Bill 38 Mrs. Ady

BILL 38

2005

PHARMACY AND DRUG AMENDMENT ACT, 2005

(Assented to , 2005)

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

Amends RSA 2000 cP-13

1 The *Pharmacy and Drug Act* is amended by this Act.

2 Section 1 is amended

(a) in subsection (1)

- (i) by adding the following after clause (a):
- (a.1) "clinical pharmacist" means a pharmacist registered in the clinical register category of the college's regulated members register;
- (a.2) "community pharmacy" means a pharmacy with respect to which a community pharmacy licence is issued;

(ii) by adding the following after clause (b):

(b.1) "compound" means compound as defined in Schedule 7.1 to the *Government Organization Act*; (b.2) "compounding and repackaging pharmacy" means a pharmacy with respect to which a compounding and repackaging pharmacy licence is issued;

(iii) by repealing clause (d) and substituting the following:

- (d) "dispense" means dispense as defined in section 1(c)(i) of Schedule 7.1 to the *Government Organization Act*;
- (iv) in clause (e) by striking out "an investigational drug" and substituting "a special access drug";

(v) in clause (j) by striking out "or" at the end of subclause (vi) and adding the following after subclause (vii):

- (viii) a regional health authority or a provincial health board under the *Regional Health Authorities Act*, or
- (ix) a hospital, a penitentiary, a correctional institution, a health or social care institution or facility or a residential facility for persons who are aged or infirm or require special care that is operated in Alberta by the Crown in right of Canada;

(vi) by repealing clause (k);

(vii) by repealing clause (m) and substituting the following:

- (m) "licensed pharmacy" means a pharmacy with respect to which a licence is issued;
- (viii) in clause (n) by adding "clinical" before "pharmacist";

(ix) by adding the following after clause (n):

- (n.1) "mail order pharmacy" means a community pharmacy with respect to which a mail order pharmacy licence is issued;
- (n.2) "mail order pharmacy service" means dispensing drugs pursuant to a prescription where the patient or

patient's agent does not attend personally at the pharmacy to receive the drugs;

(n.3) "major shareholder" means a shareholder who holds 20% or more of the shares issued by the corporation that carry the right to vote at a meeting of shareholders;

(x) in clause (p)

(i) by repealing subclause (i) and substituting the following:

- (i) contravenes this Act;
- (ii) in subclause (iv) by adding "manufacturing, prescribing, providing for sale," after "dispensing,";

(xi) by repealing clause (q) and substituting the following:

- (q) "patient" means a recipient of pharmacy services from a pharmacy;
- (q.1) "patient's agent" means, in respect of a patient, a member of the patient's immediate family, an individual who has a close personal relationship with the patient or an individual who personally provides care to the patient;
- (xii) in clause (r) by striking out ", but does not include a pharmacy intern";

(xiii) by repealing clause (s) and substituting the following:

- (s) "pharmacy" means the premises or part of premises in which drugs are stored, in which drugs are compounded, in which drugs are dispensed or sold or within which drugs are provided for sale;
- (s.1) "pharmacy services" means services within the practice of pharmacy and with respect to animals means compounding, dispensing, providing for sale and selling drugs;

(xiv) in clause (v) by striking out "in a stated amount be dispensed for the person" and substituting "be dispensed to or for the patient named in the direction";

(xv) by repealing clause (x) and substituting the following:

 (x) "property" in sections 18.2 to 18.7 means drugs, blood products, parenteral nutrition, prescription records and health care aids and devices and any other property used in or in relation to the practice of pharmacy;

(xvi) by adding the following after clause (aa):

(aa.1) "regulated member" means a regulated member, as defined in the *Health Professions Act*, who is registered with the college;

(xvii) by repealing clause (bb) and substituting the following:

- (bb) "satellite pharmacy" means a community pharmacy with respect to which a satellite pharmacy licence is issued;
- (bb.1) "satellite pharmacy service" means the dispensing, compounding, providing for sale or selling of drugs at a satellite pharmacy;

(xviii) in clause (cc) by striking out "means" and substituting "includes" and by striking out "but in section 3(2) "sell" does not include to distribute or give away without expectation or hope of compensation or reward";

(xix) by adding the following after clause (cc):

 (cc.1) "special access drug" means a drug authorized for sale under the *Food and Drug Regulations*, C.R.C., c870, and identified as a special access drug by Health Canada's Special Access Programme; (b) in subsection (2) by adding "and codes of ethics and standards for the operation of licensed pharmacies adopted under this Act" after "under this Act".

