

[AS REPORTED FROM THE SOCIAL SERVICES COMMITTEE]

House of Representatives, 22 October 1970.

Words struck out by the Committee are shown with black rule at beginning and after last line; words inserted are shown with double rule before first line and after last line.

Hon. Mr McKay

PHARMACY

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A BILL INTITULED

An Act to consolidate and amend the law relating to the registration and control of pharmacists and to the practice of pharmacy

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

1. Short Title and commencement—(1) This Act may be cited as the Pharmacy Act 1970.

(2) This Act shall come into force on the 1st day of April 10
1971.

2. Interpretation—(1) In this Act, unless the context otherwise requires,—

“Administrator” means an administrator within the meaning of the Administration Act 1969: 15

“Approved school” means any university, school, or institution, that is prescribed as an approved school:

“Company” means a company registered under the Companies Act 1955:

“Council” means the Council of the Society: 20

“Minister” means the Minister of Health:

“Person” includes any body of persons whether corporate or unincorporate:

- “Pharmacist” means a person for the time being registered as a pharmacist under this Act:
- “Pharmacy” means a shop or place of business in which pharmaceutical practice is carried on as a business:
- 5 “Pharmacy Authority” means the Pharmacy Authority appointed under section 33 of this Act, and includes any Deputy Pharmacy Authority appointed under section 34 of this Act:
- 10 “Prescribed” means prescribed by this Act, or by rules or regulations made under this Act:
- “President” means the President of the Society:
- “Proprietor”, in relation to any pharmacy, means the person carrying on business in the pharmacy, but does not include any registered chiropodist, registered
- 15 optician, or vendor of hearing aids, merely by his carrying on chiropody, optical dispensing, or selling hearing aids, in the pharmacy:
- “Recognised certificate” means any certificate or diploma granted outside New Zealand that is prescribed as a recognised certificate:
- 20 “Register” means the pharmaceutical register kept under this Act:
- “Registrar” means the Registrar appointed under section 11 of this Act, and includes any Deputy Registrar so
- 25 appointed:
- “Society” means the Pharmaceutical Society of New Zealand:
- “Vice-President” means the Vice-President of the Society.
- 30 (2) For the purposes of this Act, a person holds an interest in a pharmacy if he has or acquires, whether in his own name or in the name of a nominee or by means of any device or arrangement whatsoever, any direct or indirect estate or interest in the business carried on in a pharmacy, whether by
- 35 way of shares in a company, or by way of charge, loan, guarantee, indemnity, or otherwise, so as to affect the ownership, management, or control of the business carried on in the pharmacy:
- Provided that—
- 40 (a) A person shall not hold an interest in a pharmacy merely by making, in good faith and in the ordinary course of business to facilitate the carrying on of the business in the pharmacy, any loan of money, or by holding any security for repayment of that loan:

(b) A person shall not hold an interest in a pharmacy which is being carried on by an administrator of the estate of a deceased pharmacist, or by an administrator of the estate of a deceased proprietor of a pharmacy, merely by holding an interest in that estate: 5

(c) A person shall not hold an interest in a pharmacy merely by holding an interest in the business of a registered chiropodist, a registered optician, or a vendor of hearing aids, who carries on his business in the pharmacy. 10

(3) Notwithstanding anything in subsection (2) of this section, any covenant, condition, or stipulation, expressed or implied in any contract or agreement, whereby the proprietor of a pharmacy is restricted in the purchase of pharmaceutical requirements or other stock in trade, shall, for the purposes of this Act, be a device or arrangement affecting the management and control of the business carried on in that pharmacy. 15

(4) Nothing in this Act shall apply to prevent, or in any way restrict, the business of a registered chiropodist, a registered optician, or a vendor of hearing aids, being carried on in any portion of a pharmacy. 20

Cf. 1939, No. 33, s. 2; 1954, No. 81, ss. 2 and 13; 1957, No. 102, s. 5

PART I

25

PHARMACEUTICAL SOCIETY

3. Pharmaceutical Society—(1) There shall continue to be a body corporate to be known as the Pharmaceutical Society of New Zealand, with perpetual succession and a common seal, which may hold real and personal property, and sue and be sued and do and suffer all that bodies corporate may do and suffer. 30

(2) The purposes of the Society shall be—

(a) To promote and encourage proper conduct amongst pharmacists: 35

(b) To suppress illegal, dishonourable, improper, and objectionable practices:

(c) To preserve and maintain the integrity and status of the pharmaceutical profession:

(d) To make provision for the education, training, and examination of pharmacists: 40

- (e) To publish or distribute, in any manner the Council thinks fit, publications relevant to the pharmaceutical profession:
- 5 (f) To afford pecuniary and other assistance to members of the Society who are in need of assistance, to wives, children, and other dependants of members, and to widows, children, and other dependants of deceased members:
- 10 (g) To grant, in relation to any subjects of pharmaceutical study, prizes and scholarships, to hold exhibitions, and to establish and subsidise lectureships, in schools, colleges, and universities, and to afford pecuniary assistance for the promotion of pharmaceutical education and the purchase of plant, equipment, and materials, at schools, colleges, and universities:
- 15 (h) Generally to promote in any manner which the Council thinks fit the interests of the pharmaceutical profession and the interests of the public in relation to the profession.
- 20 (3) The affairs of the Society shall be managed by the Council constituted under section 5 of this Act. The Council shall, subject to the provisions of this Act, succeed to the rights, duties, and responsibilities conferred and imposed on the Pharmacy Board of New Zealand under the Pharmacy Act 1939.
- 25

Cf. 1939, No. 33, s. 3

- 4. Membership of Society**—(1) Every pharmacist, whether he applies for membership of the Society or not, shall be a member of the Society unless he notifies the Registrar in
- 30 writing that he has a conscientious objection to becoming or remaining a member of the Society.
- (2) Every pharmacist 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
- 35 pharmacist an annual practising fee of such amount as may be prescribed, which shall be due on the 1st day of January in each year, except that the fee payable by a pharmacist for the year in which he is first registered under this Act, or becomes re-registered under this Act, shall be due on the date
- 40 of that registration or re-registration.

Cf. 1939, No. 33, s. 4; 1959, No. 86, s. 2

5. Constitution of Council—(1) The Council shall consist of—

- (a) One person, being a barrister of the Supreme Court of New Zealand, who shall be appointed by the Minister:

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- (b) Nine pharmacists, each being the proprietor of a pharmacy, of whom 3 shall represent the Auckland District, 3 the Wellington District, 2 the Canterbury District, and 1 the Otago District:

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- (c) Two pharmacists, neither being the proprietor of a pharmacy, of whom 1 shall represent the North Island and 1 the South Island.

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- (b) Seven pharmacists, each being the proprietor of a pharmacy, of whom 3 shall represent the Auckland District, 2 the Wellington District, 1 the Canterbury District, and 1 the Otago District:

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- (c) Four pharmacists, none being the proprietor of a pharmacy, of whom 3 shall represent the North Island and 1 the South Island.

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(2) No pharmacist shall be elected to represent any district unless he resides in that district and is elected in the prescribed manner by those members of the Society who are proprietors of pharmacies and whose registered addresses are in that district.

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(3) No pharmacist shall be elected to represent either island unless he resides in that island and is elected in the prescribed manner by those members of the Society who are not proprietors of pharmacies and whose registered addresses are in that island.

