
CHAPTER 227**PHARMACY**

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CHAPTER 227

PHARMACY

An Act to provide for the regulation and control of the practice of pharmacy and for the registration and licensing of persons qualified to practise pharmacy and for the establishment of The Bahamas Pharmacy Council and for other matters connected therewith *8 cf 2009*

[Assent – 21st May 2009]

[Commencement – 17th December 2009] *SI 119/2009*

PART I - PRELIMINARY

1. This Act may be cited as the Pharmacy Act. Short title.
2. In this Act — Interpretation.
 - “Chairman” means the Chairman of The Bahamas Pharmacy Council appointed under this Act;
 - “community or retail pharmacy” means a location where —
 - (a) medical drugs are compounded, dispensed, stored or sold; and
 - (b) prescriptions are filled or dispensed on an outpatient basis;
 - “Council” means The Bahamas Pharmacy Council established under section 3;
 - “dentist” means a person registered under the Dental Act; Ch. 226.
 - “device” means an instrument, apparatus and contrivance including their components, parts and accessories intended —
 - (a) for use in the diagnosis, mitigation, treatment or prevention of disease in a human or animal;
 - (b) to affect the structure or any function of the body of a human or animal;
 - “dispense” means to prepare and distribute a drug or device to a person on the order of a prescription;

“dispensary” means a place where drugs and medical supplies are stored for distribution;

“drug” means —

(a) any substance and preparation intended for the use in the diagnosis, cure, mitigation, treatment or prevention of disease in a human or animal;

(b) any substance and preparation (other than food) intended to affect the structure or any function of the body of a human or animal;

“emergency service provider” means a licensed ambulance service, first responder service, or any combination thereof;

“inspector” means a person appointed under section 42;

“institution” means a health care institution whose primary purpose is to provide health care services;

“institutional pharmacy” means a facility in a health care institution, hospital, clinic, nursing home, dispensary, sanitarium, extended care facility or such other facility where pharmaceutical drugs are compounded, dispensed, stored or sold and which is registered with the Council;

“internet pharmacy” means a facility either within or outside The Bahamas, that dispenses or distributes pharmaceutical products by means of online mechanisms and whereby the person who dispenses the product has no direct physical contact with the medical practitioner or the person for whom the drug is intended;

“licencee” means a person holding a licence under this Act;

“medical practitioner” means a person registered and licensed under the Medical Act;

“medicinal drugs” means a substance or preparation commonly known as a 'prescription' or 'legend' drug which is required by law to be dispensed only under

a prescription, but does not include a patent or propriety preparation;

“member” means a member of the Council;

“Minister” means the Minister responsible for Medical and Health Services;

“nuclear pharmacy” means a facility where radioactive drugs and chemicals within the classification of medical drugs are compounded, dispensed, stored or sold but does not include a hospital or any nuclear medicine facility of such hospital;

“patent or propriety preparation” means a medicine in its unbroken, original package which is sold to the public by, or under the authority of, the manufacturer or primary distributor thereof and is not misbranded or a medicinal drug;

“pharmacist” means a person who is registered and licenced to practice pharmacy under this Act;

“pharmacy” means —

(a) the profession, art and science that deals with —

(i) pharmaceutical care;

(ii) drugs, medications, their nature, preparations, administration, disposition and their effect and disposal;

(b) a business or facility concerned with the manufacturing, storage, preparation, dispensing, distribution and sale of drugs, devices or poisons and includes a community, retail or wholesale pharmacy, a drug dispensary, an institutional pharmacy, a nuclear pharmacy or a specialty pharmacy, but does not include an internet pharmacy;

“pharmacy intern” means —

(a) a person who is —

(i) currently enrolled in and attending a college or school of pharmacy; or

- (ii) a graduate of a college or school of pharmacy, duly accredited by the national accreditation authority of the country or place where it is granted and approved by the Council; or
- (b) a person who has not met the requirements of paragraph (a) and who has established qualifications which in the opinion of the Council is equivalent to (a), and is duly licensed by the Council and working under the supervision of a pharmacist for the purpose of obtaining practical experience as required to be licenced as a pharmacist;

“pharmacy technician” means a person who assists and works under the supervision of a pharmacist and who is registered and licenced under this Act;

“poisons” means —

- (a) any substance specified in the Second Schedule to this Act; and
- (b) any substance which when introduced into the system either directly or by absorption produces violent, morbid or fatal changes or which destroys living tissue with which such substance comes into contact;

“Registrar” means the Registrar appointed under section 5;

“veterinary practitioner” means a person registered under the Veterinary Surgeons Act;

“wholesale pharmacy” means a business where drugs or devices are stored, dispensed, distributed or sold in bulk to persons other than individual consumers or patients.

Second Schedule

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PART II - THE BAHAMAS PHARMACY COUNCIL

3. (1) There is hereby established a body to be known as The Bahamas Pharmacy Council. Establishment of Council.

(2) The Council shall be a body corporate with perpetual succession and a common seal, with power to acquire, hold and dispose of land and other property of whatever kind and to sue and be sued.

(3) The First Schedule shall have effect as to the constitution and procedure of the Council and otherwise in relation thereto. First Schedule.

4. The functions of the Council are — Functions of Council.

- (a) to regulate and control the practice of pharmacy;
- (b) to govern and regulate the standard of practice for professionals involved in the practice of pharmacy;
- (c) to establish, develop and maintain standards of knowledge, skill and professional ethics for persons involved in the profession and practice of pharmacy;
- (d) to govern and regulate the standards and practice of all facilities utilized in the practice of pharmacy;
- (e) to register all persons entitled to be registered under this Act;
- (f) to register all premises or facilities entitled to be registered as pharmacies under this Act;
- (g) to authorise persons as sellers of poisons;
- (h) to issue licences under this Act;
- (i) to ensure compliance with the requirements of this Act;
- (j) to facilitate the receipt of any complaints regarding the practice of pharmacy and individuals or entities involved within the profession of pharmacy; and
- (k) to do such other things as may be prescribed by this Act or any other written law to be performed.

Appointment of
Registrar.

5. The Minister shall appoint at such remuneration and on such terms and conditions as he thinks fit, a Registrar who shall perform the functions assigned under this Act and such other duties as appear to the Minister to be necessary or expedient for the performance of the functions of the Council.

