

Hon. Mr. Sullivan.

PHARMACY.

ANALYSIS.

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A BILL INTITULED

Title.	AN ACT to make Better Provision for the Registration and Control of Pharmaceutical Chemists, and to provide for the Registration or Licensing of Wholesale Druggists and Manufacturing Chemists. 5
Short Title.	BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:— 1. This Act may be cited as the Pharmacy Act, 1939, and shall come into force on the <i>first</i> day of <i>January</i> , nineteen hundred and <i>forty</i> . 10
Interpretation.	2. (1) In this Act, unless the context otherwise requires,— “ Board ” means the Pharmacy Board of New Zealand constituted under this Act: 15 “ Chemist ” means a person for the time being registered as a chemist under this Act: “ Disciplinary Committee ” means the Disciplinary Committee of the Pharmaceutical Society of New Zealand constituted under this Act: 20 “ Drug ” means any substance that is for the time being declared to be a drug by the Governor-General by Order in Council under this section: “ Medical practitioner ” means a person for the time being registered as a medical practitioner under the Medical Practitioners Act, 1914: 25 “ Minister ” means the Minister of Health:

- “ Person ” includes a corporation (whether established by charter or otherwise) and a friendly society:
- 5 “ Pharmacy ” means a shop or place of business in which the business of a pharmaceutical chemist is carried on:
- “ Prescribed ” means prescribed by this Act, or by rules or regulations made under this Act:
- 10 “ President ” means the President of the Society:
- “ Proprietor ”, in relation to any pharmacy, means the person owning or occupying the pharmacy, and includes the personal representatives of a deceased proprietor:
- 15 “ Register ” means the Pharmaceutical Register kept under this Act:
- “ Registrar ” means the Registrar appointed under this Act, and includes his deputy:
- 20 “ Sale ” includes barter, and also includes offering or attempting to sell or receiving for sale, or having in possession for sale, or exposing for sale, or sending or delivering for sale, or causing or allowing to be sold or offered or exposed for sale; and “ to sell ” has a corresponding meaning:
- 25 “ Society ” means the Pharmaceutical Society of New Zealand constituted under this Act.

(2) The Governor-General may from time to time, by Order in Council, declare any substances that are used for the treatment, prevention, investigation, or
30 alleviation of illnesses, diseases, or injuries affecting human beings to be drugs for the purposes of this Act, and may in like manner amend or revoke any such Order in Council.

(3) Any Order in Council under this section may
35 relate to specified substances or to specified classes of substances. Without limiting the generality of this provision, it is hereby declared that a substance that is sold under a trade-mark or trade name may be specified by reference to its trade-mark or trade name,
40 and that a class of substances may be specified by reference to the whole or any part of the British Pharmacopœia or of the British Pharmaceutical Codex or of any other official publication of a similar nature in force at the date of the Order in Council.

Pharmaceutical Society of New Zealand.

Pharmaceutical
Society
incorporated.

3. (1) There is hereby established a Society to be known as the Pharmaceutical Society of New Zealand, which shall be a body corporate with perpetual succession and a common seal, and shall be capable of holding real and personal property, and of doing and suffering all that bodies corporate may do and suffer. 5

(2) The Society constituted under this section is hereby declared to be the same body corporate as the Pharmaceutical Society of New Zealand constituted under the Pharmacy Act, 1908. 10

See Reprint
of Statutes,
Vol. V, p. 707

(3) The general functions of the Society shall be to promote and encourage proper conduct amongst pharmaceutical chemists; to suppress illegal, dishonourable, improper, and objectionable practices; to preserve and maintain the integrity and status of the profession of pharmacy; to promote the education and training of chemists; and generally to protect and promote the interests of the profession of pharmacy and the interests of the public in relation thereto. 15 20

(4) The affairs of the Society shall be managed by the Board.

Membership
of Society.

4. (1) Every chemist shall be a member of the Society, whether or not he applies for membership thereof. 25

(2) Every chemist who ceases to be registered under this Act shall thereupon cease to be a member of the Society.

(3) There shall be payable to the Society by every chemist an annual membership fee of such amount as may be prescribed, which shall be due on the first day of January in each year, except that the fee payable by a chemist for the year in which he is registered under this Act shall be due on the date of his registration. 30 35

Pharmacy Board.

Constitution
of Board.

