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THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 77

PHARMACEUTICAL PROFESSION ACT

HON. DR. REID

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 77

1985

PHARMACEUTICAL PROFESSION ACT

(Assented to _____, 1985)

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SCHEDULES

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HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows:

Definitions

1(1) In this Act,

(a) "approved faculty of pharmacy" means an academic institution designated as an approved faculty of pharmacy under Part 3;

(a.1) "Association" means The Alberta Pharmaceutical Association;

- (b) “by-laws” means by-laws of the Council made pursuant to section 88;
- (b.1) “certified pharmacy” means a pharmacy in respect of which a pharmacy certificate is issued under section 29;
- (c) “compound” means to mix together 2 or more ingredients to form a preparation that can be used as a drug;
- (c.1) “Council” means the Council of the Association;
- (d) “dispense” means to provide a drug pursuant to a prescription but does not include the administration of a drug;
- (e) “drug” means a substance or a combination of substances included in the Schedules;
- (f) “former Act” means the *Pharmaceutical Association Act*, chapter P-7 of the Revised Statutes of Alberta 1980;
- (g) “Infringement Committee” means the Infringement Committee established under section 42;
- (h) “inspector” means an inspector appointed under section 44;
- (i) “Investigating Committee” means the Investigating Committee established under section 43;
- (j) “licensed pharmacy” means the portion of premises in respect of which a pharmacy licence is issued under section 23, consisting
- (i) entirely of a prescription department, or
 - (ii) of a prescription department and a professional products department;
- (k) “licensee” means a pharmacist who holds a pharmacy licence or pharmacy certificate;
- (l) “member” means a person whose name appears in a register referred to in section 12(1);
- (m) “Minister” means the member of the Executive Council charged by the Lieutenant Governor in Council with the administration of this Act;
- (n) “pharmacist” means an individual other than a restricted practitioner who is issued a certificate of registration under this Act and who holds an annual certificate entitling him to engage in the practice of pharmacy pursuant to this Act, the regulations and the by-laws;
- (o) “pharmacy” means the physical facility used for the practice of pharmacy and includes a licensed pharmacy, a certified pharmacy and a pharmacy that operates otherwise than pursuant to a pharmacy licence or pharmacy certificate;
- (p) “practice of pharmacy” means
- (i) the preparation, distribution and control of drugs,

- (ii) disseminating information on the safe and effective use of a drug when dispensing or selling the drug,
 - (iii) dispensing or compounding a prescription or formula of a physician, dentist, veterinary surgeon or podiatrist for any drugs,
 - (iv) compounding, dispensing, selling or offering for sale by retail any drugs,
 - (v) subdividing or breaking up a manufacturer's original package of any drugs for the purpose of re-packaging into larger or smaller quantities for re-distribution or sale by retail or wholesale,
 - (vi) operating a pharmacy, and
 - (vii) supervising the practice of pharmacy;
- (q) "Practice Review Committee" means the Practice Review Committee established under Part 6;
- (r) "prescription" means a direction given orally or in writing by a physician, dentist, veterinary surgeon or podiatrist directing a pharmacist or restricted practitioner to dispense, for the person named in the direction, a stated amount of a drug specified in the direction;
- (s) "prescription department" means the portion of a licensed pharmacy where drugs are compounded, dispensed and sold on prescription, and where drugs included in Schedule 2 are stored and sold;
- (t) "professional products department" means the portion of a licensed pharmacy where drugs included in Schedule 3 and health related products prescribed in the regulations are displayed for supervised sale to the public;
- (u) "proprietor" means a person who owns, leases or otherwise has any legal or beneficial interest in a licensed pharmacy whether he is a pharmacist or not;
- (v) "proprietary misconduct" means conduct of a proprietor that contravenes this Act or the regulations;
- (w) "restricted practitioner" means a person other than a pharmacist registered in a register described in section 12(1)(b) who is entitled to engage in the practice of pharmacy subject to conditions or restrictions, and includes a pharmacy intern and a specialist certificate practitioner;
- (x) "Registrar" means the Registrar appointed under section 11;
- (y) "sell" includes advertising for sale or exposing or keeping for sale or directly or indirectly, on any pretence or by any device, selling, bartering, giving, delivering or offering for sale or offering or attempting to sell, barter, give or deliver;
- (z) "Universities Co-ordinating Council" means the Universities Co-ordinating Council established under the *Universities Act*.

(2) In this Act, a reference to “pharmacy” is deemed to include a reference to “dispensary” and “drug store”.

PART 1
PRACTICE OF PHARMACY

Exclusive scope
and application
of Act

2(1) Subject to subsections (4) and (5), a person is guilty of an offence who, not being a pharmacist or restricted practitioner, engages in the practice of pharmacy.

(2) Nothing in this Act authorizes or allows a restricted practitioner who is a holder of a certificate of registration to engage in the practice of pharmacy contrary to the limitations, conditions or restrictions applicable to the certificate of registration or to the restricted practitioner.

(3) Nothing in this Act authorizes or allows a licensee to engage in the practice of pharmacy contrary to the limitations, conditions or restrictions applicable to his pharmacy licence or pharmacy certificate or to the licensee.

(4) Nothing in this Act

(a) applies to or affects the practice of any profession or occupation by any person practising under the authority of any other Act,

(b) prevents a person who is authorized by law to sell drugs to a pharmacist, physician, dentist, veterinary surgeon or podiatrist from doing so,

(c) applies to the sale of livestock medicine pursuant to the Livestock Medicine Regulations (Alta. Reg. 300/64), or

(d) applies to a wholesale dealer who supplies poisons in the ordinary course of wholesale dealing, if the poisons are in sealed manufacturers' packages.

(5) Nothing in this Act extends to or interferes with the handling or administration of necessary drugs by nurses operating with the approval and under the supervision of the Department of Social Services and Community Health or the Department of Hospitals and Medical Care.

Use of titles
and other
designations

3(1) No person, except a pharmacist or restricted practitioner, shall

(a) represent or hold out, expressly or by implication, that he is entitled to engage in the practice of pharmacy, or represent or hold himself out as a pharmacist or restricted practitioner, as the case may be, or

(b) use any sign, emblem, title or advertisement implying that he is a pharmacist or restricted practitioner.

(2) No person except a pharmacist or proprietor shall use the designation “pharmacy”, “dispensary” or “drug store” or any similar designation, to describe a retail or wholesale business.

(3) No person except a pharmacist shall use, in connection with a retail or wholesale business, the designation “drug sundries”, “drugs” or “medicines” or any similar designation.

(4) No person except a pharmacist shall use the following titles;

- (a) pharmacist;
- (b) pharmaceutical chemist;
- (c) druggist;
- (d) chemist and druggist;
- (e) dispensing chemist;
- (f) dispensing druggist;
- (g) apothecary;
- (h) chemist, in connection with a retail business;

or any similar designation or any suffix, prefix, word, title or designation, abbreviated or otherwise, implying that he is registered as a member of the Association or engaged in or entitled to engage in the practice of pharmacy.

Prohibition **4** Subject to section 2, no person shall knowingly employ a person who is not a pharmacist or restricted practitioner to engage in the practice of pharmacy.

Injunction **5** The Court of Queen's Bench, on application by the Council by way of originating notice, may grant an injunction enjoining any person from doing any act that contravenes Part 1 or 4 or Schedule 1 or 2 notwithstanding any penalty that may be provided by this Act in respect of that contravention.

PART 2

THE ALBERTA PHARMACEUTICAL ASSOCIATION

Association **6(1)** The Alberta Pharmaceutical Association is continued as a corporation.

(2) The Association has the capacity and, subject to this Act, the rights, powers and privileges of a natural person.

(3) The Association has the power to assist, in a manner and in an amount that the Council may determine, an organization having similar aims and objectives.

(4) Subject to the *Alberta Health Care Insurance Act*, the Association may enter into an agreement with a person, government or other authority in respect of the provision of services by a pharmacist or restricted practitioner and may require a pharmacist or restricted practitioner to comply with and perform any or all of the terms of the agreement.

Council **7(1)** There is hereby established a governing body of the Association called the Council.

(2) The Council shall manage and conduct the business and affairs of the Association and exercise the rights, powers and privileges of the Association in the name and on behalf of the Association.

Composition of
the Council

(3) The Council shall submit to the Minister an annual report on those matters of the business and affairs of the Association that the Minister requires in a form satisfactory to him.

(4) The Minister shall, on receipt of the annual report of the Association, lay it before the Legislative Assembly if it is then sitting, and if it is not then sitting, within 15 days after the commencement of the next ensuing sitting.

8(1) The Council shall consist of

(a) at least 9 pharmacists or a number of pharmacists prescribed by the by-laws, whichever is greater, each of whom shall be elected in accordance with the by-laws,

(b) if the number of persons elected under clause (a) does not exceed 10, 1 member of the public or, if the number of persons elected under clause (a) is more than 10, 2 members of the public, who shall be appointed by the Minister for a 2-year term of office from a list of not fewer than 3 members of the public nominated by the Council,

(c) the Dean of the Faculty of Pharmacy and Pharmaceutical Sciences at the University of Alberta, and

(d) ex officio members, if any, appointed by the Council.

