

1999 BILL 23

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Third Session, 24th Legislature, 48 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

# BILL 23

## PHARMACY AND DRUG ACT

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MRS. TARCHUK

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1st Reading .....

2nd Reading .....

Committee of the Whole .....

3rd Reading .....

Royal Assent .....

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*Bill 23*  
*Mrs. Tarchuk*

## **BILL 23**

1999

### **PHARMACY AND DRUG ACT**

*(Assented to , 1999)*

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

Interpretation **1(1)** In this Act,

(a) “college” means the Alberta College of Pharmacists;

- (b) “complaints director” means the individual appointed under the *Health Professions Act* as the complaints director for the college;
- (c) “council” means the council of the college;
- (d) “dispense” means to provide a drug, but does not include the administration of a drug;
- (e) “drug” means a substance or combination of substances referred to in section 30, 31 or 32 and any combination of such a substance or substances with any other substance;
- (f) “emergency release drug” means an emergency release drug as defined in the regulations for the purposes of this Act;
- (g) “field officer” means the registrar and a field officer appointed under section 19;
- (h) “former Act” means the *Pharmaceutical Profession Act*;
- (i) “hearing tribunal” means a hearing tribunal of the college under the *Health Professions Act*;
- (j) “institution pharmacy” means a pharmacy that is operated by
  - (i) an approved hospital as defined in the *Hospitals Act*,
  - (ii) a nursing home as defined in the *Nursing Homes Act*,
  - (iii) a correctional institution as defined in the *Corrections Act*,
  - (iv) a facility as defined in the *Mental Health Act*,
  - (v) a diagnostic or treatment centre made available under section 49(b) of the *Mental Health Act*,
  - (vi) a facility as defined in the *Social Care Facilities Review Committee Act*, or
  - (vii) an institution or facility operated by or approved by the Minister of Health;
- (k) “investigational drug” means investigational drug as defined in the regulations for the purposes of this Act;
- (l) “licence” means a licence issued under section 4;

- (m) “licensed pharmacy” means a pharmacy in respect of which a pharmacist is issued a licence under section 4;
- (n) “licensee” means a pharmacist who holds a licence;
- (o) “Minister” means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;
- (p) “misconduct” means an act or omission that
  - (i) contravenes this Act;
  - (ii) is detrimental to the best interests of the public;
  - (iii) is an attempt to obtain or results in obtaining a licence by false representation;
  - (iv) contravenes any Act of the Legislature of Alberta or of the Parliament of Canada relating to the compounding, dispensing, sale, supply or distribution of drugs;
  - (v) results in a conviction for an indictable offence, the subject-matter of which is related to any matter described in this clause or to commercial matters;
  - (vi) contravenes the *Health Professions Act* or a regulation made under that Act;
  - (vii) constitutes consent described in section 24;
  - (viii) results in carrying on the practice of pharmacy with a person who is contravening an order described in section 22(3) or under section 25, a condition imposed on a licence under this Act or an order under Part 4 of the *Health Professions Act* pursuant to a complaint under section 22 of this Act;
  - (ix) conduct that harms the integrity of the profession of pharmacists;
- (q) “patient” means a person who is receiving services from a hospital, nursing home, institution, facility or centre described in clause (j);
- (r) “pharmacist” means an individual who is registered under the *Health Professions Act* as a regulated member of the college and holds a practice permit issued under that Act, but does not include a pharmacy intern;

- (s) “pharmacy” means the premises or part of premises in which drugs are stored and from which drugs are dispensed;
- (t) “pharmacy intern” means an individual who is registered under the *Health Professions Act* as a pharmacy intern;
- (u) “practice of pharmacy” means the scope of practice described in section 3 of Schedule 19 to the *Health Professions Act*;
- (v) “prescription” means a direction by a person who is authorized by an Act of the Legislature of Alberta or an Act of the Parliament of Canada to prescribe drugs, directing that a drug in a stated amount be dispensed for the person named in the direction;
- (w) “prescription department” means prescription department as defined in the regulations for the purposes of this Act;
- (x) “professional products department” means professional products department as defined in the regulations for the purposes of this Act;
- (y) “proprietor” means a person who owns, manages or directs the operation of a facility in which a licensed pharmacy is located and exercises a significant degree of control over
  - (i) the management and policies of the licensed pharmacy, or
  - (ii) the conduct of the pharmacists and pharmacy interns, if any, who are employed by the licensed pharmacy;
- (z) “public area” means public area as defined in the regulations for the purposes of this Act;
- (aa) “registrar” means the individual appointed under the *Health Professions Act* as the registrar for the college;
- (bb) “satellite pharmacy” means satellite pharmacy as defined in the regulations for the purposes of this Act;
- (cc) “sell” means
  - (i) to distribute, trade or barter in exchange for money or other valuable consideration,
  - (ii) to distribute or give away without expectation or hope of compensation or reward,