5. (1) There is hereby established a board to be known as the Pharmacy Board of New Zealand. The said Board shall be deemed to be identical with the Pharmacy Board of New Zealand constituted under the Pharmacy Act, 1908. 40

Ibid., p. 707

- (2) The Board shall consist of—
- (a) One person, being a barrister of the Supreme Court of New Zealand, appointed by the Minister:
- 5 (b) Nine chemists each being at the time of his election the proprietor or the enrolled manager of a pharmacy, of whom—
- (i) Three shall be elected in the prescribed manner by the members of the Society whose
10 registered addresses are in the Auckland District:
- (ii) Three shall be elected in the prescribed manner by the members of the Society whose
15 registered addresses are in the Wellington District:
- (iii) Two shall be elected in the prescribed manner by the members of the Society whose
20 registered addresses are in the Canterbury District:
- (iv) One shall be elected in the prescribed manner by the members of the Society whose
registered addresses are in the Otago District:
- (c) Two chemists, each being at the time of his
25 election employed in a pharmacy and not the proprietor or the enrolled manager of a pharmacy, elected in the prescribed manner by the members of the Society.
- (3) No person who is not qualified for election under paragraph (c) of the *last preceding* subsection
30 shall be qualified to nominate any chemist for election under that paragraph.
- (4) The powers of the Board shall not be affected by any vacancy in the membership thereof.
- (5) Except as provided in the *next succeeding*
35 subsection, every member of the Board shall be appointed or elected for a term of two years, but may from time to time be reappointed, or may be at any time removed from office by the Governor-General for disability, neglect of duty, or misconduct, or may at
40 any time resign his office by writing addressed to the Registrar, and shall be deemed to have vacated his

office if, without the leave of the Board, he fails to attend four successive ordinary meetings of the Board, or if he ceases to be registered under this Act, or to be a barrister, as the case may be.

(6) If any member of the Board dies, is removed from office, resigns, or otherwise vacates his office, the vacancy so created shall within two months after the occurrence thereof be filled in the manner in which the appointment to the vacant office was originally made. Every person appointed under this subsection shall be appointed for the residue of the term for which his predecessor was appointed. 5 10

(7) Unless he sooner vacates his office as provided in this section, every member of the Board shall continue in office until his successor comes into office, notwithstanding that the term for which he was appointed may have expired. 15

(8) For the purposes of this section,—

(a) The Auckland District shall be deemed to comprise the Provincial Districts of Auckland and Taranaki: 20

(b) The Wellington District shall be deemed to comprise the Provincial Districts of Wellington, Hawke's Bay, Nelson, and Marlborough: 25

(c) The Canterbury District shall be deemed to comprise the Provincial Districts of Canterbury and Westland:

(d) The Otago District shall be deemed to comprise the Provincial District of Otago. 30

President and
Vice-President
of Society.

6. (1) The Board at its first meeting in each year shall appoint one of its members to be the President of the Society for that year, and the President in office at the date of any such appointment may be reappointed. 35

(2) If the President ceases to be a member of the Board before the expiration of the period for which he was appointed, or if he dies or resigns his office by writing addressed to the Registrar, the Board shall appoint some other member to be the President for the residue of that period. 40

(3) Unless he sooner vacates his office as provided in the *last preceding* subsection the President shall continue in office until his successor comes into office, notwithstanding that the term for which he was appointed may have expired.

(4) The Board may from time to time appoint one of its members to be the Vice-President of the Society. During any vacancy in the office of President or whenever the President is unable to act, whether by reason of absence or illness or otherwise, the Vice-President shall have and may exercise all the powers and functions of the President.

7. (1) Subject to the provisions of subsection *three* of section *twenty-six* of this Act, at all meetings of the Board four members shall form a quorum. Meetings of Board.

(2) Every question before the Board shall be determined by a majority of the votes of the members present at a meeting of the Board.

(3) The President shall preside at all meetings of the Board at which he is present, and shall have a deliberative vote, and in the case of an equality of votes shall also have a casting vote.

(4) In the absence from any meeting of the Board of the President and the Vice-President, the Board shall appoint some member present to act as the President in respect of that meeting, and the person so appointed shall have and may exercise all the powers and functions of the President for the purposes of that meeting.

(5) Except as expressly provided in this Act or in regulations made under this Act, the Board may regulate its procedure in such manner as it thinks fit.

8. The members of the Board shall be paid from the funds of the Society all travelling-expenses reasonably incurred by them in respect of their attendance at meetings of the Board or of the Disciplinary Committee, and may also be paid such further fees and allowances (if any) as may be fixed by the Board. Payment of allowances and travelling-expenses of members of Board.

9. The Board may from time to time appoint a Registrar, Deputy Registrars, and such other officers and servants as it deems necessary for the efficient exercise of its functions. Officers of Board.

Rules of
Society.

10. The Board may from time to time make rules (not inconsistent with this Act or with any regulations made under this Act) for all or any of the following purposes:—

- (a) For the regulation and good government of the Society and of the members and affairs thereof: 5
- (b) Prescribing the limits within which any chemist may give advice or treatment in his professional capacity to members of the public, and regulating the professional conduct of members of the Society: 10
- (c) Regulating the sale of drugs by chemists; and requiring or prohibiting the use by chemists of specified methods of selling drugs or soliciting orders therefor: 15
- (d) Regulating advertising in relation to the practice of pharmacy:
- (e) Providing for the convening of ordinary and special meetings of the Society, and regulating the quorum, the representation of members, and the procedure thereat: 20
- (f) Regulating the audit of the accounts of the Society and the appointment of auditors, and prescribing their qualifications: 25
- (g) Generally for carrying the objects for which the Society is formed into full effect.