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(4) The powers of the Council shall not be affected by any vacancy in the membership of the Council.

(5) Except as provided in subsection (10) of this section, every member of the Council shall be appointed or elected for a term of 3 years, but may from time to time be re-appointed or re-elected.

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(6) Any member of the Council may at any time be removed from office by the Governor-General for disability, neglect of duty, or misconduct, or may at any time resign his office by writing addressed to the Registrar.

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(7) Any member of the Council who without the leave of the Council fails to attend 4 consecutive ordinary meetings of the Council, or who ceases to retain the qualification by virtue of which he was appointed or elected, shall be deemed to have vacated his office.

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- (8) If any member of the Council dies, or is removed from office, or resigns, or otherwise vacates his office, the vacancy so created (in this Act referred to as an extraordinary vacancy) shall, within 3 months after its occurrence, be
5 filled in the manner in which the vacant office was originally filled, or, in the case of any vacancy in the office of an elected member, in the manner prescribed by subsection (9) of this subsection if the Council so determines pursuant to that subsection.
- 10 (9) In the case of an extraordinary vacancy occurring in the office of an elected member of the Council, the Council may, within 1 month after the occurrence of the vacancy, by resolution determine that an election shall not be held and that the vacancy shall be filled—
- 15 (a) In the case of a vacancy in the office of a member elected to represent any district, by the appointment by the Council of a pharmacist who resides in that district and is otherwise eligible for election to that office:
- 20 (b) In the case of a vacancy in the office of a member elected to represent an island, by the appointment by the Council of a pharmacist who resides in that island and is otherwise eligible for election to that office.
- 25 (10) Every person appointed or elected to fill any extraordinary vacancy shall hold office for the residue of the term of office of his predecessor.
- (11) Unless he sooner vacates his office as provided in this section, every member of the Council shall continue in office
30 until his successor comes into office, notwithstanding that the term for which he was appointed or elected may have expired.
- (12) No Registrar, Deputy Registrar, or other officer or servant of the Council, appointed pursuant to section 11 of
35 this Act, shall be eligible for election as a member of the Council.
- (13) For the purposes of this section,—
- 40 (a) The Auckland District shall comprise the land registration districts of North Auckland, South Auckland, and Gisborne:
- (b) The Wellington District shall comprise the land registration districts of Taranaki, Wellington, Hawke's Bay, Nelson, and Marlborough:
- 45 (c) The Canterbury District shall comprise the land registration districts of Canterbury and Westland:

(d) The Otago District shall comprise the land registration districts of Otago and Southland— and the expression “land registration district” shall have the same meaning as in the Land Transfer Act 1952.

(14) For the purposes of this section, the term “proprietor” means a pharmacist who is— 5

(a) The owner or part-owner of the business of pharmaceutical practice being carried on in a pharmacy; or

(b) A member of a company which is the owner or part-owner of the business of pharmaceutical practice being carried on in a pharmacy. 10

Cf. 1939, No. 33, s. 5; 1950, No. 91, ss. 24 (1), 25; 1962, No. 11, s. 2

6. President and Vice-President of Society—(1) The Council shall, at its first meeting after a general election of members to the Council and thereafter at yearly intervals until the next succeeding general election of members, appoint one of its members to be President of the Society. The President in office at the date of that appointment may, if he remains a member of the Council, be reappointed as President. 15 20

(2) If the President ceases to be a member of the Council before the expiration of the period for which he was appointed, the Council shall appoint some other member to be the President for the residue of that period. 25

(3) Unless he sooner vacates his office as provided in subsection (2) of this section 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 Council may from time to time appoint 1 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. 30 35

Cf. 1939, No. 33, s. 6

7. Transitional provisions—(1) The first election of members of the Council shall be held in accordance with regulations made under this Act, or if no such regulations are made, in accordance with regulations continuing with the like operation and effect as if they had been made under this Act, and shall take place between the 31st day of October 1971 and the 1st day of January 1972. 40

(2) Notwithstanding anything in subsections (1) to (3) of section 5 of this Act, every person holding office as a member of the Pharmacy Board of New Zealand immediately before the commencement of this Act shall, unless he sooner dies, or is removed from office, or resigns, or otherwise vacates his office, continue in office as a member of the Council until the first persons elected under this Act are declared to be so elected.

(3) In the case of an extraordinary vacancy occurring in the office of an elected member of the Council before the election referred to in subsection (1) of this section, the vacancy shall be filled in the manner set out in subsection (9) of section 5 of this Act, but without any resolution of the Council being necessary in that behalf.

(4) For the purposes of subsection (1) of section 6 of this Act, the date of the commencement of this Act shall be deemed to be the date of a general election of members to the Council.

8. Meetings of Council—(1) Subject to subsection (8) of section 31 of this Act, at all meetings of the Council 7 members shall form a quorum.

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

(3) The President shall preside at all meetings of the Council 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 Council of the President and Vice-President, the Council shall appoint some member present to act as President for 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 Council may regulate its procedure in such manner as it thinks fit.

Cf. 1939, No. 33, s. 7

9. Committees of Council—(1) The Council may from time to time appoint committees consisting of 2 or more members of the Council, including, in the case of any committee to which any power conferred on the Council by section 26 of this Act is delegated, the President or Vice-President, and may delegate to any such committee any of the functions or powers of the Council under this Act other than the functions and powers conferred on the Council by section 31 of this Act. 5

(2) Every such committee shall be subject in all things to the control of the Council, and may at any time be discharged, 10 altered, or reconstituted by the Council.

(3) Subject to any general or special directions given or conditions imposed by the Council, any committee to whom any function or power of the Council has been delegated may exercise that function or power in the same manner and with 15 the same effect as if it had been conferred directly by this Act and not by delegation.

(4) Every committee purporting to act pursuant to any delegation under this section shall, in the absence of proof to the contrary, be presumed to be acting in accordance with the 20 terms of the delegation.

(5) Any delegation under this section may be revoked at any time.

(6) No delegation under this section shall prevent the exercise of any function or power by the Council. 25

10. Payment of fees, allowances, and travelling expenses—
The Council may pay out of the funds of the Society the reasonable travelling expenses of any member of the Council, of the Registrar, of any Deputy Registrar, of any officer or servant of the Council, or of any member of the Society, 30 attending a meeting of the Council, or of the Disciplinary Committee, or of any other committee of the Council, or, by authority of the Council, attending any conference or convention or being engaged in any matter of business of the Council, or for any other purpose approved by the Council. 35
The members of the Council may also be paid such further fees and allowances as may be fixed by the Council.

Cf. 1939, No. 33, s. 8

11. **Officers of the Council**—The Council may from time to time appoint on such terms and conditions as it thinks fit a Registrar and such Deputy Registrars and other officers and servants as it deems necessary for the efficient exercise of its
5 duties, and may pay to them out of the funds of the Society such salaries and remuneration as the Council thinks fit.

Cf. 1939, No. 33, s. 9

12. **Rules of Society**—The Council may from time to time make rules not inconsistent with this Act or with any regula-
10 tions made under this Act for all or any of the following purposes:

- (a) The regulation and good government of the Society and of the members and affairs of the Society:
- 15 (b) Prescribing the limits within which any pharmacist may give advice or treatment in his professional capacity to members of the public:
- (c) Prescribing a code of ethics:
- (d) Regulating the sale of drugs by pharmacists, and requir-
20 ing or prohibiting the use by pharmacists of specified methods of selling drugs or soliciting orders for drugs:
- (e) The establishment and constitution of branches of the Society, and prescribing the powers, functions, and proceedings of any branch:
- 25 (f) The holding of meetings of members of the Society, and meetings of representatives of branches of the Society:
- (g) Generally for the purpose of carrying into full effect the objects for which the Society is formed.

