[AS REPORTED FROM THE PUBLIC HEALTH COMMITTEE.]

House of Representatives, 27th September, 1939.

Hon. Mr. Sullivan

PHARMACY (No. 2).

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A BILL INTITULED

Title. AN ACT to make Better Provision for the Registration and Control of Pharmaceutical Chemists.

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

Short Title. **1.** This Act may be cited as the Pharmacy Act, 1939, and shall come into force on the *first* day of *January,* nineteen hundred and *forty.*

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

"Board" means the Pharmacy Board of New Zealand constituted under this Act:

"Chemist" or "pharmaceutical chemist" means a person for the time being registered as a pharmaceutical chemist under this Act:

"Disciplinary Committee" means the Disciplinary Committee of the Pharmaceutical Society of New Zealand constituted under this Act:

"Drug" means any drug (as described in any official pharmaceutical publication) used in the treatment, prevention, investigation, or alleviation of any disease, illness, or injury affecting human beings:

"Medical practitioner" means a person for the time being registered as a medical practitioner under the Medical Practitioners Act, 1914:

See Reprint of Statutes, Vol. V, p. 669

"Minister" means the Minister of Health:

"Official pharmaceutical publication" means the latest edition for the time being of the British Pharmacopœia or of the British Pharmaceutical Codex, and includes any supplement or addendum to either of the said publications:

"Person" includes a corporation and also includes a friendly society:

"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:

"President" means the President of the Society:

"Proprietor", in relation to any pharmacy, means the person conducting or occupying the pharmacy, and includes the personal representatives of a deceased proprietor:

"Register" means the Pharmaceutical Register kept under this Act:

"Registrar" means the Registrar appointed under this Act, and includes his deputy:

"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:

"Society" means the Pharmaceutical Society of New Zealand constituted under this Act.

(2) If any question arises as to whether or not any substance described in any official pharmaceutical publication is a drug within the meaning of this Act the Minister shall determine the question in such manner as appears to him just, and his decision thereon shall be final. Notice of every decision given by the Minister under this subsection shall be published in the *Gazette*.

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.

(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.

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.

(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.

(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.

Pharmacy Board.

Constitution of Board.

5. (1) There is hereby established a board to be known as the Pharmacy Board of New Zealand.

(2) The Board shall consist of—

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

(*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 (being either proprietors or enrolled managers of pharmacies) whose registered addresses are in the Auckland District:

(ii) Three shall be elected in the prescribed manner by the members of the Society (being either proprietors or enrolled managers of pharmacies) whose registered addresses are in the Wellington District:

(iii) Two shall be elected in the prescribed manner by the members of the Society (being either proprietors or enrolled managers of pharmacies) whose registered addresses are in the Canterbury District:

(iv) One shall be elected in the prescribed manner by the members of the Society (being either proprietors or enrolled managers of pharmacies) whose registered addresses are in the Otago District:

(*c*) Two chemists (each being at the time of his election employed in a pharmacy, and not being the proprietor or the enrolled manager of a pharmacy) of whom—

(i) One shall be resident in the North Island and shall be elected *in the prescribed manner* by persons who are employed (otherwise than as enrolled managers) in pharmacies in the North Island and have served an apprenticeship of not less than four years with a registered chemist; and

(ii) One shall be resident in the South Island and shall be elected *in the prescribed manner* by persons who are employed (otherwise than as enrolled managers) in pharmacies in the South Island and have served an apprenticeship of not less than four years with a registered chemist.

(3) Notwithstanding anything in paragraph (*b*) or in paragraph (*c*) of the *last preceding* subsection, any person, being the enrolled manager of a pharmacy, may, by notice in writing delivered to the Registrar within the prescribed time before the date fixed for any election, elect to vote as a person employed in a pharmacy in accordance with paragraph (*c*) of the said subsection instead of as an enrolled manager in accordance with paragraph (*b*) of that subsection.

(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* 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 re-elected, or may be at any time 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, 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 retain the qualification by virtue of which he was appointed or elected.

(6) If any member of the Board dies, or is removed from office, or 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 vacant office was originally filled. Every person appointed or elected under this subsection shall hold office for the residue of the term of office of his predecessor.

(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 or elected may have expired.

(8) For the purposes of this section,—

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

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

(*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.

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.

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

(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.