PART III REGISTRATION OF PHARMACIES

Registration of
pharmacies.

6. (1) No person shall operate or carry on the business of a pharmacy, unless that pharmacy is registered under this Act.

(2) A person who, on the date of the commencement of this Act, is the owner of a pharmacy, shall apply within one month after that date to have the pharmacy registered in accordance with this Act and the Council shall, on being satisfied that —

- (a) the premises or facilities are fit for the purpose of operating a pharmacy; and
- (b) the pharmacy operates in a manner that is conducive to the interest of public health and safety and in keeping with best practices of the profession,

grant a certificate of registration in the prescribed form and where there is more than one location, each location of the pharmacy shall be separately registered.

(3) A person who, after the commencement of this Act applies to have premises or facilities registered and who satisfies the Council that —

- (a) the premises or facilities are fit for the purpose of operating a pharmacy; and
- (b) the pharmacy would operate in a manner that is conducive to the interest of public health and safety and in keeping with best practices of the profession,

may be issued a certificate of registration by the Council in the prescribed form and upon payment of the prescribed fee to use such premises or facilities as a pharmacy.

(4) A certificate of registration issued under subsection (2) or (3) shall be displayed in a conspicuous place in that pharmacy.

(5) A certificate of registration issued under subsection (2) or (3) shall, unless sooner suspended or revoked, be valid for one year from the date of the grant of the certificate.

(6) Application for renewal of a certificate of registration shall be made in the prescribed form and not later than thirty days before the date of the expiration thereof.

(7) The Council shall, upon application in the prescribed manner and on being satisfied of the conditions in subsection (3) grant a renewal of the certificate of registration.

(8) Where the Council is inclined to refuse an application under subsection (2), the Council shall give not less than fourteen days notice of its intention to refuse the application and that notice shall state the grounds on which the Council is minded to refuse the application and shall contain a statement that, if within fourteen days after receipt of the notice, the owner informs the Council in writing that he desires to show cause why the application or renewal thereof should not be refused, the Council shall before making a decision give the owner an opportunity to do so, in person or by a representative.

(9) Where a certificate of registration has been lost, destroyed or mutilated, it may be replaced by the Council by the issue of a copy thereof upon application by the holder of the certificate and on payment of the prescribed fee.

(10) A person who contravenes subsection (1) commits an offence.

7. (1) No person shall, unless he is registered as a pharmacist make use of any of the following titles —

Restrictions on use of titles.

- (a) pharmacist;
- (b) druggist;
- (c) pharmaceutical chemist;
- (d) pharmacist;
- (e) dispenser; or
- (f) apothecary.

(2) No person shall, unless the premises are registered under this Act, display on any sign, a title,

emblem or representation that includes the description “drug store”, “apothecary”, “drug dispensary”, “pharmacy” or any other sign, title, emblem or representation that implies or from which the public may reasonably infer that those premises are registered as a pharmacy.

(3) A person who contravenes any of the provisions of this section commits an offence.

Suspension or revocation of registration of a pharmacy.

8. (1) The Council may at any time, by order suspend or revoke, as the case may be, the certificate of registration of a pharmacy, if the business of that pharmacy is conducted in a manner contrary to this Act, or in such manner that the revocation of the registration is required in the interest of public health or safety.

(2) Before making an order under subsection (1), the Council shall give to the owner of the pharmacy not less than fourteen days notice of its intention to make an order, and that notice shall state the grounds on which the Council is minded to refuse the order and shall contain a statement that, if within fourteen days after receipt of the notice, the owner informs the Council in writing that he desires to show cause why the order should not be made, the Council shall before making the order, give the owner an opportunity to do so, in person or by a representative.

(3) If the Council after giving the owner an opportunity to be heard, decides to suspend or revoke the registration, the Council shall make an order to that effect and shall send a copy of the order to the owner and the business of that pharmacy shall cease for so long as the pharmacy remains off the register.

(4) The Council shall direct the Registrar to remove from the register the name of any pharmacy whose certificate of registration has been revoked under this section.

PART IV - REGISTRATION OF PHARMACISTS, PHARMACY TECHNICIANS AND OTHER PRACTITIONERS

Qualifications for registration as a pharmacist or pharmacy technician.

9. (1) No person shall operate as a pharmacist or pharmacy technician without being duly registered under this Act.

(2) A person who, on the date of commencement of this Act is registered as a pharmacist or pharmacy

technician under the Health Professions Act shall be deemed to be registered with the Council. Ch 233

(3) A person who, after the commencement of this Act, applies to the Council to be registered as a pharmacist or pharmacy technician and who satisfies the Council that —

- (a) he can read, write and understand the English Language;
- (b) he is eighteen years of age or over;
- (c) he is not by reason of age or otherwise, incapable of operating or being employed in a pharmacy;
- (d) he is fit and proper, that is to say —
 - (i) he has not been convicted of any offence under this Act;
 - (ii) he has not been convicted of any offence under the Dangerous Drugs Act; Ch 228
 - (iii) he has not been convicted of any offence within the last five years of which, dishonesty or drug abuse is an element; and
 - (iv) the Council is satisfied as to the character and competence of the applicant; and
- (e) he is qualified to be so registered,

is entitled, upon application and on payment of the prescribed fee, to be issued a certificate of registration subject to such conditions that the Council may determine.

(4) For the purposes of section 9(3)(e), a person is qualified —

- (a) to be registered as a pharmacist, if that person has not been disqualified or suspended from operating as a pharmacist whether within or outside The Bahamas and —
 - (i) holds a pharmacy degree from an accredited college or University; or
 - (ii) holds a certificate of competency in pharmacy in The Bahamas; and
 - (iii) has at least two thousand (2000) hours of practical experience in pharmacy under the supervision of a person who is licensed as a

pharmacist in the jurisdiction where the training took place.

- (b) to be registered as a pharmacy technician, if that person satisfies the Council that he —
 - (i) has successfully completed a certified pharmacy technician examination or an equivalent examination acceptable to the Council; and
 - (ii) has completed at least eighteen hundred (1,800) hours of practical experience under the direct and personal supervision of a person who is licenced as a pharmacist in the jurisdiction where the training took place.