3 Section 2 is amended

- (a) by renumbering it as section 2(1);
- (b) in subsection (1)
 - (i) by striking out "Nothing" and substituting "Subject to this section, nothing";
 - (ii) by repealing clause (c);
- (c) by adding the following after subsection (1):
- (2) A person described in subsection (1)(a) or (d) must
 - (a) provide to the registrar in writing the information required by the regulations,
 - (b) keep records as required by the regulations, and
 - (c) on request, produce information and records referred to in this subsection to the registrar, a field officer or the complaints director.

(3) If a person fails to comply with a request under subsection (2)(c), the college may apply to the Court of Queen's Bench by way of an originating notice for an order directing that person to produce information and records referred to in subsection (2) to the registrar, field officer or complaints director.

(4) An individual who is authorized to compound, dispense, provide for sale or sell a drug in the practice of a profession other than pharmacy under the *Health Professions Act*, another enactment regulating the practice of a health profession or the *Veterinary Profession Act* may compound, dispense, provide for sale or sell a drug from a premises other than a licensed pharmacy or an institution pharmacy but only in accordance with that enactment.

(5) Nothing in subsection (4) authorizes an individual to

- (a) use a word or phrase the use of which is regulated by section 37, or
- (b) compound, dispense, provide for sale or sell drugs other than incidentally to the practice of the profession as authorized under the *Health Professions Act*, other enactment described in subsection (4) or *Veterinary Profession Act*.

4 Section 3 is repealed and the following is substituted:

Licence required

3 Subject to section 4, no person shall

- (a) compound,
- (b) dispense, or
- (c) provide for sale or sell

a drug from a pharmacy unless it is a licensed pharmacy with an appropriate category of licence.

5 Section 4 is repealed and the following is substituted:

Institution pharmacy

4(1) An institution pharmacy is not required to be a licensed pharmacy to compound drugs for or dispense, provide for sale or sell drugs 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 shared pharmacy facilities and services.

(2) An institution pharmacy is not required to be a licensed pharmacy to compound, dispense, provide for sale or sell

- (a) a special access drug,
- (b) a drug to be added to a home parenteral therapy preparation, or
- (c) a drug required by an individual who cannot readily obtain it from a community pharmacy or a satellite pharmacy.

(3) Despite subsections (1) and (2), an institution pharmacy must be a licensed pharmacy with an appropriate category of licence if

- (a) it charges an insurance company for drugs that it provides to a beneficiary of the insurance company,
- (b) it compounds drugs for or dispenses, provides for sale or sells drugs to any person other than a patient described in subsection (1), or
- (c) it provides pharmacy services not described in or related to those described in subsection (2) to persons other than patients.

(4) For the purposes of this section, "patient" means a person who is receiving services from a hospital, nursing home, institution, facility or centre described in section 1(1)(j).

6 Section 5 is amended

- (a) in subsection (1) by striking out "An individual" and substituting "A clinical pharmacist";
- (b) by repealing subsection (2) and substituting the following:

(2) A clinical pharmacist may hold more than one category of licence but only one licence in each category, and the subject of all the licences must be the same pharmacy.

(2.1) Despite subsection (2), a clinical pharmacist may hold more than one satellite pharmacy licence and each satellite pharmacy licence may be issued with respect to a different satellite pharmacy.

(2.2) The registrar may issue licences in the following categories:

- (a) a community pharmacy licence;
- (b) a compounding and repackaging pharmacy licence;
- (c) a mail order pharmacy licence;
- (d) a satellite pharmacy licence.

(2.3) Subject to subsection (2.31), a community pharmacy licence authorizes the licensee to operate a pharmacy that compounds, dispenses, provides for sale or sells drugs in Alberta.

(2.31) A licensee who holds a community pharmacy licence shall not provide mail order pharmacy service or satellite pharmacy service unless the licensee also holds a mail order pharmacy licence or a satellite pharmacy licence.

(2.32) Despite subsection (2.31), a licensee who holds a community pharmacy licence is not required to hold a mail order pharmacy licence to operate a pharmacy that delivers drugs to a patient or the patient's agent if the patient or patient's agent normally attends the pharmacy in person to receive the drugs.

(2.4) A compounding and repackaging pharmacy licence authorizes the licensee to operate a pharmacy that compounds drugs for another pharmacy or repackages drugs for another pharmacy in Alberta that dispenses, provides for sale or sells those drugs.

(2.41) A licensee who holds a compounding and repackaging licence shall not operate a pharmacy that compounds,

dispenses, provides for sale or sells drugs to or for a patient unless the licensee also holds a community pharmacy licence.