Meetings of Board.

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.

(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.

Payment of allowances and travelling-expenses of members of Board.

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.

Officers of Board.

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

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:

(*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:

(*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:

(*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:

(*f*) Regulating the audit of the accounts of the Society and the appointment of auditors, and prescribing their qualifications:

(*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 as a pharmaceutical chemist under this Act who satisfies the Board—

(*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—

(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

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

(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 a pharmacy; or

(*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, 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.

(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 registered by reason of the fact that he is not of good character and reputation.

Application for registration.

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

Applications to be considered by Board.

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 authorized.

(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. 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.

(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.

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.

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

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.

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.

Notification of 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.

Chemists to notify changes of address.

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.

(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.

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

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.

(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.

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

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.

Correction of 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

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.

(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.

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.

(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.

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.

(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.

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.

(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 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.

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

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 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.

(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.

(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 of the decision.

Disciplinary Committee.

Constitution of 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 Zealand.

(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.

(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) 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.

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

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.

(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.

(4) The Disciplinary Committee shall not exercise any of its functions with respect to any chemist without giving him a reasonable opportunity of being heard. For the purposes of this subsection the chemist 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 manner as it thinks fit.

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.

(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 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 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 in accordance with the provisions in that behalf of section *twenty-six* of this Act:

(*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:

(*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* 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.

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

(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 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.

Enrolled Managers.

Enrolment of managers of pharmacies.

30. (1) The proprietor of any pharmacy or any person proposing to establish a 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.

(2) If the Board, after considering any application under this section, is of opinion that the applicant 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.

(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.

(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 forthwith to give notice in writing to the Registrar of the fact that the manager has so ceased to have the immediate supervision and control of the pharmacy. 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.

(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* subsection:

(*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:

(*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.

(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 every day on which the offence is committed.

Appeals.

Appeals from decisions of Board.

31. (1) Every person who is directly affected by any decision of the Board and is aggrieved thereby may, within *twenty-one* 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) Upon receipt of the notice of appeal the Registrar shall forthwith inform the Minister who shall thereupon take all steps necessary for the constitution of a Board of Appeal, consisting of a 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 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 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 forthwith 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 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) This section applies with respect to all drugs within the meaning of this Act, except—

(*a*) Any drugs specified in Part I of the *First* Schedule hereto:

(*b*) Any goods (being drugs within the meaning of this Act) included in any of the classes of goods mentioned in Part II of the *First* Schedule hereto, or any drugs when sold as ingredients of any goods included in any such class.

(2) If any question arises with respect to any goods (other than proprietary medicines) as to whether or not they are included in any of the classes of goods mentioned in Part II of the *First* Schedule hereto the Minister may determine the question in such manner as appears to him just, having regard to the purposes for which such goods are ordinarily used and to the interests of public health, and his decision thereon shall be final. Notice of every decision given by the Minister under this subsection shall be forthwith published in the *Gazette*.

(3) Except as provided in the *last preceding* subsection, the question as to whether or not any goods are included in any of the classes of goods mentioned in Part II of the *First* Schedule hereto shall, in any proceedings for an offence against this section, be determined by the Court.

(4) Except as provided in the *next succeeding* subsection, but subject to the provisions of section thirty-*three* hereof, it shall not be lawful for any person to sell any drug with respect to which this section applies unless—

(*a*) He is registered as a chemist; or

(*b*) He is employed in a pharmacy and the sale is effected in the pharmacy in the course of his employment; or

(*c*) He is a member of a specified class of persons authorized by the Governor-General by Order in Council to sell specified drugs or to sell any drugs of specified classes, and the sale is effected in accordance with any conditions imposed in the Order in Council.

(5) It shall be a good defence in any proceedings for an offence against this section if the defendant proves that the proceedings are in respect of the sale of a substance that is not included in the definition of the term "drug" on the commencement of this Act, and that the substance was on sale to the public elsewhere than in pharmacies at any time before it became a drug by reason of its inclusion in an official pharmaceutical publication.

(6) Every person who sells any drug in contravention of the provisions of this section commits an offence and shall be liable on conviction to a fine of *ten* pounds.

Exemptions from *last preceding* section.

33. Nothing in the *last preceding* section 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: 1936, No. 57

(*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": See Reprint of Statutes, Vol. V, p. 736

(*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.