(5) An application for registration under this section shall be made in the prescribed form and an applicant shall furnish to the Council —

- (a) proof of his identity;
- (b) evidence of his qualifications; and
- (c) such further or other information as the Council may require in respect of the matters specified in paragraph (a) - (e) of subsection (3).

(6) A registration fee under this section shall be payable as prescribed.

(7) Where a person qualifies under this section, the Registrar shall in accordance with section 39 enter the name of that person on a register.

(8) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars and where the offence continues after conviction, the person commits a further offence and is liable to a further fine of one thousand dollars for every day upon which such offence continues.

(9) Any other practitioner who is authorised to dispense drugs shall apply to the Council to be registered and such registration shall be final and the fee payable in respect thereof shall be as prescribed and every such practitioner shall be required to follow the same procedures as specified in this Act or any regulations made thereunder with respect to the dispensation of drugs.

(10) For the purposes of this Act, “other practitioner” means a health professional other than a person to whom this section applies and who is registered and licenced to provide other health care in the course of their professional practice.

10. Every pharmacy shall have at all times a licensed pharmacist in actual attendance therein and every person holding such a licence shall display a copy of their licence and certificate of registration duly certified by the Council in a prominent place in that person's place of practice.

Pharmacy must have a pharmacist in attendance at all times.

PART V - LICENSING OF PHARMACISTS, PHARMACY TECHNICIANS AND PHARMACY INTERNS

11. A person who, on the date of commencement of this Act, is practicing as a pharmacist or pharmacy technician under a licence granted under the Health Professions Act shall be deemed to be licensed until the expiration of that licence.

Existing practitioners.

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12. (1) A person who, after the commencement of this Act, registers as a pharmacist or pharmacy technician and who desires to practice as a pharmacist or pharmacy technician in The Bahamas, shall upon application in the prescribed manner and on payment of the prescribed fee, be entitled to have issued to him by the Council a licence, subject to such conditions as the Council may determine and every person holding such a licence shall display a copy of their licence and certificate of registration duly certified by the Council in a prominent place in that person's place of practice.

Licensing of pharmacists and pharmacy technicians.

(2) A person who, after the commencement of this Act, desires to practice as a pharmacy intern in The Bahamas, shall upon application in the prescribed manner and on payment of the prescribed fee, be entitled to have issued to him by the Council a licence.

(3) A licence shall take effect on the date specified in the licence and shall be valid for one year from the date on which it is issued unless otherwise suspended or revoked.

(4) The Council shall, upon application in the prescribed manner and on being satisfied that —

- (a) the pharmacist, pharmacy technician or pharmacy intern practised in accordance with the Act; and

- (b) the applicant has participated in a continuing education programme of not less than twenty continuing education units during the preceding year,

renew a licence upon payment of the prescribed fee and such licence may be subject to such conditions as the Council may determine except that in the case of a pharmacy intern, the Council shall not renew a licence so as to permit a person to practise as an intern for a period exceeding six years.

(5) Where a licence has been lost, destroyed or mutilated, it may be replaced by the Council by the issue of a copy thereof upon application by the holder of the licence and on payment of the prescribed fee.

(6) The Council may issue licences for different categories of pharmacists.

Provisional
licences.

13. (1) Where it appears to the Council that an applicant for registration is qualified under this section but awaits receipt of the requisite certificate of qualification, the Council may, upon application and on payment of the prescribed fee issue to that person a provisional licence subject to such conditions as the Council may determine and such licence shall entitle that person to practise as he would have been entitled to do if he had been registered and licenced in accordance with the Act.

(2) A provisional licence shall, unless it is sooner cancelled, remain in force for a period not exceeding three months.

Temporary
licences.

14. (1) The Council may, upon application and on payment of the prescribed fee issue to a non-resident a temporary licence subject to such conditions as the Council may determine.

(2) A temporary licence shall, unless it is sooner cancelled, remain in force for the period as is specified by the Council in the licence.

Variation of a
licence.

15. (1) The Council may, at any time, upon written application made by a licensee or of its own motion, vary any of the terms or conditions of a licence.

(2) The Council shall in varying any term or condition of a licence take into account any representations made to it by the licensee or on his behalf and shall not vary such term or condition of its own motion without first

giving to the licensee a reasonable opportunity to make such representations.

(3) A variation of any term or condition of a licence made by the Council under this section shall be endorsed on the licence, together with the date when it was made by the Council and the date when it is to take effect.

16. Where a person fails to renew his licence within two months from the date of the expiration thereof, that person shall be deemed not licensed for the purposes of this Act until such time as he has complied with this Act.

Failure to renew licence.

PART VI - DISCIPLINARY PROCEEDINGS

17. (1) A person who wishes to make a complaint against a person registered under this Act shall do so to the Council, stating the particulars of the complaint.

Complaints.

(2) If any person registered under this Act is found, upon enquiry by the Council —

- (a) to be suffering from any illness rendering him unfit to practise pharmacy;
- (b) to be guilty of dishonesty, negligence or incompetence in the performance of his functions as a pharmacist or a pharmacy technician, or of serious professional misconduct; or
- (c) to have procured his registration under this Act as a result of any misleading, false or fraudulent representation,

the Council may, if it thinks fit, either suspend his registration for a period not exceeding one year; direct the Registrar to remove his name from the register as the case may require; or censure that person.