(2.5) A mail order pharmacy licence authorizes a community pharmacy licensee to operate a pharmacy that provides mail order pharmacy service to patients in Alberta.

(2.6) A licensed pharmacy may deliver drugs to a patient outside Alberta if

- (a) the patient normally attends the pharmacy in person to receive drugs, or
- (b) the patient is in another province or territory in respect of which there is an agreement between the college and the organization that regulates the practitioners of pharmacy in that province or territory to facilitate
 - (i) investigations of alleged misconduct of licensees, proprietors or pharmacists practising in licensed pharmacies, and
 - (ii) the resolution of any complaints made against licensees or proprietors or pharmacists practising in licensed pharmacies.

(2.7) A satellite pharmacy licence authorizes a community pharmacy licensee to operate a satellite pharmacy at the

location stated on the licence that is not the location of the community pharmacy.

(2.8) An applicant for a mail order pharmacy licence or for a satellite pharmacy licence must hold a community pharmacy licence.

(c) by repealing subsection (3) and substituting the following:

(3) The registrar may issue a community pharmacy licence or a compounding and repackaging pharmacy licence to an applicant if the registrar is satisfied that

(a) the applicant

- (i) is a clinical pharmacist,
- (ii) meets the licensing requirements set out in this section and in the regulations,
- (iii) will personally manage, control and supervise the practice of pharmacy in the pharmacy, and
- (iv) will comply with this Act, any condition imposed on the licence and any order made under this Act,
- (b) the pharmacy meets the requirements set out in the regulations and will be operated, and the proprietor will act, in accordance with this Act and any order under this Act, and
- (c) the applicant has paid the registration fees, dues and levies prescribed in the bylaws and any arrears or penalties.

(3.1) A licensee who holds a community pharmacy licence may apply to the registrar on a form satisfactory to the registrar for

- (a) one mail order pharmacy licence for the pharmacy in respect of which the community pharmacy licence is issued, and
- (b) one or more satellite pharmacy licences for pharmacies that are operated in conjunction with the pharmacy in respect of which the community pharmacy licence is issued.

(3.2) The registrar may issue a mail order pharmacy licence if in the opinion of the registrar

- (a) the applicant will comply with this Act, any condition imposed on the licence and any order made under this Act,
- (b) the mail order pharmacy service is in the public interest,
- (c) the mail order pharmacy service will be provided without undermining patient safety, the quality of patient care or the integrity of the drug distribution system, and

(d) the applicant has paid the registration fees, dues and levies prescribed in the bylaws and any arrears or penalties.

(3.3) The registrar may issue one or more satellite pharmacy licences if in the opinion of the registrar

- (a) the applicant will comply with this Act, any condition imposed on the licence and any order made under this Act,
- (b) the patients who are expected to attend the satellite pharmacy require pharmacy services that cannot be effectively provided in a community pharmacy, or if there is another reason, satisfactory to the registrar, that makes it necessary for those patients to receive pharmacy services at a satellite pharmacy,
- (c) the satellite pharmacy service will be provided without undermining patient safety, the quality of patient care or the integrity of the drug distribution system, and
- (d) the applicant has paid the registration fees, dues and levies prescribed in the bylaws and any arrears or penalties.

(3.4) With respect to each application for a licence, the applicant and the proprietor must each

- (a) provide a statutory declaration stating whether the applicant or proprietor has been convicted of an indictable offence related to misconduct, fraud or commercial matters within Canada or a similar offence outside Canada, and
- (b) if so convicted, provide evidence satisfactory to the registrar of effective rehabilitation.

(3.5) The registrar must consider an application, make a decision and give the applicant a copy of the decision as soon as reasonably possible.

(d) by repealing subsection (4) and substituting the following:

(4) The registrar must state on the licence the category of licence, the name of the licensee and the name and location of the pharmacy with respect to which the licence is issued.

(e) in subsection (5)

(i) by repealing clause (a) and substituting the following:

- (a) the category of licence issued,
- (a.1) the name and business address of the licensee,
- (ii) in clause (b) by striking out "person referred to in clause (a)" and substituting "clinical pharmacist".

7 The following is added after section 5:

Review of a decision

5.1(1) If an applicant is refused a licence under section 5 or the renewal of a licence under section 7 or is dissatisfied with conditions imposed on a licence, the applicant may, by written request to the registrar within 30 days of being notified of the refusal or the issuance of the licence, request a review of the registrar's decision.

