

PHARMACY AMENDMENT BILL

EXPLANATORY NOTE

THIS Bill amends the Pharmacy Act 1970.

Clause 1 relates to the Short Title.

Clause 2 amends section 26 of the principal Act relating to the suspension from practice of any pharmacist who is suffering from physical or mental disability. It repeals subsections (3) and (4), and substitutes 2 new subsections.

The new *subsection (3)* does not differ substantively from the present provision. However, it is expressed more clearly, and the form of the subsection facilitates a necessary cross-reference in the proposed *section 26A* (*clause 3* of the Bill).

Subsection (4) does effect a change of substance. Under the present Act, a suspension takes effect as soon as the Council makes the decision to suspend the pharmacist. Under the proposed provision, the suspension will not take effect until the pharmacist receives written notice of the Council's decision.

Clause 3 inserts into the principal Act a new *section 26A*, which also relates to the suspension from practice of a pharmacist who is suffering from physical or mental disability. At present, in such cases the Council has power to suspend the pharmacist from practising as a pharmacist simpliciter. Under *subsection (1)* of this new provision the Council may, instead, suspend the pharmacist from practising in most circumstances, but allow him to practise in the circumstances specified in *subsection (3)*. By virtue of *subsection (2)*, the Council may grant such an authority to a pharmacist who has already been suspended under section 26 of the principal Act.

Clause 4 increases from \$200 to \$500 the maximum fine that may be imposed by the Council on a pharmacist for a disciplinary offence.

Clause 5 amends section 32 of the Act, which provides for the restoration of a name to the register (of pharmacists) where it has been previously removed. The proposed new *subsection (2A)* makes it clear that the Council may impose conditions in cases where it orders the name of a pharmacist to be restored to the register.

Clause 6 is an administrative provision. It requires applications to the Pharmacy Authority to be forwarded to the Secretary of the Authority (who is an officer of the Tribunals Division of the Department of Justice). At present, applications are forwarded to the Minister of Health.

Clause 7 generally prohibits the employment in pharmacies of pharmacists who are suspended from practice or who have been deregistered. At present, the Act prohibits such persons from being in charge of pharmacies, but not from being employed in them.

Clause 8 authorises the making of regulations to prescribe the manner in which notices and other documents are to be given or served under the principal Act.

Hon. Mr Gair

PHARMACY AMENDMENT

ANALYSIS

Title	5. Restoration of name to register
1. Short Title	6. Applications for consent of Pharmacy Authority
2. Suspension from practice because of disability	7. Prohibition against employment of suspended or deregistered pharmacist
3. Limited practice in case of disability	8. Power to make regulations relating to service of notices
4. Power of Council to impose fine increased	

A BILL INTITULED

An Act to amend the Pharmacy Act 1970

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same,
5 as follows:

1. Short Title—This Act may be cited as the Pharmacy Amendment Act 1979, and shall be read together with and deemed part of the Pharmacy Act 1970* (hereinafter referred to as the principal Act).

10 **2. Suspension from practice because of disability**—Section 26 of the principal Act is hereby amended by repealing subsections (3) and (4), and substituting the following subsections:

*1970, No. 143

Amendments: 1973, No. 85; 1975, No. 97; 1977, No. 167

“(3) Where—

“(a) A notice in writing has been served on any pharmacist under subsection (1) of this section, and—

“(i) The pharmacist has not, by the time specified in the notice, submitted himself for examination by the medical practitioner named in the notice; or

“(ii) The Registrar has received a written report in respect of the pharmacist from the medical practitioner named in the notice; and

“(b) The Council has considered the report (if any) and all the relevant circumstances of the case, and has given the pharmacist a reasonable opportunity to be heard; and

“(c) The Council is satisfied that the pharmacist is, by reason of mental or physical disability, unable to perform his professional duties satisfactorily, and that, because he may attempt to perform those duties, it is necessary in the public interest to prevent him from doing so,—

the Council may determine that the pharmacist be suspended from practice.

“(4) Where the Council determines pursuant to subsection (3) of this section that any pharmacist be suspended from practice, the Council shall, by notice in writing signed by the President, Vice-President, or Registrar, inform the pharmacist of the suspension; and the suspension shall take effect from the date on which the notice is served on the pharmacist.”