Registration of Chemists.

Qualifications
for
registration.

11. (1) Every adult person shall be entitled to be registered under this Act who satisfies the Board— 30

- (a) That he has obtained from the Board a certificate of competency as a pharmaceutical chemist after passing the prescribed examinations and serving for not less than four years under articles of apprenticeship approved by the Board as the apprentice of— 35

(i) A chemist carrying on business in a pharmacy; or

(ii) A chemist in charge of the dispensary of a hospital established by a Hospital Board under the Hospitals and Charitable Institutions Act, 1926; or 40

See Reprint
of Statutes,
Vol. III, p. 725

5 (iii) A chemist in charge of the dispensary of a private hospital that is licensed under Part III of that Act and is approved for the purposes of this section by regulations made under this Act; or

(iv) A chemist who is the enrolled manager of the dispensary of a friendly society; or
10 (b) That he is the holder of a recognized certificate (as hereinafter defined) granted out of New Zealand.

(2) For the purposes of this section the term "recognized certificate" means a certificate, diploma, degree, or license granted by a university, college,
15 board, or other authority and recognized by regulations made under this Act as furnishing sufficient evidence that the holder thereof has had the requisite training and possesses the requisite knowledge and skill for the efficient practice of the profession of pharmacy.

20 (3) Notwithstanding anything in the foregoing provisions of this section, but subject to the provisions of section *thirty-one* of this Act as to appeals, no person shall be registered under this Act if, in the opinion of the Board, he is not a fit person to be
25 registered by reason of the fact that he is not of good character and reputation.

12. Application for registration as a chemist under this Act shall be made in writing addressed to the Registrar. Every such application shall be accom-
30 panied by the prescribed fee.

Application for registration.

13. (1) As soon as practicable after the receipt of any application for registration the Board shall consider the application and shall give such directions in respect thereof as it thinks fit and as are hereinafter
35 authorized.

Applications to be considered by Board.

(2) Before giving any such directions the Board may, if it thinks fit, examine on oath or otherwise the applicant, or any person objecting to the application, or any other person, with respect to the application.
40 For the purposes of this subsection the President may administer an oath to any person.

(3) The Board may also, if it thinks fit, require any person to verify by statutory declaration any statement made by him with respect to any application, or with respect to any objection to an application.

Registrar to observe directions of Board.

14. (1) If the Board, after considering any application as aforesaid, is of opinion that the applicant is entitled to be registered under this Act, it shall so direct, and the Registrar shall thereupon register the applicant, and shall notify him accordingly. 5

(2) If the Board, after considering any application as aforesaid, is of opinion that the applicant is not entitled to be so registered it shall direct accordingly, and the Registrar shall thereupon refuse to register the applicant, and shall notify him accordingly. 10

Pharmaceutical Register.

15. (1) Registration under this Act shall be effected by the entry in the Pharmaceutical Register (which shall be kept by the Registrar) of the name and business address of the applicant, of the qualifications by virtue of which he is registered, and of such other particulars as may be prescribed. 15

(2) The Pharmaceutical Register shall be open to inspection by the public during ordinary office hours on payment of the prescribed fee. 20

Certificate of registration.

16. The Registrar shall, on application in that behalf made to him at any time by a chemist and on payment of the prescribed fee, issue to that chemist a certificate of registration. 25

Penalty for wrongfully procuring registration.

17. Every person who wilfully makes or causes to be made any false entry in or falsification of the register, or procures or attempts to procure himself or any other person to be registered under this Act by making or producing or causing to be made or produced any false or fraudulent representation or declaration, either orally or in writing, commits an offence and shall be liable on summary conviction to imprisonment for *twelve* months or to a fine of *fifty* pounds. 30

Registrars to notify deaths of chemists.

18. Every Registrar of Births and Deaths in New Zealand, on receiving notice of the death of any chemist, shall forthwith transmit by post to the Registrar under this Act a certificate under his hand of that death, with particulars of the time and place of death; and on the receipt of that certificate the Registrar shall remove the name of the deceased chemist from the register. 35

19. (1) Every chemist who at any time changes his business address as appearing on the register shall, within three months thereafter, send to the Registrar a notice of his new address, and the Registrar shall thereupon correct the entry in the register relating to that chemist accordingly.

Chemists to notify changes of address.

(2) Every chemist who fails to comply with the provisions of this section shall be liable on summary conviction to a fine of *five* pounds.