(2) The written request under subsection (1) must state the name of the applicant, identify the decision in respect of which a review is requested and set out the reasons why the licence should be issued or renewed or why a condition should be varied or removed.

(3) The council must establish a panel of 3 members of the council that includes a public member, as defined in the *Health Professions Act*, and schedule a review within 60 days of receipt of the written request for a review.

(4) If a member designated under subsection (3) is not available or not capable of carrying out the powers and duties of a member, the panel may continue the review in which the member was participating and carry out its powers and duties with respect to that review. (5) A power or duty carried out by a panel of the council is a power or duty carried out by the council.

(6) Two or more panels of the council may carry out their powers and duties simultaneously.

(7) The applicant and the registrar may appear with or without counsel and make representations to the panel at a review.

(8) On reviewing the decision pursuant to a request under subsection (1), the panel may confirm, reverse or vary the decision of the registrar and may direct the registrar to issue or renew a licence and may direct the conditions to be imposed on or removed from the licence.

(9) The panel must conduct the review as soon as reasonably possible and on making a decision must give the applicant and the registrar a copy of its decision with the reasons for the decision.

(10) The college may, in accordance with the bylaws, charge a fee for a review.

(11) A decision of a panel under this section is final.8 Section 6(2) is amended by adding "proprietor," before "licensee or".

9 Section 7 is amended

- (a) in subsection (1)
 - (i) by striking out "must" and substituting "may";
 - (ii) in clause (a) by striking out "5(3)(a) and (b)" and substituting "5";
 - (iii) by adding the following after clause (a):
 - (a.1) the licensee and proprietor have, in the current application, complied with section 5(3.4)(a) and, if applicable, have provided satisfactory evidence under section 5(3.4)(b),

(b) by adding the following after subsection (1):

(1.1) The registrar must consider the application, make a decision and give the applicant a copy of the decision as soon as reasonably possible.

10 Section 9 is repealed and the following is substituted:

Notice of pharmacy personnel

9 A licensee must, in accordance with the regulations, inform the registrar as to who is employed in the practice of pharmacy at the pharmacy and who is the proprietor of the pharmacy and must inform the registrar of any change with respect to the employees or the proprietor.

11 Section 10 is amended

- (a) in subsection (1)(b) by striking out "under the regulations or by an order under section 23(3)";
- (b) in subsection (3)
 - (i) by adding the following after clause (b):
 - (b.1) Schedule 7.1 of the Government Organization Act;
 - (ii) in clause (c) by striking out "sale" and substituting "manufacturing, sale, supply".

12 Section 11 is repealed and the following is substituted:

Proprietor's obligation

11(1) A proprietor must maintain an address for notices and service in Alberta and must, in accordance with the regulations, inform the registrar of it and any changes to it.

(2) A proprietor shall not direct or influence or attempt to direct or influence the management or operation of a licensed pharmacy in any way that contravenes or could result in the contravention of

- (a) a condition imposed on the licence,
- (b) an order made under this Act,
- (c) this Act,
- (d) the Health Professions Act,
- (e) Schedule 7.1 of the Government Organization Act, or
- (f) any Act or any regulation under an Act of the Legislature of Alberta or the Parliament of Canada

relating to the compounding, prescribing, dispensing, manufacturing, sale, supply or distribution of drugs.

13 The following is added after section 11:

Pharmacist in attendance

11.1 Unless the regulations authorize otherwise, a licensee must ensure that there is always a pharmacist who is registered in either the clinical register category or the courtesy register category of the college's regulated members register present and supervising the practice of pharmacy at the licensed pharmacy when the public has access to the licensed pharmacy.

Practice visits

11.2 A licensee and a proprietor must co-operate with practice visits that are conducted in accordance with section 51 of the *Health Professions Act*.

14 Section 12(2) is repealed.

15 Section 14 is amended

(a) in subsection (1)

- (i) by adding the following after clause (b):
- (b.1) subject to subsection (1.1), if the location of the pharmacy changes from the location indicated on the register under section 5(5)(b),
- (ii) by striking out "or" at the end of clause (e) and adding the following after clause (e):
- (e.1) subject to subsection (1.2), if there is a change in a major shareholder of a proprietor that is a corporation, or
- (b) by adding the following after subsection (1):

(1.1) A licence does not terminate under subsection (1)(b.1) if the licensee has given the registrar advance notice in accordance with the regulations and the registrar has approved the change in location on being satisfied that the new pharmacy complies with this Act, any condition imposed on the licence and any order made under this Act.