(3) For the purposes of paragraph (b) of subsection (2), “serious professional misconduct” includes any act or thing done by a person registered under this Act that is contrary to the generally recognized duty and responsibility of such a person to his patient or the failure to do any act or thing with respect to a patient in accordance with such duty and responsibility, and without limiting the generality of the foregoing includes —

- (a) improper conduct or association with a patient;
- (b) willful or deliberate betrayal of a professional confidence;

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- (c) abandonment of a patient in danger without sufficient cause and without allowing the patient sufficient opportunity to retain the services of another pharmacist;
 - (d) knowingly giving a certificate with respect to any matter relating to pharmacy which the pharmacist or pharmacy technician knows or ought to know is untrue, misleading or otherwise improper;
 - (e) the division with any person who is not a partner or assistant of any fees or profits resulting from the taking or advice from another pharmacist without the patient's knowledge or consent;
 - (f) the abuse of intoxicating liquor or drugs;
 - (g) the impersonation of another pharmacist or pharmacy technician;
 - (h) association with unqualified or unregistered persons whereby such persons are enabled to practise pharmacy;
 - (i) any willful or negligent misrepresentation as to the curative efficacy possessed by a drug or any other substance, whether inherently or by administration or application thereof;
 - (j) knowingly practising pharmacy while under the influence of alcohol or drugs to such an extent as to constitute a danger to the public or a patient;
 - (k) the doing of or failure to do any act or thing in connection with his professional practice, which is in the opinion of the Council unprofessional or discreditable;
 - (l) the willful or negligent failure to comply with any directive given by the Council with respect to the dispensing of drugs or otherwise; and
 - (m) conviction of an indictable offence.

(4) For the purposes of paragraph (b) of subsection (3) any disclosure of confidential information by a person registered under this Act pertaining to any patient shall not be deemed to be willful or deliberate where such disclosure is required by any law for the treatment of that patient or for the protection of others against serious injury.

(5) Notwithstanding subsection (2), any person who —

- (a) performs an act under subsection (3) (d) or (g); or
- (b) not being registered under this Act, holds out directly or indirectly to the public that he is qualified and registered in accordance with the provisions of this Act,

commits an offence and is liable to a fine not exceeding five thousand dollars.

18. (1) If in the opinion of the Council it is inexpedient or dangerous or against the public interest or not in the interest of the health of a patient that a person who is registered under this Act should continue to practise pharmacy as the case may be, pending an enquiry under section 17, the Council may by order suspend the registration of that person.

Suspension from practice pending disciplinary proceedings.

(2) Before making an order under subsection (1), the Council shall give to the person not less than fourteen days notice of its intention to make an order, and that notice shall state the grounds on which the Council is minded to make the order and shall contain a statement that, if within fourteen days after receipt of the notice, the person informs the Council in writing that he desires to show cause why the order should not be made, the Council shall before making the order, give the person an opportunity to do so.

19. (1) Subject to section 18, where the Council suspends the registration of a person under this Act, the Council shall immediately give written notice to the Registrar of the decision.

Council to notify Registrar of decision.

(2) Where the registration of any person is suspended, the Council may, in writing, require that person to return to the Registrar his certificate of registration and licence and that person shall comply with the requirement.

(3) The Registrar shall, as soon as practicable after receiving a notice under this section, inform the person of the decision in accordance with section 22 and cause a notice thereof to be published in the *Gazette*.

20. (1) The Council may at any time, upon application being made by any person whose name has been removed from the register or whose registration has been suspended, determine, if it thinks fit, that such person's name shall be restored to the register or, as the case may be, that the suspension of his registration shall cease with effect from such date as the Council may appoint, and shall forthwith give notice of any such determination to the Registrar.

Restoration to register.

(2) On receipt of notice of a determination made by the Council under subsection (1) in relation to any person the Registrar shall forthwith cause the name of that person to be restored to the register or, as the case may be, cause a note of the cessation of the suspension to be entered therein, and in either such case shall cause notice of the determination of the Council to be published in the Gazette.

Failure to publish notice not to affect validity of suspension, etc.

21. Failure of the Registrar to publish a notice in accordance with section 19(3) shall not affect the validity of the suspension of registration, the removal of a name from the register, the censure of a person or the restoration to the register of a person's name.

Registrar to notify person affected by decision of Council.

22. Where the Council suspends registration, directs the removal of the name of any such person from the register or censures a person registered under the Act, the Registrar shall within seven days from the date of such suspension, censure or direction give written notice thereof to the person whose registration has been suspended, who was censured or whose name has been removed from the register.

Appeals to Supreme Court.

23. (1) Subject to subsection (4), any person aggrieved —

- (a) by the refusal of the Council to register him under this Act; or
- (b) by any decision of the Council to suspend his registration or to cause his name to be removed from the register, or to censure him,

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may within three months of the receipt of any such notice appeal in respect thereof to the Supreme Court and in relation to every such appeal, section 54 of the Magistrates Act shall apply *mutatis mutandis* as if the matter in respect of which the appeal is brought were a judgment or order of the Magistrate's Court.

(2) No further appeal shall lie from the decision of the Supreme Court under this section.

(3) The Council may, pending an appeal under subsection (1) of any person aggrieved by its decision to suspend his registration or cause his name to be removed from the register, on the application of that person suspend the operation of any such decision until the determination of the appeal.

(4) Notwithstanding subsection (1), no appeal shall be made under this section against a refusal of an application for registration where the registration is conditional upon the applicant's satisfying the Council that he is qualified to be registered under this Act.

PART VII - SALE AND ADMINISTRATION OF DRUGS

24. (1) Subject to the provisions of section 26, no person shall compound, dispense, retail or store for sale any drug unless — Sale of drugs.

- (a) the compounding, dispensing, retailing or storage for sale as the case may be is effected —
 - (i) on premises registered as a pharmacy; and
 - (ii) by a registered pharmacist or pharmacy technician, or a pharmacy intern acting under the supervision of a registered pharmacist on the premises;
- (b) where the drug is a poison, that person complies with the provisions of section 29;
- (c) in the case of sale by wholesale, the sale shall be effected under the control or supervision of a pharmacist on the premises;
- (d) all requirements as may be prescribed in relation to the compounding, dispensing, retailing or storage for sale of that drug are complied with.

(2) Nothing in subsection (1) is to be construed as applying to the sale of a drug —

- (a) to a medical practitioner, podiatrist, optometrist, dentist, or veterinary practitioner for the purposes of his profession;
- (b) to any health care facility; or
- (c) to a pharmacist for the purposes of a pharmacy or to a commission agency employing a pharmacist.

(3) A person who contravenes subsection (1) commits an offence.

25. (1) No person shall —

- (a) install an automatic device;

Sale of drugs via
automatic device
or internet.

- (b) sell or supply any drugs by direct means of an automatic device; or
- (c) allow any other person to install or sell any drugs by means of an automatic device,

unless that automatic device is at all times under the direct supervision of a registered pharmacist.