(2) An ex officio member does not have voting rights on the Council.

(3) If the Council fails, within 45 days after being requested to do so by the Minister, to make a nomination for the purposes of subsection (1)(b), the Minister may appoint a member of the public to the Council without the Council's nomination.

(4) A member of the Council appointed under subsection (1)(b) continues to hold office after the expiry of his term of office until he is reappointed or a successor is appointed.

(5) The Minister may, after consultation with the Council, revoke the appointment of a member of the Council appointed under subsection (1)(b).

(6) The Minister may, in the absence of any payment by the Council to the member for that purpose, pay to a member of the Council appointed under subsection (1)(b) travelling and living expenses incurred by that member for his attendance at any meeting of the Council while away from his usual place of residence and fees in an amount prescribed by the Minister.

(7) The powers, duties and operations of the Council are not affected by

(a) the fact that no one is appointed as a member of the Council under subsection (1)(b),

(b) the revocation under subsection (5) of the appointment of a member of the Council, or

(c) the resignation from the Council of a member appointed under subsection (1)(b).

(8) The failure of a member appointed under subsection (1)(b) to attend a meeting of the Council does not affect or restrict the Council from exercising any powers or performing any duties at that meeting.

(9) The members of the Council shall elect from among themselves the officers of the Association specified in the by-laws in the manner and for the term prescribed in the by-laws.

PART 3 REGISTRATION

Approved faculty of pharmacy **9(1)** The Universities Co-ordinating Council may grant to and withdraw from an academic institution the designation “approved faculty of pharmacy”.

(2) A grant or withdrawal of a designation under subsection (1) is subject to the approval of the Lieutenant Governor in Council.

Approved faculty prior to designation **10** Until a designation is granted under section 9(1), “approved faculty of pharmacy” for the purposes of this Part means the Faculty of Pharmacy and Pharmaceutical Sciences at the University of Alberta.

Registrar **11(1)** The Council shall appoint a Registrar for the purposes of this Act.

(2) In addition to the powers, duties and functions of the Registrar under this Act, the Registrar has any additional powers, duties and functions set out by the Council or prescribed in the regulations.

Registers to be maintained **12(1)** The Registrar shall maintain, subject to the direction of the Council, the following registers:

- (a) a register of pharmacists;
- (b) a register for each class or category of restricted practitioner established under the regulations;
- (c) a register for each class or category of non-practising member established under the regulations;
- (d) a register of licensed pharmacies and the licensees who operate them;
- (e) a register of certified pharmacies and the licensees who operate them.

(2) The Registrar shall, on the request of any person, verify a member’s registration and his entitlement, including conditions or restrictions, to engage in the practice of pharmacy.

Registration Committee **13(1)** There is hereby established a Registration Committee appointed by the Council in accordance with the by-laws.

(2) The Registration Committee may delegate its authority under this Act to the Registrar.

Register of Pharmacists

Register of
pharmacists

- 14**(1) The Council shall establish a register of pharmacists.
- (2) The Registration Committee shall consider an application for the registration of an applicant as a pharmacist, and may
- (a) approve the registration,
 - (b) refuse to approve the registration, or
 - (c) defer the approval of registration until the applicant has obtained further experience of a kind and for a period set by the Registration Committee.
- (3) If the approval of registration is deferred under subsection (2), the Registration Committee may authorize the applicant to be registered as a restricted practitioner for the purpose of acquiring experience.
- (4) An applicant authorized to be registered under subsection (3) shall engage in the practice of pharmacy under the direct supervision of a pharmacist approved by the Registration Committee.
- (5) The Registration Committee may revoke a registration authorized under subsection (3) at any time for any reason that it considers sufficient.

Review by
Council

- 15**(1) If the decision of the Registration Committee is to refuse or defer registration of the applicant, reasons for the decision shall be sent in writing to the applicant.
- (2) An applicant whose application for registration is refused may within 30 days of receiving a notice of refusal or within 30 days of a deemed refusal request the Council to review the application by serving on the Registrar a written request for a review by the Council setting out the reasons why, in his opinion, his application for registration as a registered member should be approved.
- (3) For the purposes of subsection (2), if the Registration Committee does not approve, refuse to approve or defer the registration of an applicant within 60 days of the date on which an applicant applied for registration, the application shall be deemed to have been refused.
- (4) The Council shall, after receipt of a request for review under subsection (2), review the applicant's application for registration as a pharmacist.
- (5) An applicant who requests a review pursuant to subsection (2)
- (a) shall be notified in writing by the Council of the date, place and time when the Council will review the applicant's application, and
 - (b) is entitled to appear with counsel and make representations to the Council at the review of his application.
- (6) A member of the Registration Committee who is also a member of the Council shall not vote on a decision of the Council.
- (7) On reviewing an application under this section, the Council may make any decision the Registration Committee could have made.

Application for
registration

16 An application for registration as a pharmacist shall not be approved by the Registration Committee unless the applicant

(a) produces documentation satisfactory to the Registration Committee that shows that he, within the time period prescribed in the regulations,

(i) has obtained an undergraduate degree in pharmacy from an approved faculty of pharmacy,

(ii) has obtained the certificate of qualification issued by the Pharmacy Examining Board of Canada if

(A) at least 1 representative of the Association is a member of the Pharmacy Examining Board of Canada at the time the certificate of qualification is issued, and

(B) the Universities Co-ordinating Council is satisfied that the academic qualifications required to establish an applicant's eligibility to take the examinations of the Pharmacy Examining Board of Canada are substantially equivalent to the academic qualifications required to obtain an undergraduate degree in pharmacy from an approved faculty of pharmacy,

or has passed the examinations and met the conditions prescribed by the Universities Co-ordinating Council, and

(iii) has met any internship requirements prescribed in the regulations,

(b) meets the character and other requirements set out in the regulations,

(c) has not been struck from the register of an association of persons authorized to engage in the practice of pharmacy,

(d) is not and has not been suspended by any association of persons governing the practice of pharmacy or by any council or similar body anywhere in Canada or elsewhere,

(e) applies in person,

(f) is a Canadian citizen or has been lawfully admitted to Canada for permanent residence, and

(g) demonstrates proficiency in the English language sufficient to discharge the duties and obligations of a pharmacist in Alberta.

Registration of
pharmacists

17(1) The Registrar shall enter in the register of pharmacists the name of a person

(a) whose application for registration as a pharmacist has been approved by the Registration Committee or the Council, as the case may be, and

(b) who has paid the fees prescribed in the by-laws.

(2) On entering the name of a person in the register of pharmacists, the Registrar shall issue a certificate of registration to him.

- Annual certificate **18**(1) A pharmacist shall pay the annual fee prescribed in the by-laws to the Registrar, or to any person authorized by the Registrar to accept payment of the fee.
- (2) The Registrar shall issue an annual certificate in accordance with the by-laws to a pharmacist
- (a) whose registration is not under suspension or cancelled,
 - (b) who has acquired the minimum number of continuing education units prescribed in the regulations,
 - (c) who meets any other requirements or conditions prescribed in the regulations for the issuance of an annual certificate, and
 - (d) who has paid the annual fee in an amount and by the due date prescribed in the by-laws.
- (3) Subject to this Act, an annual certificate entitles a pharmacist to
- (a) engage in the practice of pharmacy as a pharmacist during the year for which the annual certificate is issued, and
 - (b) represent or hold himself out as a pharmacist.
- (4) An annual certificate expires on the date prescribed in the by-laws.

PART 4 PHARMACIES

General

- Practice of pharmacy only in a pharmacy **19** A pharmacist or restricted practitioner may engage in the practice of pharmacy only in a pharmacy.
- Application to become a licensee **20**(1) A pharmacist who wishes to operate a pharmacy
- (a) shall apply, in respect of a retail pharmacy, for a pharmacy licence, or
 - (b) may apply, in respect of a pharmacy other than a retail pharmacy, for a pharmacy certificate
- to the Registrar in accordance with this Part.
- (2) A pharmacy licence or pharmacy certificate entitles the holder to conduct or have conducted the practice of pharmacy in the premises designated on the pharmacy licence or pharmacy certificate in accordance with this Act, the regulations and the by-laws.
- Responsibility of a proprietor and licensee **21**(1) A licensee and proprietor are liable for non-compliance with this Act, the regulations and the by-laws, and non-compliance with this Act, the regulations or the by-laws constitutes professional or proprietary misconduct of the licensee or proprietor, as the case may be.

(2) A proprietor of a licensed pharmacy is responsible for a breach of this Act or the regulations committed with the express or implied permission, consent or approval of the proprietor by a person

- (a) in his employ,
- (b) under his supervision, or
- (c) with whom he is associated.

(3) A breach described in subsection (2) constitutes proprietary misconduct.

Validity and display of pharmacy licence or certificate

22(1) A pharmacy licence or pharmacy certificate remains in force for 1 year and may be renewed in accordance with this Act, the regulations and the by-laws.