(iii) to keep for sale, and

(iv) to advertise or offer for sale,

but in section 2(2) and (3) “sell” does not include to distribute or give away without expectation or hope of compensation or reward;

(dd) “specialized pharmacy services” means specialized pharmacy services as defined in the regulations for the purposes of this Act.

(2) In this Act, a reference to “this Act” includes the regulations and by-laws made under this Act.

Licence  
required

**2(1)** Drugs may not be sold from a pharmacy to the public unless the pharmacy is operated under the management, control and supervision of a licensee.

(2) An institution pharmacy must be a licensed pharmacy if it

(a) sells drugs to the public, or

(b) charges an insurance company for drugs that it provides to a beneficiary of the insurance company.

(3) Despite subsections (1) and (2), an institution pharmacy is not required to be licensed when it sells

(a) an investigational drug,

(b) an emergency release drug,

(c) a drug to be added to a home parenteral therapy preparation,

(d) a drug not readily available in a licensed pharmacy, or

(e) a drug required by an individual who cannot readily obtain it from a licensed pharmacy.

Institution  
pharmacy

**3** An institution pharmacy may dispense drugs only to

(a) patients of the hospital, nursing home, institution, facility or centre in which the institution pharmacy is located,

(b) patients of a hospital, nursing home, institution, facility or centre described in section 1(1)(j) that is affiliated with the

hospital, nursing home, institution, facility or centre in which the institution pharmacy is located, or

- (c) patients of a hospital, nursing home, institution, facility or centre described in section 1(1)(j) that has entered into an agreement with the hospital, nursing home, institution, facility or centre in which the institution pharmacy is located to provide for sharing pharmacy facilities and services.

## **PART 1**

### **LICENSED PHARMACIES**

Licence

**4(1)** An individual may apply to the registrar on the form set by the council for a licence.

**(2)** An individual may hold only one licence.

**(3)** The registrar must issue a licence to an applicant if the registrar is satisfied that

(a) the applicant

(i) is a pharmacist,

(ii) will personally manage, control and supervise a pharmacy with respect to the practice of pharmacy, and

(iii) will comply with this Act and any order under section 25(1),

(b) the pharmacy will be operated and the proprietor will act in accordance with this Act and any order under section 25(1), and

(c) the applicant has paid the registration fees, dues and levies prescribed in the by-laws and any arrears or penalties.

**(4)** The registrar must state on the licence the names of the licensee, the pharmacy and any pharmacist employed within the pharmacy with respect to which the licence is issued.

**(5)** The registrar must enter in the register under this Act

(a) the name of a person to whom a licence is issued under subsection (3),



- (b) the name and address of the pharmacy and of any proprietor of the pharmacy in respect of which the person referred to in clause (a) is issued the licence,
- (c) the name of any pharmacist employed to engage in the practice of pharmacy within the pharmacy described in clause (b), and
- (d) any other information required under the regulations.

**(6)** The registrar may, in accordance with the regulations, impose conditions on a licence.

**(7)** A licence remains in effect for the term provided for in the by-laws.

Registrar to maintain register

**5(1)** The registrar must maintain a register of the licensees and the pharmacies in respect of which licences are issued.

**(2)** If a member of the public, during regular business hours, requests information on the register respecting a named licensed pharmacy, licensee or pharmacist employed within a licensed pharmacy, the college must provide the information described in section 4(5) with respect to the request.

Renewal of licence

**6(1)** On application by the licensee, the registrar must renew a licence if the registrar is satisfied that

- (a) the licensee and the licensed pharmacy continue to meet the requirements of section 4(3)(a) and (b),
- (b) the information under section 4(5) pertaining to the licence is correct,
- (c) the licensee has provided the information required by the regulations, and
- (d) the licensee has paid the renewal fee, dues and levies prescribed in the by-laws and any arrears or penalties.