New.

(*g*) Any person who is at the commencement of this Act a member of the New Zealand Association of Medical Herbalists (Incorporated), and who at the commencement of this Act carries on business as a herbalist, either without assistance or under his immediate supervision and control, at one address only of which he has given notice in writing to the Registrar.

Improper use of words implying registration, &c.

34. (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.

Provided that no person, being the proprietor of a pharmacy that is under the immediate supervision and control of a manager enrolled under this Act, shall be deemed to commit an offence by reason of the fact that he causes or permits to be used the word "chemist" in or in connection with his name or business.

(2) Every person commits an offence who, not being registered under this Act or not being 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.

Pharmacies to be under control of chemist or enrolled manager.

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.

Automatic machines not to be used for supply of drugs.

36. Every person commits an offence who owns, installs, or uses, or causes or permits the installation or use of any automatic machine designed or used, or intended to be used, for the supply of drugs or of any drug.

Offences in relation to medical practitioners.

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 to any medical practitioner or to any other person 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 any premises occupied by a medical practitioner.

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.

Prosecutions to be before a Magistrate.

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

(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.

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

Miscellaneous.

Lists of chemists to be issued.

40. (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.

(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.

(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.

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

41. 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.

Fees.

42. (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.

(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 by the Registrar under this Act shall form part of the funds of the Society.

Exemption from jury service.

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

Regulations.

44. (1) The Governor-General may from time to time, by Order in Council, make 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. No regulations shall be made under this section except in accordance with recommendations made by the Board and transmitted by the Board to the Minister.

(2) Without limiting the general power hereinbefore 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 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 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 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 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 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 to professional experience:

(*e*) Regulating the employment and training of 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:

(*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:

(*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:

(*k*) Prescribing fines, not exceeding *fifty* pounds, for the breach of any regulation made under this section.

Regulations to be laid before Parliament.

45. 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.

Repeals and savings.

46. (1) The enactments specified in the *Second* 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.

(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.

SCHEDULES.

Schedules.

FIRST SCHEDULE.

PART I.

Acetic acid.
Acetone.
Almond-oil.
Alum.
Ammoniated quinine.
Acetyl salicylic acid tablets.
Beeswax.
Benzine.
Bluestone.
Borax.
Boracic acid.
Camphor.
Camphorated oil.
Capsicum.
Carbonate of ammonia.
Carbonate of soda (commercial).
Carron oil.
Cascara.
Castor oil.
Caustic soda.
Citric acid.
Chloride of ammonia (commercial).
Chloride of lime.
Cloudy ammonia.
Cod-liver oil and emulsion.
Coconut-oil.
Commercial chalk (whiting).
Court plaster.
Dye-stuffs.
Distilled water.
Epsom salts.
Eucalyptus-oil.
French chalk.
Friar's balsam.
Glauber salts.
Glycerine.
Gum arabic.
Iodine, weak tincture of.
Lanoline.
Lime (commercial).
Lime-water.
Linseed-cake.
Linseed and linseed-meal.
Linseed-oil.
Liquorice.
Liquorice-powder.
Magnesia (all forms except milk of magnesia).
Malt extract.
Malt and cod-liver oil.
Methylated spirits.
Milk-sugar.
Naphtha (mineral).
Olive-oil.
Ointment (boric, sulphur, and zinc).
Packed herbs (uncompounded).
Paraffin oil.
Petroleum jelly.
Petroleum spirit.
Porous plasters.
Pumice-powder.
Resin.
Saltpetre.
Senna-leaves.
Seidlitz powders.
Shellac.
Spirits of turpentine.
Starch.
Stockholm tar.
Sulphur.
Tallow.
Terebene (commercial).
Tobacco.
Tonka-beans.
Turmeric.
Vanilla-beans.
Vaseline.
Witch-hazel.

PART II.

Agricultural, horticultural, and pastoral preparations.
Foodstuffs and beverages and ingredients in foodstuffs or beverages.
Vermin-killers, insect powders, sheep-dip, and weed-eradicators.
Disinfectants.
Medicated confectionery.
Photographic chemicals.
Toilet preparations.
Proprietary medicines (except such proprietary medicines as may from time to time be excluded from this Part of this Schedule by the Minister of Industries and Commerce, by notice in the *Gazette*).

SECOND 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.

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