20. (1) The Registrar may at any time, and shall if the Board so directs, send to any chemist, by registered letter addressed to him at his address as appearing on the register, an inquiry as to whether or not he desires to have his name retained on the register.

Name to be removed from register if chemist cannot be found, &c.

(2) If no reply is received to that letter within three months from the posting thereof, or if the letter is not delivered and is returned to the Registrar, the Registrar shall, if the Board so directs, remove from the register the name of the chemist to whom the letter was sent.

(3) Any person whose name is removed from the register under this section may apply to the Registrar to have his name restored to the register, and on payment of the prescribed fee his name shall be restored to the register accordingly.

21. Every chemist who obtains any approved certificate, diploma, degree, or license, other than that by virtue of which he is registered, may apply to the Board to amend the register so far as it relates to the qualifications of that chemist; and on such application the Board, if satisfied that the applicant is entitled to the certificate, diploma, degree, or license in respect of which the application is made and that it is one of a kind approved by the Board for the purposes of this section, shall direct the Registrar to amend the register accordingly, and the Registrar shall thereupon insert in the register particulars as to the certificate, diploma, degree, or license.

Additional certificates, &c., may be entered in register.

22. (1) If any person has been registered under this Act by reason of any false or fraudulent representation or declaration made either orally or in writing, or if any person not entitled to be registered under this Act has been so registered, the Board shall

Correction of register.

cause the name of that person to be removed from the register, and the fact of the removal shall be notified by the Registrar in the *Gazette*.

(2) If any particulars appearing in the register in respect of the qualifications of any chemist are proved to the satisfaction of the Board to be, or are to the knowledge of the Board, false or erroneous in any respect, the Board shall direct the Registrar to erase those particulars from the register, or otherwise to amend the register, and the Registrar shall thereupon amend the register accordingly. 5 10

(3) The provisions of the *last preceding* subsection shall apply notwithstanding the fact that at the time when the entry in the register was made the chemist was actually possessed of the qualifications particulars of which appear in the register, or that at that time the entry was otherwise correct. 15

Voluntary
removal of
name from
register.

23. (1) If any chemist applies to the Registrar to have his name removed from the register the Registrar shall, if the Board so directs, remove his name from the register accordingly. 20

(2) Any person whose name is removed from the register under this section may apply to the Registrar to have his name restored to the register, and on payment of the prescribed fee his name shall, if the Board so directs, be restored to the register accordingly. 25

Removal of
name from
register for
non-payment
of membership
fee.

24. (1) If any membership fee payable by a chemist under this Act is not paid within three months after it is due, the Registrar shall, if the Board so directs, remove the name of the chemist from the register. 30

(2) Any person whose name is removed from the register under this section may apply to the Registrar to have his name restored to the register, and on payment of the prescribed fee and of all membership fees payable by him his name shall be restored to the register accordingly. 35

Removal of
name from
register or
suspension
where similar
action taken
outside New
Zealand.

25. (1) If the Board is satisfied that the name of any person registered as a chemist under this Act has since been removed from any register of pharmaceutical chemists (by whatever name called) outside New Zealand, it may, with the consent of the Attorney-General, cause his name to be removed from the Pharmaceutical Register. 40

(2) If the Board is satisfied that any person registered as a chemist under this Act has been authorized by any competent authority to practise or carry on business as a pharmaceutical chemist
5 outside New Zealand, and that his right so to practise or carry on business has thereafter been suspended for any period, the Board may if it thinks fit suspend his registration under this Act for the same period or for any unexpired portion of that period.

10 **26.** (1) The Board may, upon the recommendation of the Disciplinary Committee, but not otherwise, cause the name of any chemist to be removed from the register if it is satisfied that he has been guilty of such grave impropriety or infamous conduct in any
15 professional respect as renders him in the opinion of the Board unfit to be registered under this Act, or has been convicted (either before or after his registration) of an indictable offence punishable by imprisonment for a term of *two* years or upwards.

Removal of name from register if chemist guilty of indictable offence or grave misconduct.

20 (2) The name of any chemist shall not be removed from the register under this section by reason of any offence committed before the date of his registration if at that date the Board was aware of his conviction in respect of that offence.

25 (3) Except with the consent of the chemist concerned, no decision shall be made by the Board to cause the name of any chemist to be removed from the register under this section unless at least *nine* members of the Board are present and vote in favour
30 of the decision.

Disciplinary Committee.

27. (1) For the purposes of this Act there shall be a Committee to be known as the Disciplinary Committee of the Pharmaceutical Society of New
35 Zealand.

Constitution of Disciplinary Committee.

(2) The Disciplinary Committee shall be appointed by the Board, and shall consist of not less than three nor more than five members of the Board, as the Board may from time to time determine.

40 (3) The member of the Board appointed under paragraph (a) of subsection *two* of section *five* of this Act shall be a member of the Disciplinary Committee, and shall be the Chairman thereof.