3. Limited practice in case of disability—The principal Act is hereby amended by inserting, after section 26, the following section:

“26A. (1) If, in any case to which section 26 of this Act applies, the Council is satisfied, after considering the matter in accordance with subsection (3) (b) of that section, that the public interest requires some restriction to be imposed on the right of the pharmacist to practise, but does not require the prevention of that pharmacist from practising in the circumstances specified in subsection (3) of this section, the Council may, instead of suspending him pursuant to that section, determine that he shall be suspended pursuant to this section from practising in any circumstances other than those specified in subsection (3) of this section.

“(2) Where, in respect of any pharmacist who has been suspended from practice pursuant to section 26 of this Act, the Council is satisfied that the public interest still requires some restriction to be imposed on the right of the pharmacist to practise, but no longer requires the prevention of that pharmacist from practising in the circumstances specified in subsection (3) of this section, the Council may determine that the pharmacist be authorised to practise in the circumstances specified in that subsection during the period of his suspension.

“(3) The circumstances in which a pharmacist may practise pursuant to subsection (1) or subsection (2) of this section are—

“(a) In the pharmacy department of a hospital or other institution approved for the purpose by the Council; or

“(b) In a registered pharmacy approved for the purpose by the Council,—
under the supervision of another registered pharmacist approved for the purpose by the Council, and in accordance with such conditions (if any) as the Council may from time to time impose.

“(4) Where the Council determines—

“(a) Pursuant to subsection (1) of this section, that any pharmacist be suspended from practice except in the circumstances specified in subsection (3) of this section; or

“(b) Pursuant to subsection (2) of this section, that any pharmacist who has been suspended from practice be authorised to practise in the circumstances so specified,—

the Council shall, by notice in writing signed by the President, Vice-President, or Registrar, inform the pharmacist accordingly; and the suspension or authority shall take effect from the date on which the notice is served on the pharmacist.

“(5) The registered pharmacist referred to in subsection (3) of this section shall, whenever he is required by the Council to do so, report to the Registrar on the mental and physical capacity of the pharmacist under suspension, so far as that relates to his capacity to practise as a pharmacist.”

4. Power of Council to impose fine increased—Section 31 (2) (a) of the principal Act is hereby amended by omitting the expression “\$200”, and substituting the expression “\$500”.

5. Restoration of name to register—(1) Section 32 of the principal Act is hereby amended by inserting, after subsection (2), the following subsection: 5

“(2A) Without limiting subsection (2) of this section, the Council may make an order pursuant to that subsection either unconditionally, or subject to any or all of the following conditions: 10

“(a) That the applicant shall not establish or carry on business in a pharmacy, either alone or in partnership:

“(b) That the applicant shall be deemed, for the purposes of section 42 of this Act, not to be a pharmacist: 15

“(c) That the applicant shall not practise as a pharmacist except—

“(i) In the pharmacy department of a hospital or other institution, or a registered pharmacy, approved for the purpose by the Council; and 20

“(ii) Under the supervision of another registered pharmacist approved for the purpose by the Council.”

(2) The said section 32 is hereby further amended by omitting from subsection (3) the words “such application”, and substituting the words “application made under this section”. 25

6. Applications for consent of Pharmacy Authority—Section 36 of the principal Act (as amended by section 2 of the Pharmacy Amendment Act 1975) is hereby amended by omitting from subsection (1), and also from subsection (2), the word “Minister”, and substituting in each case the words “Secretary of the Pharmacy Authority”. 30

7. Prohibition against employment of suspended or de-registered pharmacist—The principal Act is hereby amended by inserting, after section 52, the following section: 35

“52A. (1) No person who carries on business in a pharmacy shall, without the consent of the Council, employ in that pharmacy any other person who— 40

5 “(a) Is, for the time being, suspended from practice pursuant to section 26 or section 26A (1) or section 31 of this Act, except where that other person is authorised pursuant to subsection (1) or subsection (2) of section 26A of this Act to work in that pharmacy; or

10 “(b) Has had his name removed from the register pursuant to section 27 or section 31 of this Act, unless—

15 “(i) The Council has ordered that his name be restored to the register pursuant to section 32 of this Act; and

20 “(ii) Where any condition was attached to that order, that other person is authorised in terms of that condition to work in that pharmacy.

“(2) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$1,000 who employs any other person in contravention of subsection (1) of this section.”

20 **8. Power to make regulations relating to service of notices**—Section 57 of the principal Act is hereby amended by inserting, after paragraph (b), the following paragraph:

25 “(ba) Prescribing the manner in which any notice or other document required by this Act to be given or served by, or to or on, any person is to be so given or served:”.