30 Cf. 1939, No. 33, s. 10; 1957, No. 102, s. 2

PART II

REGISTRATION

13. **Qualifications for registration**—(1) Every person resident in New Zealand who has attained the age of 20 years
35 shall be entitled to be registered as a pharmacist under this Act who satisfies the Council—

- (a) That he has—
- (i) Passed such examinations and attended such courses of education and training at an approved school as may be prescribed; and
 - (ii) Completed such period of practical training as may be prescribed; or
- (b) That he is the holder of a recognised certificate and has fulfilled such further conditions as may be prescribed; or
- (c) That he is the holder of a certificate or diploma (other than a recognised certificate) granted outside New Zealand after a course of training as a pharmacist which, in the opinion of the Council, is comparable in length and at least equivalent in content and standard to that required under paragraph (a) of this subsection, and that he is registered as a pharmacist or under a title equivalent thereto in the country where that certificate or diploma was obtained, and has fulfilled such further conditions as may be prescribed:
- 20 Provided that—
- (i) If the Council considers that there is good and sufficient reason for the person not being registered in the manner specified in this paragraph it may dispense with the requirement that the person be so registered:
 - (ii) The Council may, if it thinks fit, require that any holder of such a certificate or diploma, before being registered, shall attend such course of training as a pharmacist, and pass such examinations, as shall be approved by the Council and conducted at an approved school.
- (2) For the purposes of paragraph (a) of subsection (1) of this section, a person shall have passed an examination if he has been accredited with passing that examination in accordance with any regulations, rules, or practice, governing the approved school.
- (3) Notwithstanding the provisions of this section, but subject to the provisions of section 51 of this Act as to appeals, no person shall be registered under this Act if in the opinion of the Council he is not a fit person to be registered as a pharmacist.

Cf. 1939, No. 33, s. 11; 1968, No. 99, s. 2

14. Application for registration—Application for registration as a pharmacist under this Act shall be made in writing to the Registrar. Every application shall be accompanied by the prescribed fee.

5 Cf. 1939, No. 33, s. 12

15. Applications to be considered by Council—(1) As soon as practicable after the receipt of any application for registration the Council shall consider the application and shall give such directions in respect of it as the Council thinks fit and as are authorised by section 16 of this Act.

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

(3) The Council may 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
20 objection to an application.

Cf. 1939, No. 33, s. 13

16. Registrar to observe directions of Council—(1) If the Council, after considering any application for registration, is of the opinion that the applicant is entitled to be registered
25 under this Act, it shall so direct, and the Registrar shall thereupon register the applicant and shall notify him accordingly.

(2) If the Council, after considering any application for registration, is of the opinion that the applicant is not entitled to be registered under this Act, it shall so direct, and the
30 Registrar shall thereupon refuse to register the applicant and shall notify him accordingly.

(3) Notwithstanding anything in subsections (1) and (2) of this section, but subject to the general or special directions of the Council, the Registrar may, upon being satisfied that
35 the applicant has complied with all conditions necessary for registration, effect conditional registration until such time as the Council shall consider the application. The conditional registration of any applicant shall not in any way prejudice the Council in its consideration of the application.

(4) Any person who for the time being is conditionally registered under this section, shall be deemed to be a pharmacist for the purposes of sections 26, 30, 31, and 41 of this Act, but not otherwise.

Cf. 1939, No. 33, s. 14

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17. Pharmaceutical register—(1) Registration under this Act shall be effected by the entry in the pharmaceutical register, to be kept by the Registrar, of the name and address of the applicant, the qualifications by virtue of which he is registered, and such other particulars as may be prescribed. 10

(2) The pharmaceutical register shall be open to public inspection during ordinary office hours on payment of the prescribed fee.

(3) The Registrar shall, on registration being effected, issue to the pharmacist a certificate of registration. 15

(4) If any person to whom a certificate of registration has been issued ceases to be registered as a pharmacist under this Act, the Council may direct him to return his certificate of registration to the Registrar.

(5) Every person who fails to return his certificate of registration to the Registrar within 1 month after he has been directed by the Council to do so under subsection (4) of this section commits an offence against this Act. 20

Cf. 1939, No. 33, ss. 15, 16

18. Penalty for wrongfully procuring registration—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 is liable on summary conviction to imprisonment for a term not exceeding 1 year or to a fine not exceeding \$1,000, or both. 25 30

Cf. 1933, No. 33, s. 17

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19. Notification of deaths of pharmacists—Every Registrar of Births and Deaths in New Zealand shall, on receiving notice of the death of any pharmacist, forthwith transmit by post to the Registrar under this Act a certificate under his hand

as to the death of the pharmacist, with particulars of the time and place of death. On receipt of the certificate the Registrar shall remove the name of the deceased pharmacist from the register.

5 Cf. 1939, No. 33, s. 18

20. Pharmacists to notify changes of address—(1) Every pharmacist shall, within 3 months after changing his address appearing on the register, send to the Registrar a notice of his new address, and the Registrar shall thereupon correct
10 the entry in the register relating to that pharmacist accordingly.

(2) Every pharmacist who fails to comply with sub-section (1) of this section commits an offence, and is liable on summary conviction to a fine not exceeding \$20.

15 Cf. 1939, No. 33, s. 19

21. Name to be removed from register if pharmacist cannot be found, etc.—(1) The Registrar may at any time, and shall if the Council so directs, inquire of any pharmacist by sending a registered letter to him at his address appearing
20 on the register whether he desires to have his name retained on the register.

(2) If no reply is received to the letter within 3 months after posting, or if the letter is not delivered and is returned to the Registrar, the Registrar shall, if the Council
25 so directs, remove from the register the name of the pharmacist 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 pre-
30 scribed fee his name shall be restored to the register.

Cf. 1939, No. 33, s. 20

22. Additional certificates, etc., may be entered in register—Every pharmacist who obtains any approved certificate, diploma, degree, or licence, other than that by virtue of which
35 he is registered, may apply to the Council to amend the register so far as it relates to his qualifications. If satisfied that

the applicant is entitled to the certificate, diploma, degree, or licence in respect of which the application is made and that it is one of a kind approved by the Council for the purposes of this section, the Council shall direct the Registrar to amend the register accordingly, and the Registrar shall thereupon insert in the register particulars of the certificate, diploma, degree, or licence. 5

Cf. 1939, No. 33, s. 21

23. Correction of register—(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 registered under this Act, the Council shall 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*. 10 15

(2) If any particulars appearing in the register in respect of the qualifications of any pharmacist are proved to the satisfaction of the Council to be, or are to the knowledge of the Council, false or erroneous in any respect, the Council 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. 20

(3) The provisions of subsection (2) of this section shall apply notwithstanding that at the time when the entry in the register was made the pharmacist was actually possessed of the qualifications particulars of which appear in the register, or that at that time the entry was otherwise correct. 25

Cf. 1939, No. 33, s. 22

24. Amendment of register on change of name and removal of name on request—(1) When it appears to the satisfaction of the Council that a person who has been registered under this Act has changed his name, or that the name of any person is incorrectly stated in the register, the Registrar shall on payment of the prescribed fee correct the entry in the register relating to that person; but no fee shall be payable if the correction is necessary by reason of a mistake made by the Council, or the Registrar, or anyone acting on behalf of the Registrar. 30 35

(2) The Council may at any time, if it thinks fit, on the application of any person who has been registered as a pharmacist, cause the name of that person to be removed from the register.