(2) A licensee shall display in a conspicuous public part of a pharmacy

- (a) the current pharmacy licence or pharmacy certificate for the pharmacy in respect of which he is the licensee, and
- (b) the code of ethics of the Association.

(3) A pharmacist or restricted practitioner shall display his certificate of registration in a conspicuous public part of the pharmacy in which he engages in the practice of pharmacy.

Pharmacy Licence

Issuance of pharmacy licence

23(1) The Registrar shall not issue or renew a pharmacy licence unless he is satisfied that the applicant

- (a) is a pharmacist,
- (b) will personally manage, control and supervise the pharmacy, or will ensure that the pharmacy is kept under the immediate personal management, control and supervision of a pharmacist,
- (c) has adequate and suitable stock and dispensing equipment and an adequate and suitable pharmaceutical reference library as defined in the by-laws,
- (d) will maintain the pharmacy, stock and dispensing equipment in a clean and sanitary condition, and ensure that they are suitable for the practice of pharmacy,
- (e) will otherwise comply with the standards of practice prescribed in the regulations, and
- (f) will comply with section 25.

(2) The Registrar shall enter in the register of licensed pharmacies

- (a) the name of a pharmacist to whom he issues a pharmacy licence under subsection (1),
- (b) the name of the pharmacy in respect of which the pharmacist referred to in clause (a) is the licensee, and
- (c) any other information prescribed in the regulations.

	<p>(3) A licensee shall, within 14 days after employing a pharmacist to engage in the practice of pharmacy in the premises designated on the pharmacy licence, advise the Registrar of the name of that employee.</p>
Leased pharmacy	<p>24(1) If the premises in which a licensed pharmacy operates are leased, the rental shall not be based on a percentage of the sales of drugs by the pharmacy.</p> <p>(2) Subsection (1) does not apply to a lease that is in force at the time this Act comes into force.</p>
Obligation of pharmacist	<p>25 A licensee who personally manages, controls and supervises a licensed pharmacy</p> <p>(a) shall ensure that</p> <p>(i) the professional products department is located immediately adjacent to the prescription department,</p> <p>(ii) only drugs included in Schedule 3 and health related products prescribed in the regulations are displayed for sale in the professional products department, and</p> <p>(iii) the drugs and products referred to in subclause (ii) are sold under the supervision of a pharmacist,</p> <p>and</p> <p>(b) shall not</p> <p>(i) personally manage, control and supervise any other licensed pharmacy, or</p> <p>(ii) permit a proprietor or a person who is not a pharmacist to direct, influence, control or participate in the management or operation of the pharmacy as it relates to the practice of pharmacy.</p>
Identification of pharmacy	<p>26 If a licensed pharmacy does not comprise 100% of the public area of the premises in which it is located, the licensed pharmacy shall be identified in accordance with the regulations.</p>
Sale of pharmacy	<p>27 On the sale of the business of a licensed pharmacy, the pharmacy licence terminates.</p>
Death, bankruptcy, incapacity or suspension of licensee	<p>28(1) On the death, bankruptcy or incapacity of the holder of a pharmacy licence, the pharmacy licence terminates, and</p> <p>(a) the legal representative of the deceased, bankrupt or incapacitated licensee, or</p> <p>(b) the proprietor of the pharmacy in respect of which that licensee is the holder of the pharmacy licence</p> <p>may continue to operate the pharmacy for the period prescribed in the regulations, if the pharmacy is placed under the immediate personal management, control and supervision of a pharmacist.</p> <p>(2) A legal representative or proprietor entitled to operate a pharmacy pursuant to subsection (1) shall comply with this Act, the regulations and the by-laws as if he were the licensee.</p>

(3) On the suspension of a pharmacy licence, the pharmacy in respect of which that pharmacy licence was issued may, if permitted by the Council, continue to operate for the period prescribed in the regulations if the pharmacy is placed under the immediate personal management, control and supervision of a pharmacist.

Pharmacy Certificate

Issuance of
pharmacy
certificate

29(1) A pharmacist may apply for a pharmacy certificate in respect of a pharmacy located in a facility described in subsection (2)(a).

(2) The Registrar shall not issue or renew a pharmacy certificate unless he is satisfied that the applicant

(a) is a pharmacist engaging in the practice of pharmacy in

(i) a hospital, a correctional institution or another institution or facility, or

(ii) a wholesale operation, a compounding centre, a re-packaging facility or another operation,

(b) will personally manage, control and supervise the pharmacy insofar as the management, control and supervision relate to the practice of pharmacy, or will ensure that the pharmacy is kept under the immediate personal management, control and supervision of a pharmacist,

(c) has adequate and suitable stock and dispensing equipment and an adequate and suitable pharmaceutical reference library as defined in the by-laws,

(d) will maintain the pharmacy, stock and dispensing equipment in a clean and sanitary condition, and ensure that they are suitable for the practice of pharmacy, and

(e) will otherwise comply with the standards of practice prescribed in the regulations.

(3) The Registrar shall enter in the register of certified pharmacies

(a) the name of a pharmacist to whom he issues a pharmacy certificate under subsection (2),

(b) the name of the pharmacy in respect of which the pharmacist referred to in clause (a) is the licensee, and

(c) any other information prescribed in the regulations.

(4) A licensee shall, within 14 days after employing a pharmacist to engage in the practice of pharmacy in the premises designated on the pharmacy certificate, advise the Registrar of the name of that employee.

Death, incapacity
or suspension of
certificate holder

30(1) If the holder of a pharmacy certificate becomes incapacitated or dies, the pharmacy certificate terminates, and the pharmacy in respect of which that pharmacy certificate was issued may, if permitted by the Council, continue to operate for the period prescribed in the regulations if the pharmacy is placed under the immediate personal management, control and supervision of a pharmacist.

(2) On the suspension of a pharmacy certificate, the pharmacy in respect of which that pharmacy certificate was issued may, if permitted by the Council, continue to operate for the period prescribed in the regulations if the pharmacy is placed under the immediate personal management, control and supervision of a pharmacist.

Prohibition **31**(1) A pharmacy that is located in a hospital, a correctional institution or another institution shall dispense drugs only to in-patients, out-patients or residents of that hospital, correctional institution or other institution.

(2) Subsection (1) does not apply to a pharmacy located in a hospital that dispenses drugs to related associated facilities.

PART 5
SUSPENSION AND CANCELLATION

Suspension and cancellation **32**(1) The certificate of registration, annual certificate, pharmacy licence or pharmacy certificate of a member is suspended when a decision to suspend the certificate of registration, annual certificate, pharmacy licence or pharmacy certificate is made in accordance with this Act or at a later time specifically directed by the Infringement Committee, the Investigating Committee, the Council or the Court of Appeal.

(2) The Registrar shall, after a decision to suspend a certificate of registration, annual certificate, pharmacy licence or pharmacy certificate has been made, enter a memorandum of the suspension in the appropriate register, indicating the period of the suspension.

(3) The certificate of registration, annual certificate, pharmacy licence or pharmacy certificate of a member is cancelled when a decision to cancel the certificate of registration, annual certificate, pharmacy licence or pharmacy certificate is made in accordance with this Act or at a later time specifically directed by the Infringement Committee, the Investigating Committee, the Council or the Court of Appeal.

(4) The Registrar shall, after a decision to cancel a certificate of registration, annual certificate, pharmacy licence or pharmacy certificate has been made, enter a memorandum of the cancellation in the appropriate register.

(5) If the Registrar is satisfied that a person registered under this Act has died, he shall enter a memorandum to that effect in the register.

(6) The Registrar shall not remove from the registers any memorandum made by him under subsection (2) or (4), except in accordance with this Act and the regulations.

(7) If the certificate of registration, annual certificate, pharmacy licence or pharmacy certificate of a member has been cancelled or suspended under this Act, the member shall surrender to the Registrar the certificate of registration, annual certificate, pharmacy licence or pharmacy certificate, as the case may be.

Cancellation by request **33**(1) The Registrar shall not cancel a certificate of registration, annual certificate, pharmacy licence or pharmacy certificate of a mem-

ber at his request unless the request for the cancellation has been approved by the Council.

(2) When a request for a cancellation under subsection (1) is approved by the Council, the Registrar shall cancel that registration.

Cancellation by default

34(1) The Council may direct the Registrar to cancel one or more of the certificate of registration, annual certificate, pharmacy licence or pharmacy certificate of a member who is in default of payment of annual fees, penalties or costs or any other fees, dues or levies payable under this Act, the regulations or the by-laws, after the expiration of 30 days following the service on the member of a written notice by the Council pursuant to subsection (2), unless the person on whom the notice is served complies with the notice.

(2) The notice under subsection (1) shall state that the Registrar may cancel one or more of the certificate of registration, annual certificate, pharmacy licence or pharmacy certificate unless the fees, penalties, costs, dues or levies are paid as indicated in the notice.