**(2)** The registrar may, in accordance with the regulations, impose conditions on a renewed licence.

Display of licence

**7** A licensee must display the licence in a conspicuous public part of the pharmacy that the licensee manages, controls and supervises.

Notice of  
pharmacy  
personnel

- 8** A licensee must advise the registrar,
- (a) within 14 days after employing a pharmacist or pharmacy intern to engage in the practice of pharmacy in the licensed pharmacy, of the name of that pharmacist or pharmacy intern, and
  - (b) as soon as practicable, if the proprietor ceases to be the proprietor, or if another person becomes a full-time or part-time proprietor, of the name of that proprietor in accordance with the regulations.

Obligations of  
licensee

- 9(1)** A licensee must
- (a) ensure that the licensed pharmacy operates in accordance with this Act, and
  - (b) comply with any conditions imposed on the licence under the regulations or by an order under section 22(3).
- (2)** A licensee must manage, control and supervise the operation of the licensed pharmacy.
- (3)** A licensee must report to the college any proprietor who directs, influences or attempts to direct or influence the management or operation of the licensed pharmacy in a way that contravenes or could result in the contravention of
- (a) this Act;
  - (b) the *Health Professions Act*;
  - (c) any Act or regulation under an Act of the Legislature of Alberta or of the Parliament of Canada relating to the compounding or dispensing, sale or distribution of drugs.

Proprietor's  
obligation

- 10** A proprietor must maintain an address for notices and service in Alberta and must notify the registrar of that address and of any changes to that address within 14 days.

Pharmacy  
lease

- 11(1)** If the premises in which a licensed pharmacy operates are leased, the rent payable in respect of the premises may not be based on a percentage of the revenue obtained from the sale of drugs sold pursuant to prescriptions.
- (2)** Subsection (1) does not apply

- (a) to a lease that was in force at the time the former Act came into force, or
- (b) to the first renewal of a lease referred to in clause (a) if the terms of the renewal are not substantially different from the terms of the lease and the term of the renewed lease expires on or before January 1, 2000.

Identification of licensed pharmacy

**12** If a licensed pharmacy does not occupy 100% of the public area of the premises in which it is located, the licensed pharmacy must be identified in accordance with the regulations.

Licence terminates

**13(1)** A licence terminates

- (a) on the death of a licensee,
- (b) if the licensee ceases to be responsible for the management, control or supervision of a licensed pharmacy,
- (c) if the licensee's certificate of registration or practice permit issued under the *Health Professions Act* is suspended or cancelled under that Act,
- (d) if an order is made against the proprietor of a licensed pharmacy under section 25(1)(e),
- (e) if the proprietor of the pharmacy designated on the licence changes, or
- (f) if the licence is cancelled pursuant to section 22(3).

**(2)** Despite subsection (1), if a licence is terminated under subsection (1)(a), (b) or (c) and the proprietor or the proprietor's agent immediately places the pharmacy under the personal management, control and supervision of another pharmacist, the registrar may grant permission to the proprietor to continue to operate the pharmacy for the period of time prescribed in the by-laws.

**(3)** The registrar may impose conditions on the permission granted under subsection (2).

**(4)** A pharmacist who operates a pharmacy under subsection (2)

- (a) may manage, control and supervise a pharmacy without a licence,
- (b) may carry out the powers of a licensee, and

(c) must carry out the duties of a licensee, subject to any conditions imposed under subsection (3).

**Suspension on default** **14(1)** The registrar may suspend a licence if the licensee is in default in the payment of fees, penalties, costs, dues or levies payable under this Act on the expiration of the period specified in subsection (2) unless the licensee complies with a written notice served on the licensee personally or by certified mail.

**(2)** A notice under subsection (1) must state that the registrar may suspend the licence unless the college receives the fees, penalties, costs, dues or levies from the licensee within 30 days after the date of service of the notice.

**Termination of licence issued in error** **15** The registrar may terminate a licence issued in error.

**Termination by request** **16(1)** A licensee may request the registrar to terminate the licence.

**(2)** The registrar shall not terminate a licence at the licensee's request if a complaint has been made under this Act or the *Health Professions Act* relating to the licensee, the proprietor or the licensed pharmacy, unless the request for termination has been approved by the council.

**Entry of suspension, termination, expiry in register** **17(1)** The registrar must, when a licence is suspended or terminated, enter a memorandum of the suspension or termination in the register and, in the case of a suspension, indicate the terms of the suspension.