(2) For the purposes of this section, an “automatic device” means any instrument or apparatus used for the purpose of selling or supplying drugs without the personal manipulation or attention of the seller or supplier, or his employee or other agent at the time of the sale or supply.

(3) No person shall establish or engage in the practise of internet pharmacy in any form.

(4) A person who contravenes any of the provisions of this section commits an offence.

Administration
of a drug by
practitioners.

26. (1) Nothing in this Act shall be construed as prohibiting the administration of a drug —

- (a) by a medical practitioner to his patient or by a registered nurse or midwife acting under the direction of a medical practitioner;
- (b) by a dentist to his patient;
- (c) by a podiatrist or optometrist to his patient;
- (d) by a registered nurse pursuant to section 44 or any other person authorised to do so in a public facility;
- (e) by an emergency medical service personnel in emergency circumstances; or
- (f) by a veterinary practitioner for any animal or fowl under his care, for the purpose of medical, dental or veterinary treatment as the case may be.

(2) For the purposes of this section, “administration of a drug” means a single therapeutic dose of a medicinal drug that is given to a patient by an authorised person.

PART VIII - STANDARD AND IMPORTATION OF DRUGS

Standard of
drugs.

27. (1) Every drug —

- (a) manufactured or offered for sale within The Bahamas; or
- (b) imported within or exported from The Bahamas,

must meet one of the following prescribed international standards —

- (i) the British Pharmacopeia;
 - (ii) the United States Pharmacopeia;
 - (iii) the European Pharmacopeia;
 - (iv) the International Pharmacopeia; or
 - (v) any other Pharmacopeia as approved by the Minister.
- (2) Any person who —
- (a) manufactures or offers for sale;
 - (b) imports within or exports from The Bahamas,

any drug that does not meet one of the standards referred to in subsection (1), commits an offence and is liable on conviction on information to a fine not exceeding twenty thousand dollars.

28. The import into or export from The Bahamas of any drugs for the purposes of this Act shall be governed in accordance with the provisions of the Customs Management Act and any regulations made thereunder.

Import or export
of drugs
Ch 293

PART IX - SALE, LABELLING AND STORAGE OF POISONS

- 29.** (1) No person shall —
- (a) carry on a business which includes the sale or retail of poison;
 - (b) make use of the title 'authorised seller of poisons',

Sale, labelling
and storage of
poisons

unless that person is authorised by the Council to sell poisons.

(2) A person who is desirous of being authorised to sell poisons shall make application in writing to the Council.

(3) The Council may upon application under subsection (2), approve in writing a person to be an

authorised seller of poisons on such terms and conditions as the Council thinks fit.

(4) Any person who sells, dispenses or delivers to another person any poison, shall ensure that the poison is kept in a bottle, box, wrapper or cover —

- (a) distinctly labeled with the name of such poison; and
- (b) bearing some distinctive mark indicating that the contents therein is poison.

(5) Every person who sells poisons shall keep such poisons in a secure area set apart exclusively for the keeping of poisons.

Second Schedule.

(6) The Minister may by Order amend the Second Schedule.

(7) A person who contravenes any of the provisions of this section commits an offence and is liable on summary conviction to a fine not exceeding fifteen thousand dollars.

PART X - PRESCRIPTIONS

Prescriptions.

30. (1) No person shall write or issue a prescription unless that person is authorised by virtue of his practice under any licence issued under any law.

(2) No prescription is required for any patent or proprietary preparation.

(3) A person authorised to issue prescriptions may do so verbally or in writing and such prescriptions shall contain such information as may be prescribed.

(4) Every pharmacist shall ensure that a prescription is the genuine signature of the practitioner issuing the prescription.

(5) For the purposes of subsection (3), “in writing” includes an electronically transmitted prescription either by facsimile or via an intranet computerized physician order entry but does not include an electronically transmitted prescription via the internet.

(6) A pharmacist may, at the request of a person under medical treatment and where circumstances constitute an emergency, supply a drug to that person without a prescription being presented to him, once he is

satisfied that the request for the drug is appropriate to the need of the person and is a pending refill.

(7) The container or package of the drug supplied pursuant to subsection (6) shall bear a label showing such particulars as may be prescribed.

(8) A person who contravenes this section commits an offence.

31. The Minister may, from time to time, by publication in the Gazette and under the direction of the Council, restrict the sale of a non-prescription drug by requiring the drug to be issued by a licenced pharmacist.

Power of Minister to restrict sale of non-prescription drugs.

32. The transmission or disclosure of data respecting a person by a medical practitioner, pharmacy or medical clinic for the purpose of the recipient updating the medical history of that person when prescribing or dispensing medication for that person shall not be considered a breach of privacy or of the Data Protection Act.

Confidentiality.

Ch. 324A.

PART XI - REGISTRATION OF FACTORIES AND WAREHOUSES

33. (1) No person shall —

- (a) carry on the business of manufacturing any drug in The Bahamas;
- (b) import any drugs for the purpose of storage and wholesale distribution; or
- (c) collect any drugs for the purposes of reverse drug distribution,

Prohibits manufacturing or importation unless factory or warehouse registered.

unless the factory or warehouse in which the drugs are manufactured or stored is registered under this Act.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding fifteen thousand dollars.

34. (1) A person who, on the date of the commencement of this Act is the owner of a business that —

- (a) manufactures drugs;
- (b) distributes wholesale drugs; or
- (c) engages in reverse drug distribution,

Registration of a factory or warehouse.

shall apply within one month after that date, to have the premises registered in accordance with this Act and the Council shall, on being satisfied that the conditions specified in subsection (3) are met, grant a certificate of registration in the prescribed form and subject to such conditions as the Council may determine, for the use of such premises as a factory or warehouse.

(2) For the purposes of this section, “reverse drug distribution” means the receipt and handling of drugs from a country wherein such drugs are to be disposed of by that country as a result of the expiration date of such drugs or the discontinuation, adulteration or misbrandment.