(1.2) A licence does not terminate under subsection (1)(e.1) if the licensee has given the registrar advance notice in accordance with the regulations and the registrar has approved the change on being satisfied that the licensee and proprietor will comply with this Act, any condition imposed on the licence and any order made under this Act.

16 The following is added after section 18:

Custodian

18.1 If

- (a) pharmacy services are no longer provided at the licensed pharmacy, or
- (b) the licensee does not comply with section 10(2),

the Court of Queen's Bench may, on application by the college, either without notice or on any notice that the Court requires, by order, appoint a pharmacist, the college or any other suitable person as custodian to have custody of the licensed pharmacy for the purpose of temporarily managing the licensed pharmacy.

Additional orders

18.2 In addition to appointing a custodian under section 18.1, the Court may, by order,

- (a) direct the sheriff of any judicial district in Alberta to seize, remove and place in the custody of the custodian any or all of the property of the licensed pharmacy that is the subject of the order, and
- (b) authorize the sheriff to enter on land or premises or open any receptacle if there is reason to believe that property of the licensed pharmacy that is the subject of the order

may be found on the land or premises or in the receptacle.

Ancillary orders

18.3 The Court of Queen's Bench may, in an order under section 18.1 or on application at any later time, without notice or on any notice that the Court requires,

- (a) direct a holder of property of the licensed pharmacy that is the subject of an order under section 18.1 to deal with, hold, pay over or give the property to the custodian or to some other person the Court considers proper,
- (b) remove a custodian appointed by the order under section 18.1 and appoint another custodian,
- (c) give directions and advice to the custodian about the disposition of any or all of the property held by the custodian,
- (d) give directions as to the payment of the custodian's fees and the person by whom or property out of which they are to be paid, or
- (e) give directions or make further orders as the situation requires.

Prompt service of order

18.4(1) Unless otherwise directed, an order under section 18.1, 18.2 or 18.3 must be promptly served on the licensee whose licensed pharmacy is the subject of the order.

(2) The recipient of an order under section 18.1, 18.2 or 18.3, whether or not that person is the subject of the order, shall not dispose of any property that is the subject of the order unless directed to do so by the custodian or by order of the Court.

Examination and disposal of property and information

18.5(1) A custodian must make reasonable attempts to provide information to patients of the licensed pharmacy whose property is under the control of the custodian, including

- (a) information that the custodian has been appointed, the effect of the appointment and how the patients' needs will be met, and
- (b) if appropriate, information and property that the patients are entitled to claim.

(2) If the custodian is satisfied that a patient or other person is entitled to any information or property that is the subject of an order or direction under section 18.1, 18.2 or 18.3, the custodian may deliver the information and property to the patient or other person entitled to it.

Modification or revocation of orders

18.6 A licensee with respect to a licensed pharmacy, or a proprietor of a licensed pharmacy, that is the subject of an order under section 18.1, 18.2 or 18.3 may apply to the Court of Queen's Bench at any time to have the order modified or terminated.

Custodian's fees and expenses

18.7(1) The fees, costs and expenses of the custodian must be paid out of the property of the licensed pharmacy with respect to which the custodian is appointed and over which the custodian has authority, unless the Court otherwise directs.

(2) If the property is insufficient to pay the fees, costs and expenses of the custodian, the amount unpaid is a debt due to the college if the college has paid the fees, costs and expenses, or any of them, and may be recovered by the college in a civil action for debt.

17 Section 22 is amended

(a) in subsection (2)

- (i) in clause (a) by striking out "registrar and licensee" and substituting "registrar, licensee and proprietor";
- (ii) by repealing clause (b) and substituting the following:

 (b) decide and advise the registrar, licensee and proprietor whether or not the results of the inspection were satisfactory, and

(b) by adding the following after subsection (2):

(2.1) If the results of an inspection were not satisfactory, the field officer may direct the licensee or proprietor or both to undertake specified actions to ensure compliance with this Act.

(2.2) If a licensee or a proprietor has received a direction pursuant to subsection (2.1), the licensee or proprietor must comply with the direction.

(c) by adding the following after subsection (3):

(4) On receiving a direction pursuant to subsection (2.1), a licensee or proprietor may, by written request to the registrar within 30 days of receipt of the direction, request a review of the direction.

(5) The written request under subsection (4) must state the name of the applicant, identify the direction in respect of which a review is requested and set out the reasons why the direction should be reversed or varied.

(6) The council must establish a panel of 3 members of the council that includes a public member, as defined in the *Health Professions Act*, and schedule a hearing within 60 days of receipt of the written request for a review.