**(2)** If a licence has been suspended or terminated, the licensee must, on the request of the registrar, surrender the licence to the registrar.

## PART 2

### PROTECTION OF THE PUBLIC AND DISCIPLINE

**Definitions** **18** In this Part,

(a) "records" includes prescriptions and other information whether in written, photographic, magnetic, electronic or other form;

(b) "substance" means any object or thing, including drugs and prescription containers.

- Field officers
- 19(1)** The registrar
- (a) may appoint one or more field officers for the purposes of this Act, and
  - (b) must provide identification for the field officers in accordance with the regulations.
- (2) The registrar is a field officer for the purposes of this Act.
- Inspection of licensed pharmacy
- 20(1)** Any record and substance required to be kept by a pharmacist under this Act, the *Health Professions Act*, the *Controlled Drugs and Substances Act* (Canada) or the *Food and Drugs Act* (Canada) or the regulations under those Acts must be available for inspection by a field officer.
- (2) A field officer may, at any reasonable time, enter a licensed pharmacy and inspect the operation and records of the licensed pharmacy to ensure compliance with this Act and must report the findings to the registrar on the conclusion of each inspection.
- (3) On entering a licensed pharmacy, a field officer must, on request, produce identification provided for by the regulations.
- (4) In carrying out an inspection a field officer may, at any reasonable time,
- (a) require any person to answer any relevant question and direct the person to answer the question under oath,
  - (b) demand the production for examination of any records and substances that are relevant to the inspection, and
  - (c) on giving a receipt for them, remove records and substances that are relevant to the inspection for the purpose of examining them, performing tests on them and making copies of them.
- (5) A field officer who removes any records under subsection (4) must return them to the licensed pharmacy from which they were removed within a reasonable time.
- (6) A field officer who removes any substance under subsection (4) must return it, if possible, to the licensed pharmacy from which it was removed within a reasonable time.
- (7) The registrar, on the request of a field officer, may apply to the Court of Queen's Bench for

- (a) an order directing any person
  - (i) to produce to the field inspector any records or substances relevant to the inspection in the person's possession or under the person's control,
  - (ii) to give up possession of any record described in subclause (i) to allow the field officer to take it away to examine and copy it and perform tests on it and to return it within a reasonable time, and
  - (iii) to give up possession of any substance described in subclause (i) to allow the field officer to take it away and to allow the field officer to examine it and perform tests on it and to return it, if possible, within a reasonable time,

and

- (b) an order directing any person to attend before the field officer to answer any relevant inquiries the field officer may have relating to the inspection.

**(8)** An application for an order under subsection (7) may be made without notice if the Court is satisfied that it is proper to make the order in the circumstances.

Field officer's report

**21(1)** A field officer must notify the registrar, as soon as practicable, of any perceived or apparent misconduct on the part of a proprietor or licensee.

**(2)** Within 90 days of completing an inspection, a field officer must

- (a) give a report to the registrar and licensee setting out the findings of the inspection,
- (b) decide and advise the licensee and the registrar whether
  - (i) the results from the inspection were satisfactory, or
  - (ii) the licensee must undertake specified actions in accordance with the regulations,

and

- (c) if the registrar has been notified under subsection (1), advise the licensee and proprietor of the notification.

(3) On being notified under subsection (1) or on receipt of a report under subsection (2), the registrar may make a complaint in accordance with section 22 or 23.

Pharmacist,  
licensee  
complaints

**22(1)** A complaint about the alleged misconduct of

- (a) a pharmacist,
- (b) a licensee,
- (c) a proprietor who is a pharmacist, or
- (d) a pharmacy intern

must be made to the complaints director in accordance with the *Health Professions Act* and must be dealt with in accordance with Part 4 of that Act.

(2) Misconduct under this Act by a person referred to in subsection (1) constitutes unprofessional conduct under the *Health Professions Act*.

(3) In addition to the orders that a hearing tribunal may make under Part 4 of the *Health Professions Act*, a hearing tribunal may make any one or more of the following orders:

- (a) suspend or cancel a licence under this Act;
- (b) impose conditions, in accordance with the regulations under this Act, on a licence under this Act;
- (c) direct that periodic inspections of the licensed pharmacy be conducted by a field officer at the cost of the pharmacist;
- (d) direct that periodic audits of drugs be conducted by a field officer at the cost of the pharmacist;
- (e) order that no pharmacist may engage in the practice of pharmacy in the licensed pharmacy for the period of time set by the order;
- (f) order that conditions be imposed on the operation of the licensed pharmacy.