5 (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, if the Council so directs, be restored to the register.

10 (4) If for any reason the Council declines an application made under this section, it shall specify the conditions to be fulfilled by the applicant before a further application will be considered by the Council from the same person.

Cf. 1939, No. 33, s. 23

15 **25. Removal of name from register for non-payment of practising fee—**(1) If any annual practising fee payable by a pharmacist under this Act is not paid within 3 months after it is due, the Registrar shall, if the Council so directs, remove the name of the pharmacist from the register.

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 and of all annual practising fees payable by him his name shall, if the Council so directs, be restored to the
25 register.

(3) If for any reason the Council declines an application made under this section it shall specify the conditions to be fulfilled by the applicant before a further application will be considered by the Council from the same person.

30 Cf. 1939, No. 33, s. 24; 1959, No. 86, s. 4

26. Suspension from practice because of disability—(1) If it appears to the Council that any pharmacist is by reason of mental or physical disability unable to perform his professional duties satisfactorily, and that because he may
35 attempt to perform those duties it is necessary in the public interest to prevent him from so doing, the Council may by notice in writing signed by the President, Vice-President, or Registrar, and served on the pharmacist, require the pharmacist, at the expense of the Society, to submit himself for

examination by a registered medical practitioner specified in the notice within such reasonable time, being not less than 7 days, as may be specified in the notice.

(2) If a registered medical practitioner makes an examination of any pharmacist pursuant to subsection (1) of this section, he shall as soon thereafter as practicable make a report in writing to the Registrar as to the mental and physical condition of the pharmacist examined so far as that affects his capacity to perform his professional duties satisfactorily. 5

(3) If a notice in writing has been served on any pharmacist under subsection (1) of this section, but the pharmacist has not by the time specified in the notice submitted himself for examination by the medical practitioner named in the notice, or if the Registrar has received a written report in respect of the pharmacist from the medical practitioner named in the notice, the Council may, after considering the report (if any) and all relevant circumstances, and after giving the pharmacist a reasonable opportunity to be heard, suspend the pharmacist from practice as a pharmacist, if it is satisfied that he 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 so doing. 10 15 20

(4) Any such suspension shall take effect forthwith, but may at any time be revoked by the Council. 25

(5) While any person is so suspended from practice under this section, that person shall, for the purposes of Part III, and sections 42 and 43, of this Act, be deemed to be registered as a pharmacist, but for any other purpose of this Act shall be deemed not to be registered as a pharmacist. 30

27. Removal of name from register or suspension where similar action taken outside New Zealand—(1) If the Council is satisfied that the name of any person registered as a pharmacist under this Act has since that registration been removed, for any reason whatsoever, from any register of pharmacists (by whatever name called) outside New Zealand, it may, if it thinks fit, cause his name to be removed from the pharmaceutical register. 35

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

Cf. 1939, No. 33, s. 25

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PART III

DISCIPLINE WITHIN THE PHARMACEUTICAL PROFESSION

28. Disciplinary Committee—(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
15 Zealand.

(2) The Disciplinary Committee shall be appointed by the Council. It shall consist of the member of the Council appointed under paragraph (a) of subsection (1) of section 5
20 of this Act, together with not less than 2 nor more than 4 other members of the Council as the Council may from time to time determine.

(3) The member of the Council appointed under paragraph (a) of subsection (1) of section 5 of this Act shall be the Chairman of the Disciplinary Committee.

(4) Subject to the foregoing provisions of this section, the Council may from time to time remove from office any member of the Disciplinary Committee other than the Chairman, or fill any vacancy in the membership of the Committee, or appoint any additional member or members of the Com-
30 mittee.

Cf. 1939, No. 33, s. 27

29. Procedure of Disciplinary Committee—(1) At all meetings of the Disciplinary Committee 3 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.

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

(4) The Disciplinary Committee shall not exercise any of its functions concerning any pharmacist without giving him a reasonable opportunity of being heard. For the purposes of this subsection, the pharmacist concerned may, if he so desires, be represented by counsel or otherwise.

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

Cf. 1939, No. 33, s. 28

30. Complaints against pharmacists—(1) If a complaint is made to the Council, or the Council has reason to believe, that any pharmacist—

- (a) Has been guilty of disgraceful conduct in a professional respect; or
- (b) Has been guilty of professional misconduct or of conduct otherwise unbecoming a pharmacist; or
- (c) Is addicted to drugs or is habitually intoxicated; or
- (d) Has been convicted by any Court in New Zealand of any offence for which the maximum penalty is not less than 2 years' imprisonment; or
- (e) Has been convicted of any offence against this Act, the Social Security Act 1964, the Poisons Act 1960, or the Narcotics Act 1965, or against any regulations made under any of those Acts; or
- (f) Has wilfully disobeyed any rule made under any of the provisions of paragraphs (b), (c), and (d) of section 12 of this Act—

the Council may direct the Disciplinary Committee to hold an investigation under this section.

(2) For the purposes of the investigation the Disciplinary Committee may make or employ any person to make whatever preliminary inquiries it deems necessary.

(3) Before the Disciplinary Committee makes any final determination on any matter which it investigates under this section, it shall cause to be served on the pharmacist concerned a notice specifying the grounds of the charge with sufficient particularity to enable him to answer the charge, and requiring him to appear before the Disciplinary Committee at a time and place specified in the notice.

(4) If after the investigation of any charge under this section the Disciplinary Committee is of the opinion that the charge has been proved, it may recommend to the Council that it exercise such of the disciplinary powers conferred on it by section 31 of this Act as the Committee thinks fit.

Cf. 1939, No. 33, s. 29; 1965, No. 36, s. 3

31. Disciplinary powers of Council—(1) On receiving a recommendation of the Disciplinary Committee under section 30 of this Act, the Council may in its discretion give effect to the recommendation, wholly or partly, or may take any other action under subsection (2) of this section that is not more severe than that recommended by the Committee.

(2) The disciplinary powers which the Council may exercise in respect of any pharmacist shall be—

15 (a) To impose a penalty upon the pharmacist not exceeding \$200, unless the Council is considering any act or omission of the pharmacist which constitutes an offence for which the pharmacist has been convicted by any Court and which is punishable by imprisonment or fine:

20 (b) To censure the pharmacist:

(c) To suspend the pharmacist from practice as a pharmacist for a period not exceeding 3 years:

25 (d) To order the name of the pharmacist to be removed from the register, whereupon the person shall, subject to the provisions of this Act, cease to be registered as a pharmacist:

30 (e) To order the person to pay any costs and expenses of and incidental to the inquiry by the Council and the investigation by the Disciplinary Committee.

(3) No disciplinary power shall be exercised by the Council under this section over any pharmacist by reason of any offence referred to in paragraph (d) or paragraph (e) of subsection (1) of section 30 of this Act, committed before the date of his registration, if at that date the Council was aware of his conviction for that offence.