(7) If a member designated under subsection (6) is not available or not capable of carrying out the powers and duties of a member, the panel may continue the review in which the

member was participating and carry out its powers and duties with respect to that review.

(8) A power or duty carried out by a panel of the council is a power or duty carried out by the council.

(9) Two or more panels of the council may carry out their powers and duties simultaneously.

(10) The applicant and the field officer may appear with or without counsel and make representations to the panel at a review.

(11) On reviewing the direction pursuant to a request under subsection (4), the panel may

- (a) confirm, reverse or vary the direction of the field officer and make any direction that the field officer could have made,
- (b) refer the matter back to the field officer and direct the field officer to make a further assessment and make a direction under subsection (2.1), and
- (c) make any further order the panel considers necessary for the purposes of carrying out its decision.

(12) The panel must conduct the review as soon as reasonably possible and on making a decision must give the applicant, the field officer and the registrar a copy of its decision with the reasons for the decision.

(13) The college may, in accordance with the bylaws, charge a fee for a review.

(14) A decision under this section is final.

18 Section 23 is amended

(a) by repealing subsection (1) and substituting the following:

Regulated member complaints

23(1) A complaint about the alleged misconduct of a regulated member 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.

- (b) in subsection (2) by striking out "person referred to in subsection (1)" and substituting "regulated member";
- (c) in subsection (3)

(i) in clauses (c), (d) and (e) by striking out "pharmacist" and substituting "regulated member";

(ii) by adding the following after clause (f):

(g) order that the regulated member pay the costs of the college associated with the enforcement of an order made under clauses (b) to (f).

19 The following is added after section 23:

Conditions, suspension during proceedings

23.1(1) If a complaint has been made under section 23 or 24, a person or committee designated by the council may, on the recommendation of the complaints director or the hearing tribunal, in accordance with the regulations,

- (a) impose conditions on the licence, or
- (b) suspend the licence,

until the completion of proceedings under this Part.

(2) A licensee or proprietor may apply for an order of the Court of Queen's Bench to stay a decision by a person or committee under subsection (1) by filing an originating notice with the Court and giving a copy to the registrar.

20 Section 24 is amended

- (a) in subsection (1) by striking out "pharmacist" and substituting "regulated member";
- (b) in subsection (3) by striking out "80 and 84," and substituting "65, 80 and 82,";
- (c) in subsection (4) by adding "is treated" after "investigated person".

21 Section 28 is amended

(a) in subsection (1)

(i) by adding the following after clause (a):

- (a.1) respecting requirements and applications for licences and renewal of licences;
- (a.2) respecting licences, including limitations on a category of licence and the requirements that a pharmacy must meet;
- (ii) in clause (d) by striking out "professional products department" and substituting "dispensary and patient services areas";

(iii) by adding the following after clause (d):

- (d.1) respecting the operation of a licensed pharmacy;
- (d.2) respecting the storage of drugs, blood products, parenteral nutrition and health care products, aids and devices in a pharmacy;
- (d.3) respecting information management systems in pharmacies and the keeping of records by licensees and proprietors;
- (d.4) respecting the termination of licences and the conduct of reviews;

(iv) by repealing clause (i) and substituting the following:

 (i) respecting the circumstances in which a licensed pharmacy may be temporarily without a pharmacist registered in either the clinical register category or the courtesy register category of the college's regulated members register and imposing conditions on the practice of pharmacy in the licensed pharmacy when such a pharmacist is not present;

(v) by adding the following after clause (i):

(i.1) respecting permanent and temporary closure of licensed pharmacies;

(i.2) respecting the imposition of conditions on and the suspension of licences under section 23.1;

(vi) by repealing clause (m) and substituting the following:

(m) respecting the information and notices and advice that are required by Part 1 to be submitted to the registrar;

(vii) by repealing clause (n) and substituting the following:

(n) respecting the approval of bylaws;

(viii) by repealing clauses (p) and (q) and substituting the following:

 (p) defining words or expressions to be defined by the regulations and any other word or expression used in this Act that has not been defined in this Act;

(ix) by adding the following after clause (r):

- (s) respecting information and records for the purposes of section 2(2).
- (b) by repealing subsection (2).

22 Section 29(1) is amended

- (a) in clause (a) by adding "and reviews" after "licences";
- (b) by adding the following after clause (f):
 - (g) respecting the development or adoption of a code of ethics and standards for the operation of licensed pharmacies.
- 23 The following is added after section 29:

Code of ethics, standards for the operation of licensed pharmacies

29.1(1) The council may, in accordance with procedures set out in the bylaws, develop or propose the adoption of a code of ethics and standards for the operation of licensed pharmacies.