(4) If a licence is suspended or cancelled by an order referred to in subsection (3), the registrar must note the suspension or cancellation on the register under this Act.

Non-pharmacist proprietor complaints

**23(1)** A complaint about the alleged misconduct of a proprietor who is not a pharmacist must be made to the complaints director in accordance with the requirements of the *Health Professions Act*.

(2) A complaint may be made under subsection (1) within 2 years of a licence being terminated under this Act or the former Act or a proprietor ceasing to be a proprietor, and the complaint may be dealt with as if the termination or ceasing to be a proprietor had not occurred.

(3) Sections 55 to 95, except sections 80 and 84, of the *Health Professions Act* apply where a complaint is made under this section.

(4) For the purposes of the sections referred to in subsection (3), the proprietor who is the subject of the complaint must be treated as an investigated person under the *Health Professions Act*.

(5) A hearing tribunal may find that the conduct of the proprietor who is the subject of the complaint does or does not constitute misconduct.

(6) A hearing tribunal may make an order under section 25 of this Act.

(7) If a hearing tribunal is of the opinion that there are reasonable and probable grounds to believe that the proprietor who is the subject of a complaint has committed a criminal offence, the hearing tribunal must direct the hearings director to send a copy of the written decision to the Minister of Justice and Attorney General and on the request of the Minister of Justice and Attorney General also send a copy of the record of the hearing in accordance with section 80(2) of the *Health Professions Act*.

Vicarious misconduct

**24** If a person employed by a proprietor or by an agent of a proprietor commits a misconduct with the express or implied consent of the proprietor, that consent constitutes misconduct by the proprietor.

Orders of tribunal

**25(1)** If a hearing tribunal finds that the conduct of a proprietor constitutes misconduct, the hearing tribunal may make any one or more of the following orders:

- (a) caution the proprietor;
- (b) reprimand the proprietor;
- (c) direct that periodic inspections of the licensed pharmacy be conducted by a field officer at the cost of the proprietor;



- (d) direct that periodic audits of drugs be conducted by a field officer at the cost of the proprietor;
- (e) order that no pharmacist may engage in the practice of pharmacy in the licensed pharmacy for the period of time set by the order;
- (f) order that conditions be imposed on the operation of the licensed pharmacy;
- (g) if the proprietor is an individual, direct that the proprietor pay to the college within the time set by the order a fine not exceeding \$10 000 for each finding of misconduct or \$50 000 in the aggregate for all findings of misconduct;
- (h) if the proprietor is not an individual, direct that the proprietor pay to the college within the time set by the order a fine not exceeding \$75 000 for each finding of misconduct;
- (i) direct, subject to the regulations, that the proprietor pay within the time set by the order all or part of the costs of the investigation or hearing.

(2) If the person ordered to pay a fine or costs fails to pay within the time set by the order, the hearing tribunal may order that no pharmacist may engage in the practice of pharmacy in the licensed pharmacy until the fine or costs, or both, are paid.

(3) The hearing tribunal may make any ancillary order that is required or appropriate in connection with any order referred to in subsection (1) or may make any other order it considers appropriate.

(4) A fine or costs ordered to be paid under this section are a debt due to the college and may be recovered by the college by an action in debt.

Information on orders

**26** If an order is made pursuant to section 22 or 25, the registrar

- (a) must enter the information on the register,
- (b) must provide the information to the regional health authority of the health region where services are normally provided by the pharmacy,
- (c) must provide the information to any Minister who, or an organization specified in the regulations that, administers the payment of fees for services provided by the pharmacy,

- (d) must provide the information to another college if the registrar knows that the proprietor is a member of that college, and
- (e) subject to the regulations, may publish or distribute the information.