(4) Every decision made by the Council under this section shall be in the form of an order signed by the President and shall contain a statement of the decisions of the Council in relation to the case. A copy of the order shall be forwarded to the person against whom the order was made and to the Chairman of the Disciplinary Committee. 5

(5) Every monetary penalty imposed, and all costs and expenses payable, shall be recoverable under this section as a debt due to the Society.

(6) While an order of suspension from practice as a pharmacist under this section remains in force, the person to whom it relates shall, for all purposes of this Act other than section 30 and this section, be deemed not to be a pharmacist, but forthwith on the expiry of the order his rights and privileges as a registered pharmacist shall be revived as from the date of expiry: 10 15

Provided that, notwithstanding any other provision of this Act, any person suspended from practice under this section shall, if the Council in its discretion so directs, be deemed to be a pharmacist for the purposes of sections 42 and 43 of this Act, but for no other purpose. 20

(7) No order under this section shall take effect until the expiration of 21 days after the date of notification by the Registrar to the person affected by the making of the order. If within the period of 21 days the person gives notice of appeal under section 51 of this Act, the order shall not take effect, and no penalty or costs or expenses shall be payable, until the order is confirmed by the Board of Appeal or the appeal is for any reason dismissed by that Board: 25

Provided that, unless the Board of Appeal otherwise orders, the period of suspension specified in the order shall commence, and the penalty or costs or expenses specified in the order shall be payable, on the day when the order commences to have effect. 30

(8) Except with the consent of the pharmacist concerned, no decision shall be made by the Council to cause the name of any pharmacist to be removed from the register under this section unless the Council is of the opinion that he is unfit to be registered as a pharmacist and unless at least 9 members of the Council are present and vote in favour of the decision. 35 40

Cf. 1939, No. 33, s. 29A; 1965, No. 36, s. 4 (1)

32. Restoration of name to register—(1) Every pharmacist whose name has been removed from the register under section 27 or section 31 of this Act may apply to the Council for the restoration of his name to the register.

5 (2) On the hearing of any such application, the Council, if it is satisfied that the applicant is a fit and proper person to be registered as a pharmacist, may order that the name of the applicant be restored to the register.

10 (3) If any such application is refused by the Council, no further application under this section shall be made by the applicant until the expiration of 1 year after the date of the refusal.

Cf. 1939, No. 33, s. 29B; 1965, No. 36, s. 5

PART IV

15 THE PHARMACY AUTHORITY

33. The Pharmacy Authority—(1) For the purposes of this Act, the Minister may from time to time appoint a suitable person to be the Pharmacy Authority.

20 (2) The person appointed to be the Pharmacy Authority shall be a barrister or solicitor of not less than 7 years' practice of the Supreme Court, whether or not he holds or has held any judicial office.

25 (3) Any person appointed under this section to be the Pharmacy Authority may hold that office concurrently with any other office held by him.

30 (4) There shall be payable to the Pharmacy Authority out of the Consolidated Revenue Account, without further appropriation than this section, such remuneration by way of fees, salary, and allowances as may be fixed from time to time by the Minister of Finance; but nothing in this subsection shall apply to any Pharmacy Authority who for the time being receives out of public money a salary in respect of any office that he holds concurrently with his office as the Pharmacy Authority.

35 Cf. 1954, No. 81, s. 6; 1962, No. 92, s. 2

34. Deputy Pharmacy Authority—(1) The Minister may from time to time appoint a suitable person, possessing the qualifications set out in subsection (2) of section 33 of this Act, to be the Deputy Pharmacy Authority.

40 (2) Subsections (3) and (4) of section 33 of this Act shall apply to the Deputy Pharmacy Authority as they apply to the Pharmacy Authority.

(3) The Deputy Pharmacy Authority shall have all the powers, duties, and functions of the Pharmacy Authority during any vacancy in the office of the Pharmacy Authority or during any period in which the Pharmacy Authority is incapacitated or otherwise unavailable. 5

(4) Any proceedings begun by or before the Pharmacy Authority under this Act may be continued and completed by or before the Deputy Pharmacy Authority, and any such proceedings begun by or before the Deputy Pharmacy Authority may be continued and completed by or before the Pharmacy Authority. 10

(5) The fact that the Deputy Pharmacy Authority exercises any power, duty, or function of the Pharmacy Authority under this Act shall be conclusive evidence of his authority so to do, and no person shall be concerned to inquire whether the occasion has arisen requiring or authorising him so to do. 15

35. Functions of the Authority—(1) The functions of the Pharmacy Authority shall be to consider applications under this Act in respect of any matter where the consent of the Authority is required under this Act. 20

(2) In the exercise of his functions the Pharmacy Authority shall have regard to the public interest and the interests of the pharmaceutical profession, and for those purposes shall ensure, as far as his authority under this Act extends, and as far as is consistent with the provision to the public of a full, efficient, and economic service in respect of the supply of drugs and pharmaceutical goods, that pharmacies are carried on by independent pharmacists owning and conducting their own businesses. 25

Cf. 1954, No. 81, s. 7 30

36. Applications for consent of Pharmacy Authority—

(1) Every application for the consent of the Pharmacy Authority under this Act shall be forwarded to the Minister.

(2) On receiving an application under this section, the Minister shall cause the application to be transmitted to the Pharmacy Authority, who shall give notice to the applicant, and to all such other persons as in his opinion will be materially affected by his decision, of the date when and the place where the application will be considered. 35

Cf. 1954, No. 81, s. 8 40

37. Matters to be considered in respect of application—In considering any application by any person for consent to the establishment or the carrying on of a pharmacy, the Pharmacy Authority shall have regard to—

- 5 (a) The extent to which the service proposed to be rendered by the applicant is necessary or desirable in the public interest:
- (b) The pharmaceutical services already provided in the locality:
- 10 (c) Any evidence or representations received by him in respect of the application:
- (d) Such other matters as, having regard to his functions under this Act, the Authority thinks proper.

Cf. 1954, No. 81, s. 9

15 **38. Evidence and proceedings before Authority**—(1) The Pharmacy Authority may receive as evidence any statement, document, information, or matter, which may in his opinion assist him to deal effectually with the matters before him, whether or not the same would be otherwise admissible in a

20 Court of law.

(2) Subject to subsection (1) of this section, the Evidence Act 1908 shall apply to the Authority, and to all proceedings before the Authority, in the same manner as if the Authority were a Court within the meaning of that Act.

25 (3) The Pharmacy Authority shall, within the scope of his jurisdiction, be deemed to be a Commission of Inquiry under the Commissions of Inquiry Act 1908, and, subject to the provisions of this Act, all the provisions of that Act shall apply accordingly.

30 (4) Every application to the Pharmacy Authority under this Act shall be considered at such place and at such time as he deems convenient having regard to the nature of the matters to be decided, and any such consideration may be adjourned from time to time and from place to place.

35 (5) Except as otherwise provided by this Act, the Pharmacy Authority shall determine his own procedure.

(6) Proceedings before the Pharmacy Authority shall not be held bad for want of form.

Cf. 1954, No. 81, s. 10.

40 **39. Decision of Pharmacy Authority**—(1) The Pharmacy Authority shall grant or refuse his consent to each application made to him under this Act.

(2) In granting his consent to any application, the Pharmacy Authority may prescribe such conditions as he thinks fit for the purpose of carrying out his functions under this Act.