Cancellation of registration made in error

35 The Council may direct the Registrar to cancel a certificate of registration, annual certificate, pharmacy licence or pharmacy certificate of any person issued in error.

Reinstatement after cancellation

36(1) The Council may direct the Registrar, subject to any conditions respecting the payment of arrears and any reinstatement fee that the Council may prescribe and subject to any other conditions prescribed in the regulations,

(a) to reinstate in the applicable register a certificate of registration, annual certificate, pharmacy licence or pharmacy certificate that was cancelled, and

(b) to reissue a certificate of registration, annual certificate, pharmacy licence or pharmacy certificate to its former holder.

(2) A member of the Council who is a member of a committee of inquiry appointed pursuant to the regulations to consider any application under this Part for reinstatement of a certificate of registration, annual certificate, pharmacy licence or pharmacy certificate may participate in or vote at any proceedings of the Council under this section, and the Registrar and the Association's solicitor may participate in those proceedings.

Cancellation of falsely obtained registration

37(1) If the Council is satisfied, after a hearing on the matter, that a person obtained registration in one of the registers established under this Act by means of a false or fraudulent representation or declaration, either oral or written, the Council shall order that one or more of the certificate of registration, annual certificate, pharmacy licence or pharmacy certificate, as the case may be, of that person be cancelled.

(2) Part 7 applies with all necessary modifications to a hearing held by the Council under subsection (1).

PART 6

PRACTICE REVIEW COMMITTEE

- Practice Review Committee** **38** There is hereby established the Practice Review Committee consisting of not fewer than 5 persons as follows:
- (a) at least 4 pharmacists who, in the opinion of the Council, have a combination of knowledge and experience suitable for fulfilling the responsibilities of the Committee, and who are appointed by the Council, and
 - (b) the Dean of the Faculty of Pharmacy and Pharmaceutical Sciences at the University of Alberta or his designate.
- Powers of the Practice Review Committee** **39(1)** The Practice Review Committee
- (a) may, on its own initiative, and shall, at the request of the Council, inquire into and report to and advise the Council in respect of
 - (i) the assessment and development of educational standards and experience requirements that are conditions precedent to continuing registration under this Act,
 - (ii) the evaluation of desirable standards of competence of members generally,
 - (iii) any other matter that the Committee from time to time considers necessary or appropriate in connection with the exercise of its powers and the performance of its duties in relation to competence in the practice of pharmacy under this Act and the regulations, and
 - (iv) the practice of pharmacy generally,
- and
- (b) may conduct, in accordance with this Act and the regulations, a review of the practice of a member.
- (2)** If a member does not co-operate with the Practice Review Committee in carrying out an inquiry or review, the Practice Review Committee may make a complaint in writing to the Infringement Committee, and a failure or refusal to co-operate may be held to be professional misconduct within the meaning of section 45.
- Duties on conclusion of inquiry or review** **40(1)** After each inquiry or review under section 38, the Practice Review Committee
- (a) shall make a written report to the Council on the inquiry or review and, where appropriate, on its decision,
 - (b) may make recommendations to the Council regarding the matter inquired into or reviewed, with reasons for the recommendations,
 - (c) may make recommendations to a member as to his conduct in the practice of pharmacy, and
 - (d) if it is of the opinion that the conduct of a member constitutes or may constitute either unskilled practice of pharmacy or professional misconduct within the meaning of section 45,

(i) shall forthwith refer the matter relating to that conduct to the Registrar for an inquiry under Part 7, and in such a case the Registrar shall deal with the referral as if it were a complaint, and

(ii) may, if it makes a referral under subclause (i), recommend to the Infringement Committee that one or more of the certificate of registration, annual certificate, pharmacy licence or pharmacy certificate, as the case may be, of the member be temporarily suspended pending the outcome of proceedings under Part 7.

(2) On receiving a recommendation under subsection (1)(d)(ii), the Infringement Committee may, where there is a question of serious risk to the public, suspend one or more of the certificate of registration, annual certificate, pharmacy licence or pharmacy certificate, as the case may be.

(3) The member may, by filing an originating notice with the Court of Queen's Bench and serving a copy on the Registrar, apply for an order of the Court staying the decision of the Infringement Committee.

PART 7 DISCIPLINE

Definitions	<p>41 In this Part,</p> <p>(a) "Appeals Committee" means the appeals committee established under this Part;</p> <p>(b) "conduct" includes any act or omission;</p> <p>(c) "investigated person" means a member or proprietor with respect to whose conduct an investigation or hearing is held under this Part;</p> <p>(d) "records" includes drugs, prescriptions, prescription containers, documents, papers, notes, records, photographs, books, films and other materials and things.</p>
Infringement Committee	<p>42 There is hereby established a committee called the Infringement Committee composed of the President of the Association and the Registrar to exercise the powers and perform the duties set out in this Part.</p>
Investigating Committee	<p>43 There is hereby established a committee called the Investigating Committee composed of at least 2 pharmacists, other than the President of the Association, appointed by the Council in accordance with the by-laws.</p>
Inspectors	<p>44(1) The Council shall appoint 1 or more inspectors for the purposes of this Act.</p> <p>(2) In addition to the powers, duties and functions of the inspector under this Act, the inspector has any additional powers, duties and functions prescribed by the Council or in the regulations.</p>

Unskilled
practice or
misconduct

45(1) Conduct of a member or proprietor that, in the opinion of the Investigating Committee,

- (a) is detrimental to the best interests of the public,
- (b) contravenes this Act or the regulations,
- (c) contravenes any Act of the Parliament of Canada or of the Legislative Assembly of Alberta relating to the compounding, dispensing, sale, supply or distribution of drugs, or
- (d) harms or tends to harm the standing of the profession of pharmacy generally,

or conduct of a member that displays a lack of knowledge of or lack of skill or judgment in the practice of pharmacy, whether or not that conduct is disgraceful or dishonourable, constitutes either unskilled practice of pharmacy, professional misconduct or proprietary misconduct, whichever the Investigating Committee finds.

(2) If a member or proprietor contravenes this Act, the regulations or the by-laws and the contravention is, in the opinion of the Investigating Committee, of a serious nature, the contravention may be found by the Investigating Committee to be professional misconduct or proprietary misconduct whether or not it would be so found under subsection (1).

Duty of inspector

46 An inspector shall inform the Registrar of any perceived or apparent professional misconduct on the part of a member or proprietary misconduct on the part of a proprietor and the perceived or apparent misconduct shall be dealt with in accordance with this Part and the regulations.

Complaints

47(1) A person may complain to the Registrar about the conduct of a member or proprietor and the complaint shall be dealt with in accordance with this Part and the regulations.

(2) If, after the certificate of registration, annual certificate, pharmacy licence or pharmacy certificate of a member is removed, suspended or cancelled under this Act or any predecessor to this Act,

- (a) a complaint is made about the former member, and
- (b) the complaint relates to conduct occurring before the removal, suspension or cancellation occurred,

the complaint may, notwithstanding the removal, suspension or cancellation, be dealt with within 5 years following the date of removal, suspension or cancellation as if the removal, suspension or cancellation had not occurred.

Referral to
Infringement
Committee

48 The Registrar shall

- (a) if a complaint is made to him under section 46 or 47, or
- (b) if he believes that the conduct of a member or proprietor constitutes or may constitute unskilled practice of pharmacy, professional misconduct or proprietary misconduct, whether a complaint is made or not,

refer the matter to the Infringement Committee.

Preliminary investigation

49(1) The Infringement Committee may direct that a preliminary investigation into the conduct of a member or proprietor be held and appoint a person to commence the preliminary investigation.

(2) A person conducting a preliminary investigation may require the investigated person or any other member or proprietor to produce to him any records in the possession of or under the control of the investigated person or other member or proprietor, and may require the attendance at the investigation of the investigated person and any other member or proprietor.

(3) The Association may apply ex parte to the Court of Queen's Bench for an order

(a) directing the investigated person and any other member or proprietor to produce to the person conducting a preliminary investigation any records in his possession or under his control, if it is shown that the investigated person or other member or proprietor failed to produce them when required by the person conducting a preliminary investigation, or

(b) directing any person to produce to the person conducting a preliminary investigation any records that are or may be relevant to the complaint being investigated.

(4) A person conducting a preliminary investigation may investigate any other matter related to the professional or proprietary conduct of the investigated person or the skill in practice of the member that arises in the course of the investigation.

(5) A person conducting a preliminary investigation shall, on concluding the preliminary investigation, report his findings to the Infringement Committee.

(6) If a member or proprietor does not co-operate with a person conducting a preliminary investigation, the person conducting the preliminary investigation may make a complaint in writing to the Infringement Committee and the failure or refusal to co-operate may be held by the Investigating Committee to be professional or proprietary misconduct.