(4) Subject to the foregoing provisions of this section, the Board may from time to time remove from office any member of the Disciplinary Committee, or fill any vacancy in its membership, or appoint any additional member or members of the Committee. 5

See Reprint
of Statutes,
Vol. I, p. 1036

(5) For the purposes of this Act, the provisions of the Commissions of Inquiry Act, 1908, shall, so far as they are applicable and with the necessary modifications, apply as if the Disciplinary Committee were a Commission of Inquiry appointed under that Act. 10

Procedure of
Disciplinary
Committee.

28. (1) At all meetings of the Disciplinary Committee three members shall form a quorum.

(2) Every question before the Disciplinary Committee shall be decided by a majority of the votes of the members present at a meeting of the Committee. 15

(3) The Chairman shall preside at all meetings of the Disciplinary Committee, and shall have a deliberative vote, and in case of an equality of votes shall also have a casting vote. 20

(4) The Disciplinary Committee shall not exercise any of its functions with respect to any inquiry into the conduct of or application by any chemist without giving him a reasonable opportunity of being heard. For the purposes of this subsection the chemist concerned may, if he thinks fit, be represented by counsel or otherwise. 25

(5) Except as expressly provided in this Act or in regulations made under this Act, the Disciplinary Committee may regulate its procedure in such manner as it thinks fit. 30

Disciplinary
powers of
Committee
and Board.

29. (1) If the Board has reason to believe that any chemist has been guilty of grave impropriety or infamous conduct in any professional respect, it may cause to be served on him a notice specifying the grounds of its belief with sufficient particularity to enable the chemist to answer the same, and requiring him to appear before the Disciplinary Committee at a time and place to be specified, to show cause why his name should not be removed from the register, or why he should not be suspended from carrying on business or be otherwise dealt with in accordance with this section. 35 40

(2) If any chemist on whom a notice has been served under this section fails to appear before the Disciplinary Committee in accordance with the terms of that notice, or, having appeared, fails to satisfy
5 the Committee either that he has not been guilty of the alleged impropriety or infamous conduct or that his conduct has not been of such a nature as to render the exercise of the powers of the Board under this section expedient in the interests of the public, the
10 Committee may, by writing under the hand of its Chairman, recommend the Board to do one or more of the following things:—

- (a) Order that his name be removed from the register under section *twenty-six* of this Act:
- 15 (b) Order that he be suspended from carrying on business as a chemist for a period not exceeding *twelve* months:
- (c) Order him to pay a penalty not exceeding *twenty* pounds to the Society:
- 20 (d) Order him to pay any costs or expenses of and incidental to the inquiry:
- (e) Censure him.

(3) Upon receiving a recommendation of the Disciplinary Committee under the *last preceding*
25 subsection, the Board, in its discretion, may give effect to the recommendation wholly or partly, or may take any other action in accordance with that subsection that is not more severe than the action recommended by the Committee.

30 (4) Any penalty or costs ordered to be paid by any chemist under this section shall be deemed to be a debt due from him to the Society, and shall be recoverable accordingly in any Court of competent jurisdiction.

35 (5) While any order of suspension from carrying on business under this section remains in force the chemist shall be deemed not to be a chemist, but forthwith on the expiry of the order his rights and privileges as a chemist shall be revived as from the
40 date of the expiry of the order.

(6) An order of suspension shall not take effect in any case until the expiration of the period within which notice of appeal against the order may be given under section *thirty-one* of this Act. If within

that period the chemist gives due notice of appeal, the order shall not take effect unless and until it is confirmed by the Board of Appeal or the appeal is for any reason dismissed by that Board:

Provided that, unless the Board of Appeal otherwise orders, the period of suspension specified in the order shall commence on the day when the order commences to have effect. 5

Enrolled Managers.

Enrolment of
managers of
pharmacies.

30. (1) The proprietor of any pharmacy may from time to time apply for the enrolment of a chemist as the manager of the pharmacy. Every application under this section shall be made in writing addressed to the Registrar, and shall be accompanied by the prescribed fee. 10 15

(2) If the Board, after considering any application under this section, is of opinion that the proprietor is a fit person to have an enrolled manager for the pharmacy and that the proposed manager is a fit person to be enrolled as the manager thereof, it shall so direct, and the Registrar shall thereupon enrol the manager accordingly. 20

(3) Enrolment under this section shall be effected by the entry in a roll (which shall be kept by the Registrar) of the address of the pharmacy, the name and address of the proprietor, the name of the manager, and such other particulars as may be prescribed. 25

(4) Where a manager ceases to have the immediate supervision and control of the pharmacy of which he is the enrolled manager, it shall be the duty of the proprietor and of the manager to give notice thereof in writing to the Registrar forthwith. If no notice is given as required by this section the proprietor and the manager shall each be liable on summary conviction to a fine of *five* pounds. 30 35