(2) The college must make available, for review and comment, a copy of a proposed code of ethics and proposed standards for the operation of licensed pharmacies to

- (a) its regulated members,
- (b) proprietors,
- (c) the Minister, and
- (d) any other person the council considers necessary.

(3) A council may adopt a code of ethics and standards for the operation of licensed pharmacies after it has reviewed and considered the comments received from a review described in subsection (2).

(4) The *Regulations Act* does not apply to codes of ethics and standards for the operation of licensed pharmacies approved under this section.

(5) The college must ensure that copies of the code of ethics and standards for the operation of licensed pharmacies adopted under subsection (3) are readily available to the public and regulated members, and the copies may be distributed in the manner directed by the council.

24 Section 30 is amended by striking out "dispensed" and substituting "compounded, dispensed, provided for sale".

25 Section 31 is amended

- (a) in subsection (2)
 - (i) in clause (a) by striking out "dispensed for sale" and substituting ", subject to subsection (3), compounded,

dispensed or sold" and by striking out "and" at the end of clause (a);

(ii) by repealing clause (b) and substituting the following:

- (b) in a licensed pharmacy, be compounded, dispensed, provided for sale or sold only in the dispensary, and
- (c) in a licensed pharmacy, be stored only in the dispensary or other secure site authorized by the standards for the operation of licensed pharmacies adopted under section 29.1.

(b) by adding the following after subsection (2):

(3) Subsection (2)(a) does not apply to the sale of a drug listed in Part II of Schedule F of the *Food and Drug Regulations*, C.R.C., c870, for administration to an animal if that sale complies with the requirements of section C.01.046 of that Regulation.

26 Section 32(2) is amended

- (a) in clause (a) by striking out "sold" and substituting "compounded, dispensed, provided for sale or sold";
- (b) in clause (b) by striking out "sold" and substituting "compounded, dispensed, provided for sale or sold" and by striking out "and" at the end of clause (b);
- (c) by repealing clause (c) and substituting the following:
 - (c) in a licensed pharmacy, be compounded, dispensed, provided for sale or sold only in the dispensary, and
 - (d) in a licensed pharmacy, be stored only in the dispensary or other secure site authorized by the standards for the operation of licensed pharmacies adopted under section 29.1.
- 27 Section 33(2) is amended

(a) in clause (a) by striking out "sold" and substituting "compounded, dispensed, provided for sale or sold";

(b) by repealing clause (b) and substituting the following:

- (b) in a licensed pharmacy, be compounded only in the dispensary,
- (c) in a licensed pharmacy, be dispensed, provided for sale or sold only in the prescription department, and
- (d) in a licensed pharmacy, be stored only in the prescription department or other secure site authorized by the standards for the operation of licensed pharmacies adopted under section 29.1.

28 Section 36 is amended

(a) by repealing subsection (2) and substituting the following:

(2) Subject to section 4(1) and (2), a person who operates a pharmacy but does not hold a licence or does not hold the appropriate category of licence is guilty of an offence.

- (b) by repealing subsection (3).
- **29** Section 38 is amended by adding "2(2)," before "3(1)".

30 Section 41 is amended

- (a) by renumbering it as section 41(1);
- (b) in subsection (1) by adding "may make an order directing a person to comply with this Act and" before "may grant".
- (c) by adding the following after subsection (1):

(2) The Court of Queen's Bench may include terms respecting the seizure, removal and disposition of drugs when granting an injunction under this section.

31 Section 42(1) is amended by adding the following after clause (c):

(d) a licensee who makes a report under section 10(3).

Explanatory Notes

1 Amends chapter P-13 of the Revised Statutes of Alberta 2000.

- **2** Section 1 presently reads in part:
 - 1(1) In this Act,
 - (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 31, 32 or 33 or defined as an emergency release drug or an investigational drug and any combination of such a substance or substances with any other substance;
 - *(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,
- (v.i) a facility that is operated by or that receives its current operating funds or part of them directly or indirectly from the Government of Alberta and is
 - (A) a place of care for persons who are aged or infirm or who require special care,
 - (B) a hostel or other establishment operated to provide accommodation and maintenance for not fewer than 4 unemployed or indigent persons,
 - (C) an emergency shelter,
 - (D) a residential alcohol and drug abuse treatment centre,
 - (E) a group home or shelter for physically or mentally handicapped persons, or
 - (F) a vocational rehabilitation and training centre for physically or mentally handicapped persons,
- (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 and Wellness;
- (k) "investigational drug" means investigational drug as defined in the regulations for the purposes of this Act;
- (1) "licence" means a licence issued under section 5;