Decision of Infringement Committee

50(1) At the conclusion of a preliminary investigation, the Infringement Committee

(a) shall in a situation described in section 48(a) or may in a situation described in section 48(b) direct that no further action be taken if it is of the opinion that

(i) the complaint is frivolous or vexatious,

(ii) there is insufficient evidence of unskilled practice of pharmacy, professional misconduct or proprietary misconduct, or

(iii) the matter under investigation does not constitute either unskilled practice of pharmacy or professional or proprietary misconduct,

(b) may accept a voluntary withdrawal, submitted in writing by a member, withdrawing his right to practise pharmacy, or

(c) if it does not make a direction under clause (a) or accept a voluntary withdrawal under clause (b), shall refer the matter under investigation to the Investigating Committee.

(2) If the Infringement Committee accepts a voluntary withdrawal under subsection (1)(b),

(a) the Infringement Committee may direct the member to obtain counselling or treatment, and

(b) the voluntary withdrawal remains in effect until the Infringement Committee is satisfied that the conduct or complaint that was the subject of the preliminary investigation has been resolved, at which time the Infringement Committee may impose conditions on the member's entitlement to engage in the practice of pharmacy generally or in any field of the practice, including the conditions that the member

(i) practise under supervision,

(ii) not engage in sole practice,

(iii) permit periodic inspections by a person authorized by the Infringement Committee to carry out inspections,

(iv) permit periodic audits of drugs, or

(v) report to the Infringement Committee or the Registrar on specific matters.

Notice of
decision of
Infringement
Committee

51 The Registrar shall serve on the investigated person and on the complainant a notice that no further action will be taken or that the matter has been referred to the Investigating Committee, as the case may be.

Appeals
Committee

52 There is hereby established a committee called the Appeals Committee composed of not fewer than 3 pharmacists appointed by the Council in accordance with the regulations to exercise the powers and perform the duties set out in this Part.

Appeal by
complainant
to Appeals
Committee

53(1) A complainant who is served with a notice under section 50 that no further action will be taken may, by notice in writing to the Registrar, mailed within 30 days of the service of the notice on the complainant, appeal that direction to the Appeals Committee.

(2) On an appeal under subsection (1), the Appeals Committee shall determine whether

(a) the complaint is frivolous or vexatious,

(b) there is sufficient evidence of unskilled practice or professional or proprietary misconduct, and the matter under investigation should be the subject of a hearing by the Investigating Committee, or

(c) the matter under investigation constitutes either unskilled practice of pharmacy or professional or proprietary misconduct,

and shall notify the investigated person and the complainant in writing of its decision.

Suspension
pending decision

54(1) Notwithstanding anything in this Act, the Infringement Committee may, where there is a question of serious risk to the public,

(a) if the investigated person is a member, suspend a certificate of registration, annual certificate, pharmacy licence or pharmacy certificate, as the case may be,

(b) if the investigated person is a proprietor, order that no member may engage in the practice of pharmacy in a pharmacy in which that proprietor has any interest, or

(c) make an order under both clauses (a) and (b)

pending the outcome of proceedings under this Part.

(2) The investigated person may, by filing an originating notice with the Court of Queen's Bench and serving a copy on the Registrar, apply for an order of the Court staying a decision of the Infringement Committee under subsection (1).

Rights of
investigated
person

55(1) The Association and the investigated person may appear and be represented by counsel at a hearing before the Investigating Committee.

(2) Proceedings before the Investigating Committee or the Council shall be held in camera.

(3) Notwithstanding subsection (2), the Association may, after the expiration of any appeal period, publish in accordance with the regulations the name of an investigated person in respect of whom an order is made under section 64 or 65.

Notice of hearing

56(1) On referral to it of a matter under section 50(1)(b) or on a determination being made under section 53(2)(b) that a hearing should be held, the Investigating Committee shall hold a hearing.

(2) The hearing referred to in subsection (1) shall be scheduled within a reasonable period of time after the date on which the matter is referred under section 50(1)(b) or a determination is made under section 53(2)(b).

(3) The Registrar shall cause to be served on the investigated person at least 15 days before the hearing date a notice of hearing stating the date, time and place at which the Investigating Committee will hold a hearing and identifying in general terms the complaint or matter in respect of which the hearing will be held.

Further
investigation

57 An Investigating Committee may investigate any other matter concerning the conduct of an investigated person that arises in the course of the investigation, but in that event, the Investigating Committee shall declare its intention to investigate the new matter and shall permit the investigated person sufficient opportunity to prepare his answer to the new matter.

Evidence before
Committee

58(1) Evidence may be given before the Investigating Committee in any manner that the Committee considers appropriate, and the Committee is not bound by the rules of law respecting evidence applicable to judicial proceedings.

(2) For the purposes of an investigation, hearing or review under this Act, the Registrar, a person appointed by the Infringement Committee and a member of the Council or the Investigating Committee are conferred with the power of a commissioner for oaths under the *Commissioners for Oaths Act*.

Witness

59(1) The investigated person and any other person who, in the opinion of the Investigating Committee, has knowledge of the complaint or matter being investigated are compellable witnesses in any proceeding under this Part.

(2) A witness may be examined under oath on all matters relevant to the investigation or hearing before the Investigating Committee and shall not be excused from answering any question on the ground that the answer might tend to

- (a) incriminate him,
- (b) subject him to punishment under this Act, or
- (c) establish his liability
 - (i) to a civil proceeding at the instance of the Crown or of any other person, or
 - (ii) to prosecution under any Act,

but if the answer so given tends to incriminate him, subject him to punishment or establish his liability, it shall not be used or received against him in any civil proceedings, in a prosecution under Part 10 or in any proceedings under any other Act, except in a prosecution for or proceedings in respect of perjury or the giving of contradictory evidence.

(3) For the purpose of obtaining the testimony of a witness who is out of Alberta, a judge of the Court of Queen's Bench on an application made *ex parte* by the Association may direct the issuing of a commission for obtaining the evidence of the witness, and the commission shall be issued and the evidence taken pursuant to the Rules of Court.

Attendance of witnesses and production of documents

60(1) The attendance of witnesses before the Investigating Committee and the production of records may be enforced by a notice issued by the Registrar requiring the witness to attend and stating the date, time and place at which the witness is to attend and the records, if any, that the witness is required to produce.

(2) On the written request of the investigated person or of his counsel or agent, the Registrar shall, without charge, issue and deliver to that person or his counsel or agent any notices that that person requires for the attendance of witnesses or the production of any record.

(3) A witness, other than the investigated person, who has been served with a notice to attend or a notice for production under subsection (1) or (2) is entitled to be paid the same fees in the same manner as are payable to a witness in an action in the Court of Queen's Bench.

Failure to attend
or give evidence

61(1) Proceedings for civil contempt of court may be brought against a witness

(a) who fails

(i) to attend before the Investigating Committee in compliance with a notice to attend, or

(ii) to produce any records in compliance with a notice to produce them,

or

(b) who refuses to be sworn or to answer any question he is directed to answer by the Investigating Committee.

(2) If the witness referred to in subsection (1) is the investigated person, his failure or refusal may be held to be professional or proprietary misconduct.

Hearing in
absence of
investigated
person

62 The Investigating Committee, on proof of service on the investigated person of the notice of hearing, may

(a) proceed with the hearing in the absence of the investigated person or his or its agent, and

(b) act, decide or report on the matter being heard in the same way as if the investigated person were in attendance.

Findings of
Committee

63(1) The Investigating Committee may find that the conduct of an investigated person constitutes neither unskilled practice of pharmacy nor professional or proprietary misconduct.

(2) The Investigating Committee may find that the conduct of an investigated person constitutes unskilled practice of pharmacy or professional misconduct, or both, or proprietary misconduct and shall deal with the investigated person in accordance with this Part.

Orders of
Investigating
Committee

64(1) If the Investigating Committee finds that the conduct of an investigated person constitutes unskilled practice of pharmacy or professional misconduct, or both, or proprietary misconduct, the Committee may make any one or more of the following orders:

(a) reprimand the investigated person;

(b) suspend one or more of the certificate of registration, annual certificate, pharmacy licence or pharmacy certificate, as the case may be, of an investigated person either generally or from any field of the practice of pharmacy for a stated period;

(c) suspend one or more of the certificate of registration, annual certificate, pharmacy licence or pharmacy certificate, as the case may be, of an investigated person either generally or from any field of practice until

(i) the investigated person has completed a specified course of studies or obtained supervised practical experience, or

(ii) the Committee is satisfied as to the competence of the investigated person generally or in a specified field of practice;

- (d) accept in place of a suspension the investigated person's undertaking to limit his practice;
 - (e) impose conditions on the investigated person's entitlement to engage in the practice of pharmacy either generally or in any field of the practice, including the conditions that the investigated person
 - (i) practise under supervision,
 - (ii) not engage in sole practice,
 - (iii) permit periodic inspections by a person authorized by the Committee to carry out inspections,
 - (iv) permit periodic audits of drugs, or
 - (v) report to the Committee or the Council on specific matters;
 - (f) direct the investigated person to pass a particular course of study or satisfy the Committee or the Council as to his practical competence generally or in a specified field of practice;
 - (g) direct the investigated person to satisfy the Committee that a disability or addiction can be or has been overcome, and suspend one or more of the investigated person's certificate of registration, annual certificate, pharmacy licence or pharmacy certificate, as the case may be, until the Committee is so satisfied;
 - (h) require the investigated person to take counselling that in the opinion of the Committee is appropriate;
 - (i) direct the investigated person to waive, reduce or repay a fee for services rendered by the investigated person that, in the opinion of the Committee, were not rendered or were improperly rendered or in respect of which the fee was unjustified for any reason;
 - (j) cancel one or more of the certificate of registration, annual certificate, pharmacy licence or pharmacy certificate, as the case may be, of an investigated person;
 - (k) if the investigated person is a proprietor, order that no member may engage in the practice of pharmacy in a pharmacy in which that proprietor has any interest, until the Investigating Committee is satisfied that
 - (i) the situation that gave rise to the matter under investigation has been corrected, or
 - (ii) the standards prescribed in this Act, the regulations and the by-laws have been met by the pharmacy in which that proprietor has an interest;
 - (l) impose other conditions or remedies as may be prescribed in the regulations.
- (2) If the certificate of registration or an annual certificate of a member is suspended or cancelled, he shall not practise pharmacy during the period of the suspension or cancellation, as the case may be, and

any pharmacy licence or pharmacy certificate issued in his name shall be cancelled.