(5) The Registrar shall forthwith remove the manager's name from the roll and give notice of the removal to the manager and the proprietor—

(a) If he receives a notice from the manager or the proprietor under the *last preceding* sub-section: 40

(b) If the name of the manager is removed from the Pharmaceutical Register:

- (c) If the registration of the manager is suspended, or if he is suspended from carrying on business as a chemist:
- 5 (d) If the Board so directs upon the ground that, in the opinion of the Board, the proprietor has ceased to be a fit person to have an enrolled manager for the pharmacy or the manager has ceased to be a fit person to be enrolled as the manager thereof.
- 10 (6) Every person who continues to act as the manager of a pharmacy after he has ceased to be enrolled as the manager thereof commits an offence and shall be liable on summary conviction to a fine of *five* pounds, and to a further fine of *one* pound for
- 15 every day on which the offence is committed.

Appeals.

31. (1) Every person who is dissatisfied with any decision of the Board may, within *twenty-one* days after notice of the decision has been given to him by
- 20 the Registrar, give notice of appeal in the prescribed manner to the Registrar.
- (2) Upon receipt of the notice of appeal the Registrar shall take all steps necessary for the constitution of a Board of Appeal, consisting of a
- 25 Magistrate and two assessors. The assessors shall be chemists to be appointed in accordance with regulations made under this Act to represent the Pharmacy Board and the appellant respectively.
- (3) The Board of Appeal so constituted shall as
- 30 soon as practicable hear the appeal, and may confirm, modify, or reverse the decision of the Pharmacy Board, or may make such other order as the case may require.
- (4) On any appeal under this section the decision
- 35 of not less than two members of the Board of Appeal shall be the decision of that Board, and that decision shall be final and conclusive. In any case where the decision appealed against is modified or reversed it shall be the duty of the Pharmacy Board to take
- 40 forthwith any action that may be required to give effect to the decision of the Board of Appeal.

Appeals from
decisions of
Board.

(5) On any appeal under this section the Board of Appeal may make an order for the payment by the Society or the appellant of the costs incurred in respect of the appeal by any other party to the appeal. In any such case the costs so awarded shall be deemed to be a debt due by the party against whom they have been awarded to the party in whose favour they have been awarded, and shall be recoverable accordingly in any Court of competent jurisdiction.

Offences.

Restriction on
sale of drugs.

32. (1) Subject to the provisions of section *thirty-four* of this Act, no person, not being a chemist or an employee of a chemist acting in the course of his employment, shall on any occasion sell any drug except in a pharmacy that is under the immediate supervision and control of a manager enrolled under this Act.

(2) Every person who acts in contravention of this section commits an offence, and in respect of every such offence shall be liable on summary conviction to a fine of *ten* pounds.

Improper use
of words
implying
registration,
&c.

33. (1) Every person commits an offence who, not being registered under this Act, uses or causes or permits to be used any written words, titles, or initials, or any abbreviation of any words, titles, or initials which are intended to cause or may reasonably cause any person to believe that he is registered under this Act.

(2) Subject to the provisions of the *next succeeding* section, every person commits an offence who, not being registered under this Act or the proprietor of a pharmacy that is under the immediate supervision and control of a manager enrolled under this Act, uses or causes or permits to be used any written words, titles, or initials, or any abbreviation of any words, titles, or initials, or any signs or symbols, which are intended to cause or may reasonably cause any person to believe that he is qualified to act as a pharmaceutical chemist or to sell any drug or to compound or dispense any drug for sale, or that he is carrying on business as a pharmaceutical chemist.

- 34.** Nothing in section *thirty-two* or in subsection *two* of section *thirty-three* of this Act shall apply with respect to any of the following persons in so far as he acts in the ordinary course of his profession, business, or employment, namely:—
- (a) Any medical practitioner:
- (b) Any nurse employed by the Government or by any Hospital Board:
- (c) Any dentist registered under the Dentists Act, 1936, No. 57 1936:
- (d) Any veterinary surgeon registered under the Veterinary Surgeons Act, 1926, or authorized under section fourteen of that Act to use the designation "veterinary practitioner":
- (e) Any wholesale dealer in so far as he sells or holds himself out as selling drugs in the ordinary course of wholesale dealing:
- (f) Any school-teacher authorized to sell or dispose of drugs to Natives in the course of his employment.
- 35.** Every chemist commits an offence who keeps or permits to be kept under his name any pharmacy that is not under the immediate supervision and control of himself or of a manager enrolled under this Act.
- 36.** Every person commits an offence who owns, installs, or uses, or causes or permits the installation or use of any automatic machine for the sale of any drug.
- 37.** (1) Every person being a chemist or the proprietor or manager of a pharmacy commits an offence who gives, offers, or agrees to give any medical practitioner or his agent any money or other consideration as a commission on prescriptions, or who supplies or causes or permits to be supplied to any medical practitioner any prescription forms or envelopes or wrappers having printed or written thereon any notification referring to the name, pharmacy, or place of business of the chemist, proprietor, or manager.
- (2) Every proprietor of a pharmacy commits an offence who provides or permits any direct means of access between the pharmacy and the premises of a medical practitioner.