- (m) "licensed pharmacy" means a pharmacy in respect of which a pharmacist is issued a licence under section 5;
- (p) "misconduct" means an act or omission that
 - *(i) contravenes this Act, a code of ethics or standards for the operation of licensed pharmacies;*
 - *(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 25;
- (viii) results in carrying on the practice of pharmacy with a person who is contravening an order described in section 23(3) or under section 26, 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 23 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;
- (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;
- (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 3(2) "sell" does not include to distribute or give away without expectation or hope of compensation or reward;

(2) In this Act, a reference to "this Act" includes the regulations and bylaws made under this Act.

3 Section 2 presently reads:

2 Nothing in this Act

- (a) applies to a person who is authorized by law to sell drugs to a pharmacist, physician, dentist, registered veterinarian, podiatrist or optometrist;
- (b) applies to a sale of drugs carried out in accordance with the Livestock Diseases Act;
- (c) applies to or affects the practice of a profession or occupation by any person practising under the authority of any other enactment;
- (d) applies to a wholesale dealer who supplies drugs in the ordinary course of wholesale dealing, if the drugs are in sealed manufacturer's packages.

4 Section 3 presently reads:

3(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.

5 Section 4 presently reads:

4 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.

6 Section 5 presently reads in part:

5(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 26(1),
- (b) the pharmacy will be operated and the proprietor will act in accordance with this Act and any order under section 26(1), and
- (c) the applicant has paid the registration fees, dues and levies prescribed in the bylaws and any arrears or penalties.

(4) The registrar must state on the licence the names of the licensee and 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.

7 Review of an application for or for a renewal of a licence.

8 Section 6(2) presently reads:

(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 5(5) with respect to the request.

9 Section 7 presently reads:

7(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 5(3)(a) and (b),
- (b) the information under section 5(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 bylaws and any arrears or penalties.

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

10 Section 9 presently reads:

- 9 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) within 14 days, 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.

11 Section 10 presently reads in part:

- 10(1) A licensee must
 - (b) comply with any conditions imposed on the licence under the regulations or by an order under section 23(3).

(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.

12 Section 11 presently reads:

11 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.

- 13 Pharmacist in attendance. Practice visits.
- **14** Section 12 presently reads:

12(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.

15 Section 14(1) presently reads:

- 14(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 26(1)(e),
- (e) if the proprietor of the pharmacy designated on the licence changes, or
- (f) if the licence is cancelled pursuant to section 23(3).
- 16 Custodian orders.

17 Section 22 presently reads in part:

(2) Within 90 days after 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 proprietor and licensee of the notification.

18 Section 23 presently reads in part:

- 23(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:

- (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;

19 Conditions, suspension during proceedings.

20 Section 24 presently reads in part:

24(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.

(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.

21 Section 28 presently reads in part:

- 28(1) The council may make regulations
- (d) respecting requirements that apply to the identification of a licensed pharmacy

described in section 13 and the prescription department and the professional products department of a licensed pharmacy;

- (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;
- (m) respecting information required under section 9(b);
- (n) respecting the development of a code of ethics and standards for the operation of licensed pharmacies and prescribing a code of ethics and standards for the operation of licensed pharmacies;
- (p) 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;
- (q) respecting satellite pharmacies;
- (r) respecting specialized pharmacy services.

(2) If a code, standard or body of rules relating to a code of ethics or standards for the operation of licensed pharmacies 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) or (n), 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.

22 Section 29(1) presently reads:

29(1) The council may, in accordance with the regulations, make bylaws

- (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 14(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 28 or bylaws under this section.

23 Code of ethics, standards for the operation of licensed pharmacies.

24 Section 30 presently reads:

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

- **25** Section 31(2) presently reads:
 - (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.

26 Section 32(2) presently reads:

(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.

27 Section 33(2) presently reads:

(2) Schedule 3 drugs may

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

28 Section 36 presently reads in part:

(2) A person who operates a pharmacy with respect to which a pharmacist does not hold a licence is guilty of an offence. (3) Subject to section 3(2), this section does not apply to an institution pharmacy.

29 Section 38 presently reads:

38 A person who contravenes section 3(1), 10(2) or (3), 12, 30, 31(2), 32(2), 33(2) or (3) or 37 is guilty of an offence.

30 Section 41 presently reads:

41 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.

31 Section 42(1) presently reads:

42(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).