(3) A person who, after the commencement of this Act applies to have premises registered under this section and who satisfies the Council that —

- (a) the premises in which the factory or warehouse would be operated is fit for that purpose;
- (b) the operators of the factory or warehouse would operate in a manner that is in the best interest of the public's safety; and
- (c) the factory or warehouse is adequately equipped with the necessary equipment,

is entitled, upon payment of the prescribed fee, to be issued a certificate of registration in the prescribed form and subject to such conditions as the Council may determine, for the use of such premises as a factory or warehouse.

(4) A certificate of registration issued under this section, shall be displayed in a conspicuous place in the factory or warehouse.

(5) A certificate of registration issued under this section shall, unless sooner suspended or revoked, be valid for one year from the date of the grant of the certificate.

(6) Application for renewal of a certificate of registration shall be made in the prescribed form and not later than thirty days before the date of the expiration thereof.

(7) The Council may upon application in the prescribed manner and on being satisfied of the same conditions in subsection (3) grant a renewal of the certificate of registration, subject to such conditions as the Council may determine.

(8) Where the Council is inclined to refuse an application under subsection (1) or (6), the Council shall as soon as practicable give notice to the applicant to appear on a date no later than seven days from receipt of the notice to show cause in person or by a representative why the application should be granted.

35. Every owner of a business referred to in section 33(1)(a) shall ensure that the operation of the factory or warehouse is at all times under the supervision and control of a manager who has —

Supervision of factory or warehouse.

- (a) at least ten years experience in the manufacturing of pharmaceutical products; and
- (b) not less than four years direct experience in the specific industry.

PART XII - LICENCING OF MANUFACTURERS AND WHOLESALERS

36. (1) A person who, on the date of commencement of this Act, is a manufacturer of pharmaceutical products or a wholesale distributor of such products, shall apply within one month after that date, to be licenced in accordance with this Act.

Licensing of manufacturers and wholesalers.

(2) A person who, after the commencement of this Act, registers a factory or a warehouse under section 34 and who desires to carry on a business —

- (a) of manufacturing drugs;
- (b) as a wholesale distributor of drugs, shall, upon application in the prescribed manner and on payment of the prescribed fee, be entitled to have issued to him by the Council a licence, subject to such conditions as the Council may determine and every person holding such a licence shall display the licence in a prominent place in such place of business.

(3) A licence shall take effect on the date specified in the licence and shall be valid for one year from the date on which it is issued unless otherwise suspended or revoked.

(4) The Council may, upon application in the prescribed manner and on being satisfied that the licensee —

- (a) carried on business in accordance with the provisions of this Act;
- (b) has not been convicted of any offence under the law; and
- (c) has not furnished any false information in the application,

renew a licence subject to such conditions as the Council may determine on payment of the prescribed fee.

(5) Where a licence has been lost, destroyed or mutilated, it may be replaced by the Council by the issue of a copy thereof upon application by the holder of the licence and on payment of the prescribed fee.

(6) The provisions of sections 15 and 16 shall apply *mutatis mutandis* to manufacturers and wholesale distributors licensed under this section.

(7) For the purposes of this section, a “wholesale distributor” means a manufacturer, repackager, own label or private label distributor or jobber or any person engaged in the wholesale distribution of drugs and devices.

PART XIII - MISCELLANEOUS

Registers.

37. (1) The Registrar shall keep separate registers which shall consist of —

- (a) the names, addresses and such other particulars as may be prescribed —
 - (i) of all licenced pharmacists;
 - (ii) of all businesses or facilities that operate as a pharmacy;
 - (iii) of the owners of all businesses for which the business of pharmacy is carried on;
 - (iv) of all businesses that manufacture drugs in The Bahamas;
 - (v) of all businesses that operate as wholesale distributors of drugs;
 - (vi) of all licenced pharmacy technicians;
 - (vii) of all licenced pharmacy interns;
 - (viii) of all other practitioners registered under section 9(10); and

(b) such other information as may be required for the purposes of this Act.

(2) It shall be the duty of the Registrar —

(a) to remove from or restore to any of the registers any entry which the Council directs him in writing to remove or to restore;

(b) to correct any entry in any of such registers which the Council or any court directs him in writing to correct as being in the opinion of the Council any entry which was incorrectly made;

(c) to make from time to time any necessary alterations in any prescribed particulars contained in any of such registers.

38. (1) The owner of every pharmacy shall cause to be kept for a period of not less than six years —

Records of business of pharmacy to be kept.

(a) proper records showing the daily business conducted by each pharmacist in respect of that pharmacy;

(b) a log book recording the daily transactions of the pharmacy with respect to any product governed by the Dangerous Drugs Act; and

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(c) such other records as may be prescribed.

(2) All other practitioners referred to in section 9(10) shall cause to be kept proper records showing the daily business conducted by that practitioner with respect to the dispensing of any drug.

39. (1) The Council shall cause any register under section 37 to be published in the Gazette as soon as practicable after the expiration of ninety days after the commencement of this Act.

Publication of registers.

(2) Each year after a register is published in accordance with subsection (1), the Council shall cause to be published in the Gazette as aforesaid a corrected edition of such register or a list with amendments made to the register since the date that it was last published.

(3) The Council shall keep the registers open during normal business hours for inspection by members of the public.

40. (1) Where the Council considers that a licensee has failed or is failing to act in accordance with the licence

Notice of failure to comply with Act.

or the Act, the Council may give written notice to that person specifying in what respect, in the opinion of the Council, that person has failed or is failing to comply with the requirements of the licence or the Act.

(2) The Council may, upon giving notice pursuant to subsection (1), impose any conditions it deems necessary and specify any time period for which such conditions must be satisfied.

Power of
Minister to
suspend.

41. (1) Notwithstanding sections 8 and 18, the Minister acting on the advice of the Council and the Chief Medical Officer that a pharmacy or pharmacist is operating in a manner that is detrimental to the public health or public safety, may by order published in the Gazette suspend with immediate effect the business of that pharmacy.

(2) The Minister shall within forty-eight hours after suspending the operation of the pharmacy, inform the owner of that pharmacy, of any conditions that must be complied with prior to the lifting of any order made under subsection (1).

(3) A person who fails to comply with an order made pursuant to subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars.

(4) A person aggrieved by a decision of the Minister made under subsection (1), may appeal to a judge of the Supreme Court in chambers and a decision of that court shall be final.