Certain persons and businesses not to be affected.

See Reprint of Statutes, Vol. V, p. 736

Pharmacies to be under control of chemist or enrolled manager.

Automatic machines not to be used for sale of drugs.

Offences in relation to medical practitioners.

General
penalty for
offences.

38. Every person who commits an offence against this Act or against any regulations made under this Act for which no specific penalty is provided elsewhere than in this section shall be liable on summary conviction to a fine of *fifty* pounds, and, in the case of a continuing offence, to a further fine of *two* pounds for every day on which the offence is committed. 5

Prosecutions
to be before
a Magistrate.

39. (1) All proceedings in respect of offences against this Act shall be taken before a Stipendiary Magistrate. 10

See Reprint
of Statutes,
Vol. II, p. 346

(2) Subject to the provisions of section thirteen of the Finance Act, 1927 (No. 2), all fines recovered in any such proceedings shall be paid into the Public Account to the credit of the Consolidated Fund. The Society shall be deemed to be a public body for the purposes of the said section thirteen. 15

Wholesale Druggists and Manufacturing Chemists.

Wholesale
Druggists and
Manufacturing
Chemists'
Board.

40. (1) For the purposes of this section there is hereby established a Board to be known as the Wholesale Druggists and Manufacturing Chemists' Board (hereinafter in this section referred to as the Board). 20

(2) The Board shall consist of not less than five members to be appointed by the Minister, of whom—

(a) One, who shall be the Chairman of the Board, shall be an officer of the Department of Health: 25

(b) One, who shall be the Deputy Chairman of the Board, shall be an officer of the Public Service employed as a chemical analyst: 30

(c) Two shall be appointed to represent persons carrying on business as wholesale druggists or manufacturing chemists:

(d) One shall be a chemist to be appointed on the recommendation of the Pharmacy Board. 35

(3) The powers of the Board shall not be affected by any vacancy in the membership thereof.

Regulations for
registration or
licensing of
wholesale
druggists
and
manufacturing
chemists.

(4) In order to ensure as far as possible that the businesses of wholesale druggists and manufacturing chemists and in particular the manufacture and packing of drugs are carried on in suitable premises properly equipped and by persons who are properly qualified and controlled, the Governor-General may from time 40

to time, on the recommendation of the Board, make by Order in Council all such regulations as may in his opinion be necessary or expedient for the registration or licensing by the Board, and for the control, of 5 persons carrying on any such business, and for the registration or licensing by the Board of the premises in which any such business is carried on.

(5) Without limiting the general power hereinbefore conferred, it is hereby declared that regulations may be 10 made under this section for all or any of the following purposes:—

- 15 (a) Defining what shall be deemed for the purposes of this section and the regulations to constitute carrying on business as a wholesale druggist or as a manufacturing chemist; and defining what substances shall be deemed to be drugs for the purposes of this section and the regulations:
- 20 (b) Providing for the issue, renewal, revocation, and cancellation of certificates of registration and licenses:
- 25 (c) Prescribing the classes and forms of certificates of registration and licenses, the qualifications of applicants therefor, the conditions upon or subject to which they may be issued, and the fees payable in respect thereof:
- (d) Prescribing any other forms required for the purposes of the regulations:
- 30 (e) Prohibiting any person from carrying on business as a wholesale druggist or manufacturing chemist except in pursuance of a certificate of registration or license in that behalf and in accordance with regulations made under this section:
- 35 (f) Prescribing the powers, functions, duties, and procedure of the Board, and the term of office of members thereof; and providing for and regulating the appointment of members, their removal from office and resignation, the 40 filling of extraordinary vacancies, and the payment of travelling and other allowances to the members of the Board:
- 45 (g) Prescribing fines, not exceeding *fifty* pounds, for the breach of any regulation made under this section.

Miscellaneous.

Lists of
chemists to
be issued.

41. (1) The Board shall in the year nineteen hundred and *forty*, and thereafter from time to time at intervals of not more than three years cause to be printed and issued a list of the names of all chemists in alphabetical order, with their addresses, as appearing in the register on the date specified in the list. 5

(2) A copy of any such list purporting to be issued by the Board shall, until the contrary is proved, be sufficient evidence that the names and particulars therein specified appeared in the register on the date specified in the list. 10

(3) The absence of a person's name from any copy of any such list purporting to be issued by the Board shall, until the contrary is shown, be sufficient evidence that that person was not registered under this Act on the date specified in the list. 15

Certificate by
Registrar to be
evidence of
registration,
&c.

