Act 1937–1976* the provisions of which Act apply to all pharmacists and persons or association of persons carrying on a pharmacy practice.

43. Exemption for wholesale dealer in drugs. 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.

44. References to pharmaceutical chemists in other Acts. In any Act a reference to a pharmaceutical chemist by whatever means expressed shall be taken to be a reference to a pharmacist.

FIRST SCHEDULE

[s. 4]

Year and Number of Act	Short Title	Extent of Repeal
8 Geo. V. No. 11 ..	<i>"The Pharmacy Act of 1917"</i> ..	The whole
24 Geo. V. No. 31 ..	<i>"The Medical and Other Acts Amendment Act of 1933"</i>	The balance of the Act remaining unrepealed
1 Edw. VIII. No. 23	<i>"The Pharmacy Acts Amendment Act of 1936"</i>	The whole
3 Geo. VI. No. 16	<i>"The Pharmacy Acts Amendment Act of 1939"</i>	The whole
8 Eliz. II. No. 17 ..	<i>"The Pharmacy Acts Amendment Act of 1959"</i>	The whole
No. 19 of 1967 ..	<i>"The Pharmacy Acts Amendment Act of 1967"</i>	The whole

SECOND SCHEDULE

[s. 19 (1) (a)]

University, College, Institute or other Body granting Qualification	Qualification
Queensland—	
The Pharmacy Board	Prescribed Certificate of Fitness issued after examination
University of Queensland ..	Degree or Diploma in Pharmacy
New South Wales—	
University of Sydney	Degree of Bachelor of Pharmacy
Pharmacy Board of New South Wales	Qualifying Examination Pass
Victoria—	
Pharmacy Board of Victoria ..	Final Examination Certificate
South Australia—	
Pharmacy Board of South Australia	Standard Certificate issued prior to 9th December, 1965
University of Adelaide	Degree in Pharmacy
South Australian Institute of Technology	Diploma in Pharmacy
South Australian Institute of Technology	Degree in Pharmacy
University of Adelaide	Diploma in Pharmacy
South Australian Institute of Technology	Degree of Joint Faculty of University of Adelaide
Tasmania—	
Pharmacy Board of Tasmania ..	Qualifying Examination Pass
Tasmanian College of Advanced Education	Diploma in Pharmacy
Tasmanian College of Advanced Education	Bachelor of Applied Science in Pharmacy
Western Australia—	
Western Australian Institute of Technology	Bachelor of Science in Pharmacy or Bachelor of Pharmacy or Associateship in Pharmacy
Perth Technical College, Western Australia	Diploma in Pharmacy
New Zealand—	
Pharmacy Board of New Zealand	Qualifying Examination Pass prior to 1963
A Board of Examiners constituted under The Pharmacy Act 1939 of the General Assembly of New Zealand	Pharmacy Professional Examination Pass
University of Otago, New Zealand	Bachelor of Pharmacy
Central Institute of Technology, New Zealand	Diploma in Pharmacy

SECOND SCHEDULE—*continued*

[s. 19 (1) (a)]

University, College, Institute or other Body granting Qualification	Qualification
Eire— University College, Dublin ..	Degree in Pharmacy
Northern Ireland— Queens University of Belfast ..	B.Sc. (Pharmacy Degree)

Great Britain—

Acceptance by The Pharmaceutical Society of Great Britain for Statutory Registration either on the basis of a qualifying examination in pharmacy conducted by that Society or a degree granted in respect of pharmacy by a university or tertiary institution in the United Kingdom which has been approved by that Society.