### **PART 3**

#### **REGULATIONS AND BY-LAWS**

Council  
regulations

- 27(1)** The council may make regulations
- (a) respecting licensing, except the term of a licence;
  - (b) respecting imposing conditions on a licence;
  - (c) respecting the keeping of the register required under this Act and prescribing information that must be entered in the register;
  - (d) respecting requirements that apply to the identification of a licensed pharmacy described in section 12 and the prescription department and the professional products department of a licensed pharmacy;
  - (e) respecting the physical facilities and space required for the prescription department of a licensed pharmacy;
  - (f) respecting the supply of drugs that must be kept in a licensed pharmacy;
  - (g) respecting advertising the services offered by a licensed pharmacy;
  - (h) respecting the identification of field officers;
  - (i) respecting the circumstances in which a pharmacist may be temporarily absent from a licensed pharmacy and imposing conditions on the practice of pharmacy in the licensed pharmacy during the absence;
  - (j) respecting the costs payable on the conclusion of an investigation, a hearing or an appeal;
  - (k) respecting the publication of information about orders made under section 22 or 25;
  - (l) respecting specified actions under section 21(2);

- (m) respecting information required under section 8(b);
- (n) respecting a code of ethics;
- (o) respecting the development of procedures for the approval by the members of the college of by-laws made under section 28;
- (p) respecting standards for the operation of licensed pharmacies, including standards for
  - (i) compounding and dispensing;
  - (ii) equipment, including computers;
  - (iii) reference materials;
  - (iv) storing, packaging, selling and labelling of drugs;
  - (v) records to be kept by the pharmacists, licensees and proprietors;
- (q) defining public area, prescription department, professional products department, satellite pharmacy, specialized pharmacy services, investigational drug and emergency release drug for the purposes of this Act;
- (r) respecting satellite pharmacies;
- (s) respecting specialized pharmacy services.

**(2)** If a code, standard or body of rules relating to a code of ethics or standards has been published by a college or organization or other person and copies are readily available, the council may, in addition to or instead of making a regulation under subsection (1)(e), (f), (n) or (p), by regulation, declare the code, standard or body of rules to be in force in whole or in part or with any variations that the council specifies.

**(3)** A regulation under this section does not come into force unless it is approved by the Lieutenant Governor in Council.

By-laws

**28(1)** The council may, in accordance with the regulations, make by-laws

- (a) prescribing the fees, dues and levies payable to the college respecting licences;
- (b) respecting the term of a licence;

- (c) authorizing the carrying out, under this Act, of any power or duty of the college under the *Health Professions Act* that is not inconsistent with this Act;
  - (d) prescribing the period of time during which a licensed pharmacy may continue to operate under section 13(2);
  - (e) authorizing the council to establish the form in which information required under this Act is to be provided and to establish any other forms for the purposes of this Act;
  - (f) providing for the delegation of any power or duty of the council, the registrar, the complaints director or a field officer under this Act, with or without conditions, except the power to make or amend regulations under section 27 or by-laws under this section.
- (2) The *Regulations Act* does not apply to a by-law made under this section.

## PART 4

### DRUGS

Drugs to be sold or dispensed in pharmacy

**29** Drugs may be dispensed or sold only in a licensed pharmacy or an institution pharmacy.

Schedule 1 drugs

**30(1)** Schedule 1 drugs are

- (a) the drugs set out in a Schedule to the *Controlled Drugs and Substances Act* (Canada),
- (b) the drugs set out in Schedule F to the regulations under the *Food and Drugs Act* (Canada), and
- (c) the drugs designated as Schedule 1 drugs pursuant to section 33.

(2) Schedule 1 drugs may

- (a) be dispensed for sale only pursuant to a prescription, and
- (b) in a licensed pharmacy, be stored for sale to the public only in the prescription department.

Schedule 2  
drugs

**31(1)** Schedule 2 drugs are

- (a) the drugs designated as Schedule 2 drugs pursuant to section 33, and
- (b) unless provided otherwise by regulation under section 33, the drugs removed from Schedule F to the regulations under the *Food and Drugs Act* (Canada) and approved for non-prescription sale in Canada.

**(2)** Schedule 2 drugs may

- (a) be sold only in a licensed pharmacy or an institution pharmacy,
- (b) be sold only by or under the direct supervision of a pharmacist, and
- (c) in a licensed pharmacy, be stored for sale to the public only in the prescription department.

**(3)** No pharmacist or proprietor shall, in advertising a Schedule 2 drug, make a representation other than with respect to the name, price and quantity of the drug.

Schedule 3  
drugs

**32(1)** Subject to the regulations under section 33, Schedule 3 drugs are the drugs designated as Schedule 3 drugs pursuant to section 33.

**(2)** Schedule 3 drugs

- (a) may be sold only in a licensed pharmacy or an institution pharmacy, and
- (b) in a licensed pharmacy, may be displayed for sale to the public only in the professional products department and may be stored only in the prescription department.