42. A certificate under the hand of the Registrar to the effect that any person was or was not registered as a chemist under this Act at any time or during any period specified in the certificate, or as to any entry in the Pharmaceutical Register or in the roll of managers, or as to any act or proceeding of the Board or of the Disciplinary Committee shall, until the contrary is proved, be sufficient evidence of the matters therein specified. 20 25

Fees.

43. (1) The Registrar shall take and receive the fees prescribed by regulations made under this Act in respect of the matters specified in the regulations. 30

(2) Until the prescribed fee has been paid the Registrar may decline to do any act, or to permit any act to be done, or to receive any document in respect of which that fee is payable.

(3) All fees, monetary penalties, and other moneys received under this Act shall form part of the funds of the Society. 35

Exemption
from jury
service.

44. No chemist shall be liable while he is engaged in business as the proprietor or manager of a pharmacy to serve on any jury. 40

Regulations.

45. (1) The Governor-General may from time to time, on the recommendation of the Board, make by Order in Council all such regulations as may in his

opinion be necessary or expedient for giving full effect to the provisions of this Act and for the due administration thereof.

(2) Without limiting the general power herein-
5 before conferred, it is hereby declared that regulations may be made under this section for all or any of the following purposes:—

- (a) Prescribing the forms of and the method of
10 keeping the Pharmaceutical Register and the roll of managers:
- (b) Prescribing the forms of applications, certificates, and other documents required under this Act:
- (c) Prescribing the fees payable in respect of
15 examination, registration, and enrolment under this Act and in respect of the restoration of names after their removal from the register or the roll of managers and in respect of any other alteration of or addition
20 to the register or the roll; and also prescribing fees for the issue of certificates of registration and other certificates, and for copies of certificates, and for inspection of the register and of the roll, and of any
25 other documents kept by the Board and open to inspection:
- (d) Prescribing the subject-matter of examinations to be conducted by the Board, the standards
30 required to be obtained by successful candidates, the times when the examinations will be held, and the conditions governing the grant of exemptions from any of the requirements of the regulations or of the Board in relation either to examinations or
35 to professional experience:
- (e) Regulating the employment and training of
40 apprentices by chemists, the terms and conditions of contracts of apprenticeship, and the approval of such contracts by the Board; prescribing conditions upon or subject to which contracts of apprenticeship may be approved by the Board; and providing for the withdrawal of the Board's approval of

- contracts of apprenticeship, for limiting the number of contracts that may be approved by the Board in any year, and for the registration of contracts of apprenticeship:
- (f) Regulating the procedure of the Board and of the Disciplinary Committee: 5
- (g) Prescribing the manner of holding elections of members of the Board:
- (h) For any purpose for which rules may be made under this Act: 10
- (i) Providing for the appointment of assessors and regulating the conduct of appeals under section *thirty-one* of this Act:
- (j) Regulating the conduct of the business of chemists, and in particular the storage, handling, preparation, and dispensing of drugs, the recording of prescriptions, and the hours of attendance of chemists in pharmacies; and prescribing conditions to be complied with before pharmacies shall be deemed for the purposes of this Act to be under the immediate supervision and control of a chemist or of a manager: 15 20
- (k) Prescribing fines, not exceeding *fifty* pounds, for the breach of any regulation made under this section. 25

Regulations
to be laid
before
Parliament.

46. All regulations made under this Act shall be laid before both Houses of Parliament within fourteen days after the making thereof if Parliament is then in session, and, if not, then within fourteen days after the commencement of the next ensuing session. 30

Repeals and
savings.

47. (1) The enactments specified in the Schedule to this Act are hereby repealed.

(2) All offices, appointments, Orders in Council, regulations, rules, orders, registers, rolls, registrations, enrolments, records, qualifications, apprenticeships, approvals, applications, certificates, instruments, and generally all acts of authority that originated under any of the said enactments, and are subsisting or in force on the commencement of this Act, shall enure for the purposes of this Act as fully and effectually as if they had originated under the corresponding provisions of this Act, and accordingly shall, where necessary, be deemed to have so originated. 35 40

(3) All matters and proceedings commenced under the said enactments, and pending or in progress on the commencement of this Act, may be continued, completed, and enforced under this Act.

SCHEDULE.

Schedule.

ENACTMENTS REPEALED.

- 1908, No. 143.—The Pharmacy Act, 1908 (see Reprint of Statutes, Vol. V, p. 707).
1912, No. 13.—The Pharmacy Amendment Act, 1912 (see Reprint of Statutes, Vol. V, p. 722).
1922, No. 28.—The Pharmacy Amendment Act, 1922 (see Reprint of Statutes, Vol. V, p. 723).
1936, No. 58.—The Statutes Amendment Act, 1936: Section 61.
1938, No. 20.—The Statutes Amendment Act, 1938: Section 43.