(5) An appeal made pursuant to subsection (4) shall not operate as a stay of the decision of the Minister.

Appointment of
inspectors.

42. (1) The Minister shall on the advice of the Council appoint public officers who are trained in pharmacy to be inspectors for the purposes of this Act.

(2) An inspector may enter and inspect any premises —

(a) which he has reasonable cause to believe are being operated in contravention of this Act; or

(b) for the purposes of —

(i) investigating complaints concerning the operation of any premises;

(ii) generally to determine whether premises are being operated in accordance with this Act.

(3) An inspector may make such examinations, including the taking of samples as may be necessary for ascertaining whether this Act is being complied with.

(4) An inspector or person assigned to assist such inspector who has a direct or indirect pecuniary interest in any premises shall as soon as possible, disclose the nature of his interest to the Council and that inspector or person shall not be permitted to inspect or evaluate the premises for which he has a pecuniary interest.

(5) Every inspector shall be issued a certificate of identity and the inspector shall produce the certificate on entering premises for the purposes of subsection (2).

(6) An inspector may, for the purposes of subsection (3) —

- (a) require the production of records or other documents required to be kept pursuant to this Act; and
- (b) make copies of such documents or records.

43. (1) Every owner of premises shall cooperate with an inspector executing his functions pursuant to section 42.

Obligation of staff to cooperate with inspectors.

(2) A person who obstructs or impedes an inspector in the execution of his duties under this Act commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars.

44. The Minister may appoint a nurse as defined under the Nurses and Midwives Act to compound or dispense drugs in a public facility provided that such nurse is acting under and in accordance with the directions, whether written, orally or otherwise of a registered medical or other practitioner.

Power of Minister to appoint a nurse to dispense drugs.
Ch. 225.

45. The funds and resources of the Council shall consist of —

Funds and resources of the Council.

- (a) any moneys as from time to time are provided by Parliament; and
- (b) any moneys or other property as from time to time may in any manner be lawfully paid to or vested in the Council whether or not in respect of any matter incidental to its functions.

Accounts and
audits

46. (1) The Council shall keep proper accounts of all transactions and shall prepare in respect of each financial year a statement of accounts in a form that the Minister may with the approval of the Minister of Finance direct.

(2) The accounts shall be audited annually by an auditor appointed by the Council with the approval of the Minister.

Annual Report

47. (1) The Council shall, as soon as possible after the expiration of each financial year and in any event not later than the 30th June in any year, submit to the Minister a report containing —

- (a) an account of its transactions throughout the preceding financial year in such detail as the Minister may direct; and
- (b) a statement of the accounts of the Council audited in accordance with section 46; and
- (c) the activities of the Council during the preceding financial year.

(2) The Minister shall cause a copy of every such report together with a copy of the audited financial statements and the auditor's report to be laid on the table of both Houses of Parliament.

Regulations

48. (1) The Minister may, after consultation with the Council, make regulations generally for giving effect to the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), the Minister may after consultation with the Council make regulations —

- (a) prescribing standards of practice relating to the practice of pharmacy;
- (b) prescribing guidelines for the disposal of records maintained by a pharmacy;
- (c) prescribing guidelines for the proper disposal of pharmaceutical products and devices;
- (d) specifying the substances that are poisonous for the purposes of this Act;
- (e) prescribing the fees to be paid under this Act, which from time to time may be varied;
- (f) prescribing the form of applications, registration, reports and documents to be used under this Act;

- (g) prescribing standards of practice for manufacturers and wholesalers of pharmaceutical products;
- (h) regulating the manner in which and the conditions subject to which the services of a pharmacy shall be performed;
- (i) regulating the manner in which the registers herein are to be kept and operated;
- (j) regulating the manner in which pharmacies and dispensaries are to be kept and operated;
- (k) prescribing the manner in which prescriptions are to be issued;
- (l) prescribing the supporting documentation which must accompany the import or export of drugs;
- (m) prescribing the requirements which must be satisfied by persons applying for or training as technicians, pharmacists or inspectors;
- (n) prescribing the examinations to be passed and other requirements to be satisfied whether in addition to, or as an alternative to the passing of certification exams by persons applying for registration as a technician or pharmacist; and
- (o) prescribing any other matter or thing which may be or is required by this Act to be prescribed.

(3) Any regulations made by the Minister under subsection (2)(e) shall be exempt from the provisions of section 32 of the Interpretation and General Clauses Act but shall be subject to affirmative resolution of the House of Assembly. Ch 2

(4) In subsection (3), “affirmative resolution of the House of Assembly” in relation to subsidiary legislation means that such legislation does not come into operation unless and until affirmed by a resolution of that House.

49. A person who commits an offence for which no penalty is expressly provided is liable on summary conviction to a fine not exceeding ten thousand dollars. Penalty where no express penalty

50. This Act binds the Crown. Act binds Crown

51. Nothing in this Act shall derogate from any of the provisions of the Dangerous Drugs Act. Non-derogation from Ch 228

Savings

52. (1) Any reference in any other law to a registered pharmacist shall be read and construed as a reference to a pharmacist registered under this Act.

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(2) Any reference in any other law to the Pharmacy Act shall be read and construed as a reference to this Act.

FIRST SCHEDULE

(section 3 (3))

CONSTITUTION AND PROCEDURE OF THE COUNCIL**Constitution and procedure of Council.**

1. The Council shall consist of eight members appointed by the Minister of whom —

- (a) one shall be a licensed medical practitioner in accordance with the Medical Act;
- (b) one shall be a pharmacist who shall be a representative of the private sector;
- (c) one shall be a pharmacist who shall be a representative of the public sector;
- (d) two shall be pharmacists recommended by The Bahamas Pharmaceutical Association;
- (e) two shall be persons with such qualifications, expertise or experience (or such combination of any of them) as would, in the opinion of the Minister, enable them to make a contribution to the performance of the Council's functions; and
- (f) one shall be the Registrar, with no right to vote.

Tenure of members.

2. (1) Members of the Council shall hold office for a period not exceeding three years, and shall be eligible for re-appointment.

(2) No member of the Council shall serve for more than two consecutive terms.

Chairman.

3. (1) The Minister shall appoint one of the members to be the Chairman for a term not exceeding three years.