(3) Where the Pharmacy Authority grants his consent to any such application, he shall give notice thereof to each proprietor of a pharmacy in the locality to which the application relates. 5

(4) The Pharmacy Authority may from time to time, of his own motion or on the application of the person to whom the Authority has given his consent under this Act to the establishment or carrying on of a pharmacy, amend or revoke any of the conditions prescribed by him under subsection (2) of this section in respect of the pharmacy or add any new conditions which in his opinion are necessary for carrying out the purposes of this Act. 10 15

Cf. 1954, No. 81, s. 11

40. Appeals from decisions of Pharmacy Authority—

(1) Subject to subsection (3) of this section, there shall be a right of appeal to the Supreme Court against the whole or any part of any decision of the Pharmacy Authority. 20

(2) Every such appeal shall be heard and determined by the Administrative Division of the Supreme Court.

(3) The following persons and no others may appeal:

(a) The person in respect of whose application the decision of the Pharmacy Authority was given: 25

(b) Any other person affected by the decision who is the proprietor of a pharmacy in the locality to which the application relates.

(4) Every such appeal shall be made by giving notice of appeal within 1 month after the date of the decision appealed against. 30

(5) In its determination of any appeal, the Court may confirm, modify, or reverse the decision or any part of the decision appealed against. 35

(6) For the purposes of section 66 of the Judicature Act 1908, a decision of the Court under this section shall be deemed to be a judgment of that Court.

(7) Subject to the provisions of this section, the procedure in respect of any such appeal shall be in accordance with rules of Court. 40

Cf. 1954, No. 81, s. 12

PART V

CONTROL AND OWNERSHIP OF PHARMACIES

41. Every pharmacy to be under supervision of a pharmacist—Notwithstanding anything in this Act, no person shall keep, or permit to be kept, or manage, any pharmacy which is not for the time being under the immediate supervision and control of a pharmacist.

Cf. 1939, No. 33, s. 35

42. Restriction on companies carrying on pharmacies—

(1) Subject to subsection (4) of section 2 of this Act, and to subsections (2) to (4) of this section, no company shall, except with the consent of the Pharmacy Authority and in conformity with conditions prescribed by the Authority, establish or carry on business in a pharmacy.

(2) Any company may establish or carry on business in a pharmacy without obtaining the consent of the Pharmacy Authority if at all times—

(a) At least 75 percent of the share capital of the company is owned by a pharmacist or by pharmacists, and effective control of the company is vested in that pharmacist or those pharmacists; and

(b) No member of the company is the proprietor of any other pharmacy; and

(c) No member of the company is a member of any other company which is the proprietor of any other pharmacy; and

(d) No member of the company holds an interest in a pharmacy other than a pharmacy of which the company is the proprietor.

(3) Any company which, at the commencement of this Act, is lawfully carrying on business in a pharmacy may continue to carry on business in that pharmacy as if this Act had not been passed:

Provided that this subsection shall cease to apply to a company when there has been a change or changes in the ownership of shares representing 25 percent of the share capital of the company since the commencement of this Act.

(4) For the purposes of paragraph (a) of subsection (2) of this section, the term "pharmacist" includes an administrator of the estate of a deceased pharmacist, and an assignee within the meaning of the Insolvency Act 1967 of the estate of a

pharmacist, until the period of 1 year from the date of the death of the deceased pharmacist, or from the date of the first appointment of an assignee of the estate of the pharmacist, has expired.

(5) For the purposes of paragraphs (b), (c), and (d) of subsection (2) of this section, the term "proprietor" includes the owner or part-owner of the business of pharmaceutical practice being carried on in a pharmacy. 5

Cf. 1954, No. 81, s. 3; 1957, No. 102, s. 3

43. Restriction on individuals holding interest in pharmacies—(1) Except as otherwise provided in this Act, no person other than a pharmacist, either alone or in partnership, shall, except with the consent of the Pharmacy Authority and in conformity with conditions prescribed by the Authority, establish, carry on business, or otherwise hold an interest, in a pharmacy. 10 15

(2) For the purposes of this section, a person shall not hold an interest in a pharmacy merely by his being a member of a company which is lawfully carrying on business in a pharmacy. 20

(3) For the purposes of this section,—

"Person" does not include a company:

"Pharmacist" includes the following persons:

(a) An administrator of the estate of a deceased pharmacist:

(b) An assignee, within the meaning of the Insolvency Act 1967, carrying on a pharmacy in his capacity as assignee of the estate of a pharmacist: 25

(c) A liquidator carrying on a pharmacy under the authority of section 240 of the Companies Act 1955:

(d) A receiver or manager of the property of a company carrying on, subject to Part VII of the Companies Act 1955, a pharmacy comprised in that property: 30

Provided that nothing in this subsection shall entitle any person to carry on business in a pharmacy after the expiration of the period of 1 year after the date of the death of the deceased pharmacist, or the date of the first appointment of an assignee in respect of an estate comprising a pharmacy, or the date of the first appointment of a liquidator, receiver, or manager, in respect of a company which has carried on a pharmacy. 35 40

(4) Notwithstanding anything in this section, any person who at the commencement of this Act lawfully holds an interest in a pharmacy may continue to hold that interest in that pharmacy.

5 Cf. 1954, No. 81, s. 3A; 1957, No. 102, s. 4 (1)

Struck Out

44. Restriction on wholesalers holding interest in pharmacies—(1) In this section the expression “wholesale dealer in drugs” means a person who sells drugs in New Zealand to
10 another person for the purposes of resale.

(2) Notwithstanding anything in section 42 or section 43 of this Act, no wholesale dealer in drugs shall hold an interest in a pharmacy other than in the business of a pharmacy of which he is lawfully the proprietor:

15 Provided that a wholesale dealer in drugs who was lawfully holding an interest in a pharmacy at the 1st day of October 1954 (being the date of the commencement of the Pharmacy Amendment Act 1954) may continue to hold that interest in that pharmacy.

20 Cf. 1954, No. 81, s. 13 (1)

New

44. Restriction on wholesalers holding interest in pharmacies—(1) In this section the expression “wholesale dealer in drugs” means a person who in New Zealand or elsewhere
25 sells drugs to another person for the purposes of resale.

(2) Notwithstanding anything in section 42 or section 43 of this Act, no wholesale dealer in drugs shall hold an interest in a pharmacy other than in the business of a pharmacy of which he is lawfully the proprietor:

30 Provided that a wholesale dealer in drugs who was lawfully holding an interest in a pharmacy at the commencement of this Act may continue to hold that interest in that pharmacy.

(3) No person having an interest in a pharmacy shall
35 acquire that or any other interest in the pharmacy contrary to subsection (2) of this section.

(4) For the purposes of this section, no wholesale dealer in drugs not resident in New Zealand holds an interest in
40 a pharmacy by reason only of his continuing to hold an interest held by him at the commencement of this Act in any company that is the proprietor of a pharmacy at such commencement.