**(3)** No pharmacist or proprietor shall, in advertising a Schedule 3 drug, make a representation other than with respect to the name, price and quantity of the drug.

Ministerial  
regulations

**33(1)** The Minister may, after consulting with the council, make regulations respecting the designation of drugs, other than drugs described in section 30(1)(a) or (b), as Schedule 1, 2 or 3 drugs.

**(2)** If a list in an enactment of Alberta or of another jurisdiction, or a code, standard or list published by an organization, designates drugs, and copies of the enactment, code, standard or list are

readily available, the Minister may, by regulation, declare the list in the enactment, code, standard or list to be in force in whole or in part or with any variations that the Minister specifies in addition to or instead of a regulation under subsection (1).

## PART 5

### OFFENCES AND PENALTIES

- |   |  |
|---|--|
| Licence obtained by false statement       | <p><b>34</b> A person who obtains or attempts to obtain a licence by knowingly making a false statement, either oral or written, is guilty of an offence and a person who authorizes, permits or acquiesces in such an offence is also guilty of an offence.</p>   |
| Operation of a pharmacy without a licence | <p><b>35(1)</b> A person who operates a licensed pharmacy while the licence is suspended is guilty of an offence.</p> <p><b>(2)</b> A person who operates a pharmacy with respect to which a pharmacist does not hold a licence is guilty of an offence.</p> <p><b>(3)</b> Subject to section 2(2), this section does not apply to an institution pharmacy.</p>  |
| Prohibited use of word or phrase          | <p><b>36</b> No person except a licensee or proprietor may use the word or phrase pharmacy, pharmaceutical dispensary, drug store or drug or any similar word or phrase, alone or in combination with other words, in a manner that states or implies that premises or a business is a pharmacy unless the premises or business is a licensed pharmacy or an institution pharmacy.</p>   |
| Offences                                  | <p><b>37</b> A person who contravenes section 2(1), 9(2) or (3), 11, 29, 30(2), 31(2), 32(2) or (3) or 36 is guilty of an offence.</p>   |
| Penalties                                 | <p><b>38(1)</b> A person who is guilty of an offence under this Act is liable</p> <ul style="list-style-type: none"><li>(a) for a first offence, to a fine of not more than \$10 000,</li><li>(b) for a 2nd offence, to a fine of not more than \$ 25 000, and</li><li>(c) for a 3rd and every subsequent offence, to a fine of not more than \$75 000 or to imprisonment for a term of not more than 6 months or to both a fine and imprisonment.</li></ul> <p><b>(2)</b> A prosecution under this section may be commenced within 2 years after the commission of the alleged offence, but not afterwards.</p> |

Liability of proprietor and licensee

**39** A prosecution or conviction of either the proprietor or the licensee of a licensed pharmacy is not a bar to the prosecution or conviction of the other.

Injunction

**40** 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 constitutes an offence under this Act notwithstanding any penalty that may be provided by this Act in respect of that offence.

## PART 6

### GENERAL PROVISIONS

Protection from liability

**41(1)** No action lies against any of the following in respect of anything done or omitted to be done in good faith under this Act:

- (a) the college or an officer or employee of the college, the members of the council or a field officer;
- (b) a member of the council or of a committee or another person exercising powers or carrying out duties in accordance with this Act or under Part 4 of the *Health Professions Act* with respect to a complaint under this Act;
- (c) a person acting on the instructions of a person or entity referred to in clause (a) or (b).

**(2)** No action for defamation may be founded on a communication that consists of or pertains to the conduct of a pharmacist, pharmacy intern, licensee or proprietor if the communication is published to or by

- (a) the college or an officer or employee of the college or a field officer,
- (b) a member of the council or of a committee or another person carrying out powers and duties under Part 4 of the *Health Professions Act*, or
- (c) a person acting on the instructions of a person or entity referred to in clause (a) or (b),

in good faith in relation to an inspection, inquiry, investigation or proceeding under this Act or the *Health Professions Act* with respect to a complaint under this Act.

Licence  
continued

**42** A pharmacy licence issued under the former Act is deemed to be a licence under this Act until it terminates in accordance with this Act.

Applications,  
complaints  
and  
proceedings  
continued

**43(1)** An application for a pharmacy licence under the former Act that is not concluded when this Act comes into force must be concluded in accordance with the former Act as if this Act had not come into force.