(3) The Investigating Committee may make any ancillary order that is appropriate or required in connection with any order mentioned in subsection (1) or may make any other order that it considers appropriate in the circumstances including that

- (a) a further or new investigation be held into any matter,
- (b) the Investigating Committee be convened to hear a complaint without a preliminary investigation,
- (c) a matter be referred to the Practice Review Committee, or
- (d) a complaint or conduct be referred to any other entity having jurisdiction to review complaints.

(4) If the Investigating Committee is satisfied that an investigated person has contravened an order under subsection (1), it may, without the necessity of a further hearing,

- (a) if the investigated person is a member, cancel or suspend one or more of the certificate of registration, annual certificate, pharmacy licence or pharmacy certificate, as the case may be,
- (b) if the investigated person is a proprietor, order that no member may engage in the practice of pharmacy in a pharmacy in which that proprietor has any interest, for a period of time that the Investigating Committee considers appropriate, or
- (c) make an order under both clauses (a) and (b).

Payment of costs and fine

65(1) The Investigating Committee may, in addition to or instead of dealing with the conduct of an investigated person in accordance with section 64, order that the investigated person pay

- (a) all or part of the costs of the hearing or appeal determined in accordance with the regulations,
- (b) if the investigated person is an individual, a fine not exceeding \$10 000 for each finding of unskilled practice or professional or proprietary misconduct, and \$50 000 in the aggregate for all such findings arising out of the hearing, to the Association,
- (c) if the investigated person is not an individual, a fine not exceeding \$75 000 for each finding of proprietary misconduct, to the Association, or
- (d) both the costs under clause (a) and the fine under clause (b) or (c), as the case may be, within the time set by the order.

(2) If the person ordered to pay a fine, costs or both under subsection (1) fails to pay the fine or costs within the time ordered, the Investigating Committee may

- (a) if the person ordered to pay is a member, suspend one or more of the certificate of registration, annual certificate, pharmacy licence or pharmacy certificate, as the case may be, and

(b) if the person ordered to pay is a proprietor, order that no member may engage in the practice of pharmacy in a pharmacy in which that proprietor has any interest

until the fine, costs or both are paid.

(3) The Investigating Committee, if it finds that a complaint is frivolous or vexatious, may order the complainant to pay the costs of the preliminary investigation and the hearing before the Investigating Committee determined in accordance with the regulations.

(4) A fine or costs ordered to be paid to the Association under this section is a debt due to the Association and may be recovered by the Association by civil action for debt.

Written decision **66** The Investigating Committee shall, within a reasonable time after the conclusion of a hearing before it, make a written decision on the matter in which it shall

- (a) describe each finding made by it,
- (b) state the reasons for each finding made by it, and
- (c) state any order made under this Part.

Service of decision and record of hearing **67(1)** The Investigating Committee shall forward to the Registrar the decision, all exhibits and all documents from the hearing.

(2) The Registrar shall, on receiving the decision of the Investigating Committee,

- (a) serve a copy of the decision on the investigated person and a notice of the decision on the complainant, if any, and
- (b) provide a copy of the decision to each member of the Council.

Examination of record **68** The investigated person may examine the record or any part of the record of the proceedings before the Investigating Committee and hear any recording or examine any mechanical or handwritten form of record of any testimony given before the Committee.

Rehearing **69** The Investigating Committee may, if there is new evidence available that was not available or for good reason was not presented at the hearing under section 56, rehear any matter already heard by it under section 56 and, for that purpose, has the same power and authority and is subject to the same duties as it had and was subject to in connection with the first hearing.

Stay pending appeal **70(1)** The decision of the Investigating Committee remains in effect pending an appeal to the Council unless the Council on application stays the decision pending the appeal.

(2) The decision of the Council remains in effect pending an appeal to the Court of Appeal unless the Court on application stays the decision pending the appeal.

Appeal to Council **71(1)** An investigated person or the Infringement Committee may appeal to the Council a finding or an order of the Investigating Committee.

(2) An appeal under subsection (1) shall be commenced by a written notice of appeal, which shall

- (a) describe the finding or order appealed, and
- (b) state the reasons for the appeal.

(3) A notice of appeal under this section shall be served on the Registrar within 30 days after the date on which the decision of the Investigating Committee is served on the investigated person.

(4) The Registrar shall, on receiving a notice of appeal under subsection (3), give to each member of the Council and to the investigated person a copy of the notice of appeal and make available to each member of the Council and to the investigated person a transcript of the hearing consisting of a copy of the written decision of the Investigating Committee, a copy of the evidence adduced before the Investigating Committee and the exhibits or copies of the exhibits that the Investigating Committee considers essential for a proper understanding of the evidence.

Notice and hearing of appeal

72(1) The Registrar shall, on receiving a notice of appeal under section 71, cause to be served on the investigated person a notice of hearing of an appeal stating the date, time and place at which the Council will hear the matters appealed.

(2) The Council shall

- (a) if an order was made under section 64(1)(b), (c), (j) or (k), hear the appeal within 30 days after the date of service of the notice of appeal, and
- (b) otherwise, hear the appeal within a reasonable time after the date of service of the notice of appeal.

Council's powers on appeal

73(1) The Infringement Committee and the investigated person may appear and be represented by counsel at the hearing of an appeal before the Council.

(2) The members of the Investigating Committee who heard the matter and whose decision is appealed from shall be excluded from participating in or voting on the matter appealed to the Council.

(3) The appeal to the Council shall be founded on a copy of the record of the proceedings before the Investigating Committee and the decision and order of the Committee.

(4) Sections 56 to 62 apply to proceedings before the Council.

(5) The Council on an appeal may

- (a) grant adjournments of the proceedings or reserve the determination of the matters before it for a future meeting of the Council,
- (b) on granting special leave for that purpose, receive further evidence, and
- (c) draw inferences of fact and make a determination or finding that, in its opinion, ought to have been made by the Investigating Committee.

(6) The Council shall, within 90 days from the date of the conclusion of all proceedings before it, do all or any of the following:

(a) make any finding that in its opinion ought to have been made by the Investigating Committee,

(b) quash, vary or confirm the finding or order of the Investigating Committee or substitute or make a finding or order of its own, or

(c) refer the matter back to the Investigating Committee for further consideration in accordance with any direction that the Council may make.

(7) The Council may make any award as to costs in proceedings, whether before it or the Investigating Committee, that it considers appropriate.

Appeal to Court **74(1)** An investigated person or the Infringement Committee may appeal to the Court of Appeal any finding or order made by the Council under section 73(6).

(2) An appeal under this section shall be commenced

(a) by filing a notice of appeal with the Registrar of the Court at Edmonton or Calgary, and

(b) by serving a copy of the notice of appeal

(i) on the Council, where the investigated person is the appellant, or

(ii) on the investigated person, where the Infringement Committee is the appellant,

both within 30 days from the date on which the decision of the Council is served on the appellant.

Appeal on the record **75** The appeal to the Court of Appeal shall be founded on a copy of the record of the Investigating Committee and its decision and a copy of the finding and order of the Council and any further evidence received by the Council, all of which shall be certified by the Registrar.

Power of Court on appeal **76(1)** The Court of Appeal on hearing the appeal may

(a) make any finding that in its opinion ought to have been made,

(b) quash, confirm or vary the order or decision of the Council or any part of it,

(c) refer the matter back to the Investigating Committee for further consideration in accordance with any direction of the Court, or

(d) direct that a new trial of any mixed questions of law and fact relating to a finding or order or both a finding and an order of the Council under section 73 be held before the Court of Queen's Bench.

(2) The Court of Appeal may make any award as to the costs of an appeal to it that it considers appropriate.

Misrepresentation of status

77 The conduct of a person who represents or holds out that he is registered in a register set out in section 12(1) and in good standing while his certificate of registration, annual certificate, pharmacy licence or pharmacy certificate, as the case may be, is suspended or cancelled constitutes professional misconduct.