Cf. 1954, No. 81, s. 13 (1)

45. Restriction on holding of interest in more than 1 pharmacy—(1) Notwithstanding anything in section 42 or section 44 of this Act, but subject to subsections (2) and (3) of this section, no person, either alone or in partnership, shall, except with the consent of the Pharmacy Authority and in conformity with conditions prescribed by the Authority, carry on business or otherwise hold an interest in more than 1 pharmacy. 5

(2) Nothing in subsection (1) of this section shall apply—

(a) To any person who, at the commencement of this Act, is lawfully carrying on business in more than 1 pharmacy, or who otherwise lawfully holds an interest in more than 1 pharmacy, to the extent that he continues to carry on those pharmacies, or to hold those interests; or 10 15

(b) To any person merely by his being a member of a company which is lawfully carrying on business in more than 1 pharmacy; or

(c) Subject to the proviso to subsection (3) of section 43 of this Act, to any person referred to in the said subsection (3), to the extent that one or more pharmacies, or interests in one or more pharmacies, are lawfully comprised in the estate or property which he is administering. 20

(3) Subject to sections 41 to 44 of this Act, a person may, while attempting to sell 1 pharmacy of which he is the proprietor, carry on business in 1 other pharmacy for a period of 3 months, or, subject to such conditions as the Pharmacy Authority may impose, for such extended period or periods as may be permitted by the Authority. 25 30

Cf. 1954, No. 81, ss. 4, 13 (1)

46. Exemption for urgent pharmacies—Sections 42, 44, and 45 of this Act shall not apply to the business of any pharmacy which—

(a) Is established for the purpose of selling medicines and surgical appliances at any time when the pharmacy is otherwise required by or under the Shops and Offices Act 1955 to be closed; and 35

(b) Is not normally carried on during ordinary business hours; and 40

- (c) Is owned by pharmacists, or by a company of which all the share capital is owned by persons lawfully carrying on business as proprietors of pharmacies, or jointly by pharmacists and any such company.

5 Cf. 1954, No. 81, s. 13A; 1957, No. 102, s. 6

47. Exemption for mortgagees in possession—(1) Notwithstanding anything in sections 42 to 45 of this Act, a mortgagee in possession of a pharmacy may carry on business in that pharmacy for a period of 3 months, or, subject to such conditions as the Pharmacy Authority may impose, for such extended period or periods as may be permitted by the Authority.

(2) In this section the expression “mortgagee in possession” has the same meaning as in the Property Law Act 1952.

15 Cf. 1954, No. 81, s. 5; 1957, No. 102, s. 4 (3)

48. Prohibitions against advertising or using pharmacies in conjunction with other businesses—(1) No person shall use or cause or permit to be used any sign, advertisement, or other device, which is intended to cause or is likely to cause any person to believe that the business carried on in any pharmacy is carried on in conjunction with or as part of any other business carried on in the building in which the pharmacy is situated.

Struck Out

25 (2) No proprietor of a pharmacy shall, except with the consent of the Pharmacy Authority and in conformity with conditions prescribed by the Authority,—

New

30 (2) Subject to subsection (3) of this section, no proprietor of a pharmacy shall—

(a) Provide or permit for public use any means of access directly between the pharmacy and any other place of business; or

35 (b) Carry on business in a pharmacy to which any customer or prospective customer may obtain access through any other place of business.

Cf. 1954, No. 81, s. 14

New

40 (3) No proprietor of a pharmacy contravenes subsection (2) of this section by reason only of access being

New

provided, permitted, or obtained to the pharmacy from any arcade, mall, foyer, or other concourse affording access to any other place of business if the pharmacy is enclosed by walls reaching from the floor to the ceiling of the pharmacy. 5

49. Offences in relation to medical practitioners—(1) Every pharmacist, or proprietor or manager of a pharmacy, commits an offence against this Act who—

- (a) Gives, offers, or agrees to give, to any medical practitioner or to any other person any money or other consideration as a commission on prescriptions; or 10
- (b) 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 or address of 15 the pharmacy, or the name of the pharmacist or proprietor of the pharmacy.

(2) Every proprietor of a pharmacy commits an offence against this Act who provides or permits any means of access directly between the pharmacy and any premises occupied 20 by a medical practitioner.

Cf. 1939, No. 33, s. 37

50. Improper use of words implying registration, etc.—

(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 are likely to cause any person to believe that he is registered under this Act: 25

Provided that no person, being the proprietor of a pharmacy that is under the immediate supervision and control of a pharmacist, shall commit an offence merely because he uses or permits to be used the words “pharmacist” or “pharmaceutical chemist” in or in connection with his name or business. 30

New

(1A) Every person commits an offence against this Act who, not being registered under this Act, and not being the proprietor of a pharmacy that is under the immediate supervision and control of a pharmacist, and not being entitled to take or use the title “chemist” by virtue of any degree, diploma, or other qualification, the possession of which shall be proved by him, uses or causes or permits to be used the title “chemist”, either alone or in combination with any other words or letters, in connection with his selling any goods by retail or his supplying any goods in circumstances corresponding to a retail sale. 35 40 45

(2) Every person commits an offence against this Act who, not being registered under this Act and not being the proprietor of a pharmacy that is under the immediate supervision and control of a pharmacist, uses or causes or permits to be used 5 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 are likely to cause any person to believe that he is qualified to act as a pharmacist or to sell any drug or to compound or dispense any drug for sale, or 10 that he is carrying on business as a pharmacist.

Cf. 1939, No. 33, s. 34

PART VI

GENERAL

51. Appeals from decisions of Council—(1) Every person 15 who is directly affected by any decision of the Council and is aggrieved by the decision may, within 21 days after notice of the decision has been given to him by the Registrar, give notice of appeal in the prescribed manner to the Registrar.

(2) On receipt of the notice of appeal the Registrar shall 20 forthwith inform the Minister who shall thereupon take all steps necessary for the constitution of a Board of Appeal consisting of a barrister and 2 assessors. The assessors shall be pharmacists to be appointed, in accordance with regulations made under this Act, to represent respectively the Council and 25 the appellant.

(3) The Board of Appeal so constituted shall as soon as practicable hear the appeal, and may confirm, modify, or reverse the decision of the Council, or may make such other order as the case may require.

30 (4) On any appeal under this section the decision of not less than 2 members of the Board of Appeal shall be the decision of that Board, and that decision shall be final and conclusive. If the decision appealed against is modified or reversed it shall be the duty of the Council forthwith to take 35 any action that may be required to give effect to the decision of the Board of Appeal.

(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 40 any other party to the appeal. In that case the costs so awarded shall 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.

(6) For the purposes of this section, any decision of a committee of the Council appointed under section 9 of this Act shall be a decision of the Council.

Cf. 1939, No. 33, s. 31

52. Disciplinary Committee and Board of Appeal to be Commissions of Inquiry—The Disciplinary Committee and the Board of Appeal shall be deemed to be Commissions of Inquiry under the Commissions of Inquiry Act 1908, and, subject to the provisions of this Act, all the provisions of that Act, except sections 11 and 12, shall apply accordingly. 5 10

Cf. 1939, No. 33, s. 31A; 1965, No. 36, s. 6

53. Offences and legal proceedings—(1) Every person who contravenes or fails to comply with any provision of sections 41 to 45 and section 48 of this Act commits an offence and shall be liable on summary conviction to a fine not exceeding \$500 and, if the offence is a continuing one, to a further fine not exceeding \$10 for every day or part of a day during which the offence has continued. 15

(2) Every person who commits an offence against this Act for which no penalty is provided elsewhere than in this subsection shall be liable on summary conviction to a fine not exceeding \$200 and, if the offence is a continuing one, to a further fine not exceeding \$5 for every day or part of a day during which the offence has continued. 20

(3) If any body corporate is convicted of an offence against this Act or against any regulation made under this Act, every director and every person concerned in the management of the body corporate with whose knowledge, authority, permission, or consent the act constituting the offence took place, himself commits an offence, and shall be liable on summary conviction to a fine not exceeding that imposed on the body corporate. 25 30

(4) The Society shall be deemed to be a public body for the purposes of section 109 of the Public Revenues Act 1953.