(2) For the purposes of subsection (1), the powers and duties of the Registrar under the former Act are vested in and may be exercised by the registrar of the college.

(3) Any complaint made after this Act comes into force that relates to the conduct of a proprietor who is not a pharmacist occurring all or partly before the coming into force of this Act must be dealt with in accordance with the former Act.

(4) Any proceedings relating to a complaint made before the coming into force of this Act that relates to a proprietor who is not a pharmacist that have not been concluded before the coming into force of this Act must be concluded in accordance with the former Act.

(5) For the purposes of subsections (3) and (4), the powers and duties

(a) of the Infringement Committee under the former Act are vested in and may be exercised by the complaints director,

(b) of the Appeals Committee under the former Act are vested in and may be exercised by the complaint review committee of the college established under the *Health Professions Act*,

(c) of the Investigating Committee under the former Act are vested in and may be exercised by a hearing tribunal,

(d) of the Registrar under the former Act are vested in and may be exercised by the complaints director, and

(e) of the Council under the former Act are vested in and may be exercised by the council of the college.

(6) Despite subsection (5), if proceedings referred to in subsection (4) that have not been concluded before the coming into force of this Act are a hearing before the Investigating Committee or an appeal before the Council under the former Act, the hearing or appeal must continue to be dealt with as if this Act had not come into force and the former Act had not been repealed, and the



members of the Investigating Committee and the members of the Council under the former Act continue as the Investigating Committee and the Council for the purposes of the hearing or appeal until it is concluded, a decision is made and an order, if any, is made.

(7) A decision or order of the Investigating Committee, Appeals Committee, Council or council pursuant to subsection (3), (4), (5) or (6) is deemed to be a decision or order made in accordance with this Act.

(8) A pharmacy licence issued under subsection (1) is deemed to be a licence issued, subject to the same conditions, under this Act.

(9) In this section, “proceedings” means all of the procedures that are available under the former Act to investigate or inquire into conduct and resolve a complaint, including any of the following that relate to the investigation, inquiry or complaint:

- (a) receipt of complaints;
- (b) consideration of complaints;
- (c) deliberations;
- (d) consultations;
- (e) investigations;
- (f) inquiries;
- (g) reports;
- (h) hearings;
- (i) findings;
- (j) decisions;
- (k) reviews;
- (l) appeals;
- (m) orders;
- (n) any other act of an administrative or quasi-judicial nature.

Transitional  
regulations

- 44(1)** The Lieutenant Governor in Council may make regulations
- (a) respecting the transition to this Act of anything under the former Act, including the interpretation of any transitional provision in this Act;
  - (b) to remedy any confusion, difficulty, inconsistency or impossibility resulting from the transition to this Act from the former Act.
- (2) A regulation made under subsection (1) may be made retroactive to the extent set out in the regulation.
- (3) If there is a conflict between a regulation made under subsection (1) and section 43, the regulation prevails.
- (4) A regulation made under subsection (1) is repealed on the earliest of
- (a) the coming into force of an amendment that adds the subject-matter of the regulation to this Act;
  - (b) the coming into force of a regulation that repeals the regulation made under subsection (1);
  - (c) 2 years after the regulation comes into force.
- (5) The repeal of a regulation under subsection (4)(b) or (c) does not affect anything done, incurred or acquired under the authority of the regulation before the repeal of the regulation.

Inspectors  
continued

- 45** An inspector appointed under the former Act is deemed to be a field officer under this Act until a successor is appointed.

## PART 7

### CONSEQUENTIAL AMENDMENTS, REPEALS AND COMING INTO FORCE

Amends SA  
1994 cG-8.5

- 46** The *Government Organization Act* is amended in **Schedule 7.1**
- (a) in **section 1(d)** by **striking out** “Pharmaceutical Profession Act” and **substituting** “Pharmacy and Drug Act”;
  - (b) in **section 2(1)(f)** and **(g)** by **striking out** “Pharmaceutical Profession Act” and **substituting** “Pharmacy and Drug Act”.

- Consequential amendment    **47**    **The *Health Professions Act* is amended in section 1(1)(s) by striking out “*Pharmaceutical Profession Act*” and substituting “*Pharmacy and Drug Act*”.**
- Repeal                            **48**    The *Pharmaceutical Profession Act* is repealed on Proclamation.
- Coming into force            **59**    This Act comes into force on Proclamation.