PART 8 GENERAL

Service of documents

78 When this Act, the regulations or the by-laws require that a document or notice be given to or served on any person, the document or notice is sufficiently given or served if it is served personally on that person or sent to him by single registered mail at his address last shown on the register or records of the Association or, if personal service is not possible or the Association has no business address for that person, by publishing the document at least twice, and not more than a week apart, in a local newspaper circulating at or near the address last shown for that person on the Association's register or records.

Certificate of Registrar

79(1) A certificate purporting to be signed by the Registrar and stating that a named person was or was not, on a specified day or during a specified period,

- (a) a member,
- (b) a proprietor, or
- (c) an officer of the Association, a member of the Council or a member of a committee established by this Act, the regulations or the by-laws,

shall be admitted in evidence as prima facie proof of the facts stated in it without proof of the Registrar's appointment or signature.

(2) In a prosecution for an offence under this Act, it is sufficient proof of the offence if it is proved that the accused

- (a) has done or committed a single act of practising in contravention of this Act, or
- (b) has committed on 1 occasion an act prohibited by this Act.

Protection from liability

80(1) No action lies against

- (a) any person conducting a preliminary investigation, a member of the Council or of a committee established by this Act, the Registrar, the Association or any person acting on the instructions of any of them, or

- (b) any member, officer or employee of the Association

for anything done by him in good faith and in purporting to act under this Act, the regulations or a by-law that relates to or is incidental to a professional matter or a matter of public interest that is or may be the subject of a regulation under section 87.

(2) No action for defamation may be founded on a communication that consists of or pertains to the conduct of a member if the communication is published to or by

- (a) the Association,
- (b) a member of the Council, the Registration Committee, the Infringement Committee, the Investigating Committee or the Practice Review Committee,
- (c) a person conducting a preliminary investigation,
- (d) an officer or employee of the Association, or
- (e) a person acting on the instructions of a person or entity referred to in clauses (a) to (d),

in good faith in the course of investigating the conduct or in the course of any proceeding under this Act relating to the conduct.

Municipality prohibited from requiring licence

81 No municipality has the power to require a member to obtain a licence from the municipality to engage in the practice of pharmacy.

Inspection of licensed pharmacies

82(1) An inspector may investigate and inspect the ownership and operation of a licensed pharmacy and shall report to the Registrar on each investigation or inspection.

(2) If an inspector reports to the Registrar that a licensed pharmacy does not appear to meet the standards required under this Act and the regulations, the Registrar shall, if he is unable to resolve the matter on his own, refer the matter to the Infringement Committee in accordance with Part 7.

(3) If a matter is referred to the Infringement Committee under subsection (2), Part 7 applies to a hearing under this section.

Inspection of certified pharmacies

83(1) An inspector may investigate and inspect the operation of a certified pharmacy and shall report to the Registrar on each investigation or inspection.

(2) If an inspector reports to the Registrar that a certified pharmacy does not appear to meet the standards required under this Act and the regulations, the Registrar shall, if he is unable to resolve the matter on his own, refer the matter to the Practice Review Committee.

(3) Part 6 applies to a review by the Practice Review Committee under this section.

(4) If the Practice Review Committee determines that a certified pharmacy does not meet the standards as required under this Act and the regulations, the Council may, on the recommendation of the Practice Review Committee, revoke the pharmacy certificate of the licensee of that certified pharmacy.

Inspection of records

84(1) Any record required to be kept under this Act and the regulations or any enactment referred to in the Schedules shall be open to inspection by the Registrar or an inspector.

(2) The Registrar or an inspector may enter a licensed or certified pharmacy in the performance of his duties under this Act at all reasonable times.

Prescription by generic name

85 If a prescription refers to a drug or drug combination by a brand name or a name other than its generic name, a pharmacist or restricted practitioner, in dispensing the prescription, may use a drug or drug combination that is the generic or brand name equivalent of that named in the prescription unless the prescriber indicates otherwise by

- (a) designating the name of the manufacturer on the prescription, or
- (b) specifying that no equivalent or substitute is to be dispensed.

Packaging and labelling

86 All drugs shall, before being dispensed or offered for sale, be properly packaged and labelled in accordance with this Act and the regulations or any enactment referred to in the Schedules.

PART 9

REGULATIONS AND BY-LAWS

Regulations

87(1) The Council may make regulations

- (a) establishing and providing for the publishing of a code of ethics respecting the practice of pharmacy, the maintenance of the dignity and honour of the profession of pharmacy and the protection of the public interest;
- (b) establishing conditions, including character requirements, with respect to the registration of members;
- (b.1) prescribing the time periods within which applicants for registration must have completed the requirements set out in section 16(a);
- (c) providing for the evaluation of experience and training requirements for applicants for registration as members and for the examination of those applicants with respect to those requirements;
- (c.1) prescribing qualifications of pharmacy interns and the terms and conditions of internship;
- (d) prescribing standards for the practice of pharmacy;
- (d.1) prescribing restrictions, conditions or limitations on the practice of pharmacy by restricted practitioners;
- (e) respecting the procedures for hearings, inquiries, reviews and preliminary investigations by the Infringement Committee or a person appointed by the Infringement Committee, the Investigating Committee, the Practice Review Committee, the Council and the Appeals Committee in matters relating to the conduct or practice of members or proprietors whether or not a complaint has been made;
- (e.1) respecting the costs payable on the conclusion of an investigation or hearing by the Investigating Committee or Council;
- (f) respecting reviews of the practice of a member by the Practice Review Committee or a person authorized by that Committee;

- (f.1) respecting registration procedures and the review of complaints and the practice of pharmacy generally;
- (g) respecting the employment practices of members in licensed pharmacies;
- (g.1) respecting the establishment and operation by the Council or a committee designated by the Council of a compulsory continuing education program for members;
- (h) governing the publication of a notice of the suspension or cancellation of a certificate of registration, annual certificate, pharmacy licence or pharmacy certificate or any other decision under Part 7 in a form and manner prescribed by the Council;
- (h.1) governing the nature or contents of advertising, if any, which may or may not be permitted;
- (i) respecting committees of inquiry for reinstatement under Part 5, and governing a person whose registration has been removed, suspended or cancelled under this Act;
- (i.1) respecting the conditions for reinstatement of a person whose certificate of registration, annual certificate, pharmacy licence or pharmacy certificate has been removed, suspended or cancelled under this Act;
- (j) prescribing the number of members that constitutes a quorum of the Council;
- (j.1) governing, subject to this Act, the operation, proceedings and quorum of the Investigating Committee and the Practice Review Committee, the designation of chairmen and vice-chairmen, the appointment of acting members and the procedures for filling vacancies on the Committees or the Council and the appointment of ex officio members of the Committees or the Council and prescribing their terms of office, powers, duties and functions;
- (k) prescribing further conditions to be met before a certificate of registration, an annual certificate, a pharmacy licence or a pharmacy certificate is issued or renewed;
- (l) establishing classes or categories of restricted practitioners for the purposes of section 12(1)(b) and prescribing additional rights and duties of restricted practitioners;
- (m) establishing classes or categories of non-practising members for the purposes of section 12(1)(c) and prescribing rights and duties of non-practising members;
- (n) respecting the establishment, contents and maintenance of registers under section 12(1);
- (o) respecting the removal from the registers of any memorandum or entry made in them under this Act, the regulations or the by-laws;
- (p) regarding the use of computers in the practice of pharmacy;

- (q) respecting the requirements applicable to the identification of a licensed pharmacy;
- (r) prescribing health related products that may be displayed for sale in the professional products department;
- (s) prescribing restrictions, conditions or limitations on the operation of a licensed pharmacy by a member;
- (t) respecting additional remedies that may be imposed on an investigated person by the Investigating Committee;
- (u) providing for additional duties, powers and functions of inspectors and the Registrar;
- (v) requiring members and proprietors to maintain a business address in Alberta and to inform the Registrar in writing of that address and of any change in that address forthwith after the change occurs;
- (w) adding a substance to or removing a substance from the lists of drugs included in the Schedules;
- (x) prescribing the periods during which a licensed or certified pharmacy may continue to operate pursuant to section 28(1) or 30;
- (y) prescribing the manner in which drugs are to be packaged and labelled;
- (z) prescribing further conditions on the sale of drugs included in Schedule 1.

(2) Pharmacists comprising at least 10% of the membership of the Association may at any time petition the Council to consider the making, amendment or repeal of a regulation under subsection (1), and the Council shall give the petitioners an opportunity to make representations concerning the petition to the Council, through legal counsel or some other representative.

(3) A regulation under subsection (1) does not come into force unless it has been approved by the Lieutenant Governor in Council.