(2) The Council shall elect from among its members a deputy Chairman for a term not exceeding three years and such person shall be eligible for re-election.

(3) The Chairman shall preside at all meetings of the Council at which he is present and in his absence the deputy Chairman shall preside.

Resignation.

4. Any member of the Council may at any time resign his office by instrument in writing addressed to the Minister, and from the receipt by the Minister of such instrument such member shall cease to be a member of the Council.

Removal.

5. The Minister may by instrument in writing, on the recommendation of The Bahamas Pharmaceutical Association revoke the appointment of a member of the Council appointed under subparagraph (b) of paragraph (1) if the Minister thinks it expedient so to do.

Vacancies and acting appointments.

6. (1) If any vacancy occurs in the membership of the Council, such vacancy, shall be filled by the appointment of another member who shall, subject to the provision of this Schedule, hold office for the remainder of the period for which the previous member was appointed and that appointment shall be made in the same manner and from the same category of persons, if any, as the appointment of the previous members.

(2) If the Minister is satisfied that the Chairman or any other member of the Council is unable to act, the Minister shall appoint any person to act in place of that member and that appointment shall be made in the same manner and from the same category of person, if any, as the member replaced.

Gazetting of appointment.

7. The names of all members of the Council as first constituted and every change in the membership thereof shall be published in the Gazette.

Seals, etc.

8. (1) The seal of the Council shall be kept in the custody of the Chairman or any officer of the Council as the Council may approve and shall be affixed to instruments pursuant to a resolution of the Council in the presence of the Chairman and any other member of the Council.

(2) The seal of the Council shall be authenticated by the signature of the Chairman and one other member authorised to act in that behalf and shall be officially and judicially noticed.

(3) All documents, other than those required by law to be under seal, and all decisions of, the Council may be signified under the hands of the Chairman or any other member authorised to act in that behalf.

Interest of member.

9. (1) A member who has a direct or indirect pecuniary interest in a matter being considered or about to be considered by the Council shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the Council.

(2) A disclosure under subparagraph (1) shall be recorded in the minutes of the meeting of the Council and that member shall not, unless the Council otherwise determines —

-
- (a) be present during any deliberation of the Council with respect to that matter; or
 - (b) take part in any decision of the Council with respect to that matter.
- (3) For the purpose of the making of a determination by the Council under subparagraph (2) in relation to a member who has made a disclosure under subparagraph (1), a member who has a direct or indirect pecuniary interest in the matter to which the disclosure relates shall not —
- (a) be present during any deliberation of the Council for the purpose of making the determination; or
 - (b) take part in the making by the Council of the determination.

Remuneration.

10. There shall be paid from the funds of the Council to the chairman and other members of the Council such remuneration, if any, whether by way of honourarium, salary or fees, and such allowances if any, as the Minister may determine.

Meetings.

11. (1) The Council shall meet as often as may be necessary or expedient for the transaction of its business, and such meetings shall be held at such places and times and on such days as the Council may determine.
- (2) The Chairman may at any time call a special meeting of the Council and shall call a special meeting within seven days of the receipt of a written requisition for that purpose addressed to him by any four members of the Council.
- (3) The Chairman shall preside at all meetings of the Council at which he is present and, in the case of the Chairman's absence from any meeting the deputy Chairman shall preside.
- (4) If both the Chairman and the deputy Chairman are absent the members present constituting a quorum shall elect a Chairman from among their number to preside at that meeting.
- (5) Five voting members of the Council shall form a quorum.
- (6) The decisions of the Council shall be by a majority of votes, and, in addition to an original vote the Chairman or other person presiding at the meeting shall have a casting vote in any case in which the voting is equal.
- (7) Minutes in proper form of each meeting shall be kept by the Council.
- (8) Subject to the provisions of this Schedule the Council may regulate its own proceedings.

Validity of decisions of Council.

12. No decision or act of the Council or act done under the authority of the Council shall be invalid by reason of the fact that —

- (a) the full number of members for which provision is made in paragraph 1 of this Schedule was not appointed or there was a vacancy or vacancies amongst such members; or
- (b) a disqualified person acted as a member of the Council at the time the decision was taken or the act was done or authorised, if the decision was taken or the act was done or authorised by a majority vote of the persons who at the time were entitled to act as members.

Committees.

13. The Council may appoint such committees as it may think fit and may delegate to any such committee the power to carry out on its behalf such duties as the Council may determine.

Appointment of officers and servants.

14. The Council may appoint and employ, at such remuneration and on such terms and conditions as it thinks fit, a secretary and such other officers, servants and agents as it thinks necessary for the proper discharge of its functions.

Protection of members.

15. (1) No member of the Council shall be personally liable for any act or default of the Council done or omitted to be done in good faith in the course of the operations of the Council.

(2) Where any member of the Council is exempt from liability by reason only of the provisions of this paragraph, the Council shall be liable to the extent that it would be if the member was a servant or agent of the Council.

SECOND SCHEDULE

(section 29 (6))

Aconite and its preparations
Alkaloids-all poisonous vegetable alkaloids and their salts
Almonds, Essential oils of (unless deprived of its prussic acid)
Antimony, compounds of Atropine and its preparations Belladonna, alkaloids of
Cantharides and its preparations except emplastrum Carbolic Acid
Carbolic acid, liquid preparations of, and its homologues containing more than 3 per cent of these substances
Chloroform
Chloral hydrate and its preparations Cocaine and its salts
Cocaine, preparations of
Corrosive sublimate and its preparations
Cyanides of potassium and all metallic cyanides and preparations of such articles
Digitalis and its preparations Emetic tartar
Ergot of rye and its preparations Lead, sugar of
Mercuric Chloride (Corrosive sublimate) Mercuric iodide
Mercuric sulphocyanide
Morphine and its salts
Morphine, preparations of
Nux Vomica and its preparations
Opium and all preparations of opium or of poppies
Precipitate, white (ammoniated mercury)
Oxalic Acid
Picrotoxin

Precipitate, red (red oxide or mercury) Prussic acid
and its preparations

Savin and its oils

Strophanthus and its preparations Strychnine and its
preparations Vermin killers

Vermin killers if preparations of poisons