Cf. 1939, No. 33, ss. 38, 39; 1954, No. 81, s. 15 35

54. Lists of pharmacists to be issued—(1) The Council shall from time to time at intervals of not more than 3 years cause to be printed and issued a list of the names of all pharmacists in alphabetical order, with their addresses, as appear in the register on the date specified in the list. 40

(2) A copy of any such list purporting to be issued by the Council 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.

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

10 Cf. 1939, No. 33, s. 40

55. Certificate of Registrar to be evidence of registration, etc.—A certificate under the hand of the Registrar to the effect that any person was or was not registered, or was conditionally registered, as a pharmacist under this Act at any
15 time or during any period specified in the certificate, or a certificate under the hand of the Registrar as to any entry in the register, or as to any act or proceeding of the Council or of the Disciplinary Committee, shall, until the contrary is proved, be sufficient evidence of the matters therein certified.

20 Cf. 1939, No. 33, s. 41

56. Fees—(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.

25 (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.

30 (3) All fees, monetary penalties, and other money received by the Registrar under this Act shall form part of the funds of the Society.

Cf. 1939, No. 33, s. 42

57. Regulations—The Governor-General may from time to time, by Order in Council made on the advice of the Minister given after consultation by the Minister with the Council of
35 the Society, make regulations for all or any of the following purposes—

- (a) Prescribing the forms of, and the method of keeping, the pharmaceutical register:
- 40 (b) Prescribing the forms of application, certificates, and other documents, required under this Act:
- (c) Prescribing approved schools and, either by reference to the diploma or degree awarded to successful

- candidates or otherwise, the examinations required to be passed and the courses of education and training required to be attended, for the purposes of paragraph (a) of subsection (1) of section 13 of this Act:
- (d) Prescribing the minimum educational qualifications which must be held by any person before he presents himself for an examination, other than an examination conducted by a university, for the purposes of paragraph (a) of subsection (1) of section 13 of this Act:
- (e) Enabling the Council to appoint assessors in respect of any examination, other than an examination conducted by a university, for the purposes of paragraph (a) of subsection (1) of section 13 of this Act; prescribing the powers, functions, and terms of service of assessors; providing for the remuneration of assessors; and providing for the settlement of any dispute between an assessor and an examiner:
- (f) Prescribing the period of practical training required to be completed for the purposes of paragraph (a) of subsection (1) of section 13 of this Act, and the places at which and the persons under whom such training shall be undergone; imposing duties on such persons; and providing for the submission of evidence to the Council that such training has been completed:
- (g) Prescribing recognised certificates and the conditions that must be fulfilled for the purposes of paragraph (b) of subsection (1) of section 13 of this Act:
- (h) Prescribing the conditions that must be fulfilled for the purposes of paragraph (c) of subsection (1) of section 13 of this Act:
- (i) Prescribing the fees payable in respect of registration under this Act, the restoration of names after their removal from the register, and any other alteration of or addition to the register; prescribing fees for the issue of certificates and for copies of certificates, and for inspecting the register and any other documents kept by the Council open to inspection:
- (j) Prescribing the practising fees payable by pharmacists including different fees for different classes of pharmacists; prescribing fees for supplying to pharmacists any documents, other than certificates of registration, required by them from the Council

for the purpose of seeking registration overseas; and exempting any classes of pharmacists from liability to pay any such fees:

- 5 (k) Regulating the procedure of the Council and of the Disciplinary Committee:
- (l) Prescribing the manner of holding elections of members of the Council:
- (m) For any purpose for which rules may be made under this Act:
- 10 (n) Providing for the appointment of assessors, and regulating the conduct of appeals, under section 51 of this Act:
- (o) Regulating the conduct of the business of pharmacists, and in particular the storage, handling, preparation, and dispensing of drugs, the recording of prescriptions, and the hours of attendance of pharmacists in pharmacies; prescribing conditions to be complied with before pharmacies shall, for the purposes of this Act, be or be deemed to be under the immediate supervision and control of a pharmacist; and prescribing the plant and equipment required in pharmacies:
- 15 (p) Providing for the registration of pharmacies:
- (q) Requiring the provision of information or particulars which may be required by the Minister:
- 25 (r) For the purposes of ensuring compliance with the provisions of this Act in providing for the inspection of pharmacies and the investigation of the books and records of proprietors of pharmacies, and prescribing the powers, functions, and duties of persons appointed to carry out any such inspection or investigation:
- 30 (s) Providing for the audit of the accounts of the Society, the appointment of auditors, and prescribing the qualifications of those auditors:
- 35 (t) Prescribing fines, not exceeding \$200 and, if an offence is a continuing one, a further amount not exceeding \$10 for every day or part of a day during which the offence has continued, for the contravention or non-compliance with any regulations made under this Act:
- 40 (u) Providing for such matters as are contemplated by or necessary for giving full effect to the provisions of this Act and for its due administration.

45 Cf. 1939, No. 33, s. 44; 1954, No. 81, s. 16; 1965, No. 36, s. 7; 1968, No. 99, s. 2

58. Repeals and savings—(1) The enactments specified in the Schedule to this Act are hereby repealed.

(2) Notwithstanding anything in subsection (1) of section 13 of this Act, any person who at the commencement of this Act is engaged in a course of education and training or serving under articles of apprenticeship pursuant to section 11 of the Pharmacy Act 1939 (as substituted by section 3 of the Pharmacy Amendment Act 1959), or is serving in the dispensary of a military establishment controlled and approved as provided in that section (as so substituted, and amended by section 2 of the Pharmacy Amendment Act 1965), may qualify for registration as a pharmaceutical chemist in all respects as if neither this Act nor section 2 of the Pharmacy Amendment Act 1968 had been passed.

(3) Subject to subsection (3) of section 13 of this Act, every person who qualifies for registration as a pharmaceutical chemist pursuant to subsection (2) of this section shall be registered as a pharmacist under this Act.

(4) Without prejudice to section 20 of the Acts Interpretation Act 1924, every person who, at the commencement of this Act, is registered as a pharmaceutical chemist under the Pharmacy Act 1939 shall be deemed for all purposes to be registered as a pharmacist under this Act.

Cf. 1939, No. 33, s. 46; 1968, No. 99, s. 2 (2)

Section 58 (1)

SCHEDULE

ENACTMENTS REPEALED

- 1939, No. 33—The Pharmacy Act 1939. (1957 Reprint, Vol. 11, p. 733.)
 1950, No. 91—The Statutes Amendment Act 1950: Sections 24 and 25. (1957 Reprint, Vol. 11, p. 761.)
 1954, No. 81—The Pharmacy Amendment Act 1954. (1957 Reprint, Vol. 11, p. 762.)
 1957, No. 102—The Pharmacy Amendment Act 1957. (1957 Reprint, Vol. 11, p. 769.)
 1959, No. 86—The Pharmacy Amendment Act 1959.
 1962, No. 11—The Pharmacy Amendment Act 1962.
 1962, No. 92—The Pharmacy Amendment Act (No. 2) 1962.
 1965, No. 36—The Pharmacy Amendment Act 1965.
 1968, No. 99—The Pharmacy Amendment Act 1968.