By-laws

88(1) The Council may make by-laws

- (a) for the government of the Association and the management and conduct of its affairs;
- (b) determining the location of the head office of the Association;
- (c) respecting the calling of and conduct of meetings of the Association and the Council;
- (d) respecting the nomination, election, number and term of office of Council members and officers of the Association, the filling of vacancies on the Council and any committee established by the Council and the appointment of any individuals as ex officio members of the Council and of any committee established by the Council, and prescribing their powers, duties and functions, except the power to amend, repeal or suspend any by-law of the Council;

- (e) providing for the procedures for the election of pharmacists to the Council and the nomination of members of the public for appointment to the Council by the Minister;
- (f) providing for the division of the Province of Alberta into districts and prescribing the number of Council members to be elected from each district;
- (g) providing for the term of office of the Registrar and the appointment of an individual as an Acting Registrar who has all of the powers and performs all of the duties of the Registrar under this Act and the regulations when the Registrar is absent or unable to act or when there is a vacancy in the office of Registrar;
- (h) prescribing the number of members that constitutes a quorum at meetings of the Association;
- (i) prescribing fees and expenses payable to members of the Council and of committees established under this Act, the regulations or the by-laws for attending to the business of the Association;
- (j) respecting the establishment of and payment of sums of money for scholarships, fellowships and any other educational incentive or benefit programs that the Council considers appropriate;
- (k) respecting the fees, dues and levies payable by members to the Association or to a recipient designated by the Association by by-law;
- (l) governing the publication of the names of applicants for registration as members approved by the Registrar;
- (m) authorizing the Council to prescribe the form of a certificate of registration, an annual certificate, a pharmacy licence, a pharmacy certificate, and any other form or document that may be required for the purposes of this Act, the regulations or the by-laws;
- (n) respecting the holding of votes by mail or any other method on any matter relating to the Association;
- (o) governing the establishment, operation and proceedings of committees, the appointment and revocation of members of those committees, the appointment of acting members and the procedures for filling vacancies on those committees;
- (p) providing for the delegation of any power or duty of the Council under this Act, the regulations or the by-laws, with or without conditions, to a committee established by the Council, except the power to amend, repeal or suspend a by-law of the Council;
- (q) governing the establishment, operation and proceedings of societies or chapters of the Association;
- (r) prescribing compounding and dispensing equipment and defining the minimum library to be utilized in the practice of pharmacy;
- (s) prescribing the date on which an annual certificate expires.

(2) Pharmacists comprising at least 10% of the membership of the Association may at any time petition the Council to consider the making, amendment or repeal of a by-law under subsection (1), and the Council shall give the petitioners an opportunity to make representations concerning the petition to the Council, through legal counsel or some other representative.

(3) The *Regulations Act* does not apply to by-laws of the Association.

Lieutenant
Governor
in Council
regulations

89 The Lieutenant Governor in Council may make regulations exempting a substance or category of substances from the operation of Schedule 3.

PART 10

PROHIBITIONS AND PENALTIES

Practice
prohibitions

90(1) A person whose certificate of registration or annual certificate is cancelled or suspended under this Act or any predecessor to this Act shall not, without the consent of the Council, practise pharmacy or directly or indirectly associate himself in the practice of pharmacy with a person permitted under this Act to engage in the practice of pharmacy.

(2) No person permitted under this Act to engage in the practice of pharmacy shall, except with the consent of the Council, engage in the practice of pharmacy directly or indirectly with, employ, or be employed by, a person whose registration is cancelled or suspended.

(3) If the Council permits a member or proprietor to associate with, employ or be employed by a person whose registration has been cancelled or suspended under this Act, the association or employment shall be in the capacity and subject to the terms and conditions prescribed by the Council.

(4) It is an offence for a person to procure or attempt to procure a certificate of registration, annual certificate, pharmacy licence or pharmacy certificate by making a false or fraudulent statement, either oral or written, and a person who authorizes, permits or acquiesces in the offence is also guilty of the offence.

Penalties

91(1) Every person and every officer, employee or agent of a corporation who contravenes this Act is guilty of an offence and liable

(a) for a first offence, to a fine of not more than \$2000,

(b) for a 2nd offence, to a fine of not more than \$4000, and

(c) for a 3rd and every subsequent offence, to a fine of not more than \$6000 or to imprisonment for a term of not more than 6 months or to both fine and imprisonment.

Liability of
proprietor and
licensee

92 A prosecution or conviction of either one of a proprietor or a licensee is not a bar to the prosecution or conviction of the other.

PART 11
TRANSITIONAL AND CONSEQUENTIAL

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| Registration continued | 93 <i>A pharmaceutical chemist of The Alberta Pharmaceutical Association under the former Act is deemed to be a pharmacist under this Act.</i> |
| Council continued | 94 <i>The members of the Council elected under the former Act are deemed to be members of the Council under this Act, elected for the same period and holding the same offices.</i> |
| Application for registration continued | 95 <i>An application for registration made under the former Act but not concluded before the coming into force of this Act shall be dealt with under this Act.</i> |
| Discipline proceedings continued | 96 <i>Any complaint made after the coming into force of this Act when the complaint relates to conduct occurring all or partly before the coming into force of this Act shall be dealt with under this Act.</i> |
| Repeal | 97 <i>The Pharmaceutical Association Act is repealed.</i> |
| Coming into force | 98 <i>This Act comes into force on Proclamation.</i> |

SCHEDULE 1

- 1 The drugs in this schedule shall be
- (a) sold only in a pharmacy,
 - (b) dispensed to the public only pursuant to a prescription, and
 - (c) in a licensed pharmacy, stored, for sale to the public, only in the prescription department.
- 2(1) The drugs in this schedule include:
- (a) drugs set out in the Schedule to the *Narcotic Control Act* (Canada),
 - (b) drugs set out in Schedule G to the *Food and Drugs Act* (Canada),
 - (c) drugs set out in Schedule F to the *Food and Drugs Act* (Canada),
 - (d) the following drugs:
 - (i) amyl nitrate
 - (ii) benztropine
 - (iii) biperiden
 - (iv) cholestyramine resin
 - (v) colchicum and its derivatives
 - (vi) corticotrophin (ACTH) and preparations thereof
 - (vii) cycrimine
 - (viii) diaminodiphenylsulfone and its analogues and derivatives
 - (ix) digitalis, its glycosides and preparations
 - (x) ephedrine and its salts (products for internal use containing ephedrine and its salts as the single active ingredient)
 - (xi) ethyl carbamate and medicinal preparations thereof
 - (xii) local anaesthetics for ophthalmic or parental use
 - (xiii) papaverine
 - (xiv) pipamazine
 - (xv) procyclidine
 - (xvi) theophylline and its salts
 - (xvii) trihexphenidyl, and
 - (e) pentazocine.
- (2) Drugs referred to in subsection (1)(a) shall be dispensed in accordance with the *Narcotic Control Act* (Canada) and the regulations under that Act.

(3) Drugs referred to in subsection (1)(b), (c) and (d) shall be dispensed in accordance with the *Food and Drugs Act* (Canada) and the regulations under that Act.

(4) Drugs referred to in subsection (1)(e) shall be dispensed

(a) only on a written prescription, and

(b) subject to further conditions prescribed in the regulations.

SCHEDULE 2

1 The drugs in this schedule shall be

(a) sold only in a pharmacy,

(b) in a licensed pharmacy, stored, for sale to the public, only in the prescription department, and

(c) sold only by or under the direct supervision of a pharmacist.

2 No member or proprietor shall, in advertising a drug listed in section 3, make a representation other than with respect to the name, price and quantity of the drug.

3 The drugs in this schedule include:

(a) acetanilid,

(b) benzoyl peroxide, as a single active ingredient, in concentrations of 5% or less,

(c) camphorated oil,

(d) epinephrine, its salts and preparations thereof,

(e) fluorides for oral or topical use, except in dentrifices or in mouthwashes, in which the total amount of sodium fluoride or its equivalent does not exceed 264 mg per package size,

(f) hydrocortisone 0.5% for topical use,

(g) insulin,

(h) methyl salicylate or oil of wintergreen as a single ingredient or in preparations in strengths of more than 30%,

(i) nitroglycerin,

(j) nystatin for topical use,

(k) saccharin,

(l) any glandular product, toxoid, sera, vaccine or bacterin for human use that is intended for administration by hypodermic injection, and

(m) any veterinary biological product for use by hypodermic injection into an animal.

SCHEDULE 3

- 1** The drugs in this schedule shall be
- (a) sold only in a pharmacy, and
 - (b) in a licensed pharmacy, displayed for sale only in the professional products department.
- 2** No member or proprietor shall, in advertising a drug referred to in section 3, make a representation other than with respect to the name, price and quantity of the drug.
- 3(1)** Subject to subsection (2), the drugs in this schedule include drugs not included in Schedule 1 or 2 that bear a Drug Identification Number granted under the regulations made under the *Food and Drugs Act* (Canada).
- (2) This schedule does not apply to
- (a) substances that bear a “GP” number granted under Division 10 of the regulations made under the *Food and Drugs Act* (Canada),
 - (b) substances that bear a Drug Identification Number granted before Division 10 of the regulations made under the *Food and Drugs Act* (Canada) came into force, or
 - (c) substances that are the subject of a regulation made under section 89.